

## A QUARTER OF A CENTURY

### Days of Remembrances

These days are full of historical remembrances. Last month people in this country and abroad recalled the 50th anniversary of the outbreak of World War I, and this month it is 25 years since World War II began. Jews from Germany and Austria in this country were in opposite camps on each occasion. It testifies to the broad-mindedness of the British people that the variety of press and radio features by which the public was reminded of the anniversary also included descriptions of the German scene in August, 1914, as it was remembered by former refugees.

Whilst the responsibility for the outbreak of the First World War is controversial, most historians and politicians inside and outside Germany agree that the guilt for the Second World War is to be attributed mainly or solely to the German Nazi régime. Only German Right-wing extremists refuse to admit this, and, unfortunately, their arguments are strengthened by some historians of Allied nationality. It is reassuring that, as reported in our August issue, the Federal Minister of the Interior warned against the dangers of such trends, and we can only hope that Germany's post-war governments will be more successful in checking extreme Right-wing activities than were the governments of the Weimar Republic.

However, remembering their own bitter experience, many in our midst may consider such hopes as political naivety. They may refer to the numerous instances in which the Nazi past of people in high positions has been discovered. They may also feel that the propaganda for the return of the territories east of the Oder-Neisse line—in spite of the fact that the former inhabitants of these territories and their children have been fully absorbed by Western Germany—may serve as a starting point for new expansionist tendencies. They may even quote utterances by anti-Nazi German friends of theirs who take a pessimistic view of the future. However, whilst these, and many other, negative aspects cannot be denied, it would be equally wrong to ignore or to belittle trends which point to the opposite direction. Statements by responsible German politicians, actions against neo-Nazis, production of a vast literature about the crimes of the Nazi régime, efforts in the field of education are only some of the examples which come to mind. It has always been typical of German history that there was a constant struggle between the forces of militarism and chauvinism and the fighters for democracy and progress. Unjustified negative generalisations would only make the work of progressive elements more difficult and strengthen nationalist sections to the detri-

ment not only of Germany but of the whole world.

It is one of the sad reflections prompted by this anniversary that the end of hostilities in 1945 has not resulted in a state of peace. Throughout the post-war period there have been armed clashes in one region or another. There has also been the "cold" war between the protagonists of two opposing political and economic systems. In the course of time this tension has gradually decreased, but latest developments cast new doubts on the future. Though subjects of general politics are outside this journal's terms of reference, it must be permissible to state that the nomination of Senator Goldwater as Republican candidate for the presidency indicates an attitude of a substantial section of the American population which does not facilitate the work for peace or, at least, "co-existence".

#### Rescued from Persecution

Whilst this anniversary has its meaning in the first place under the wider aspects of history, it also has a specific significance for our own community. For most of us the Jewish High Holy-days of 1939 were the first we spent in this country. A quarter of a century is a large slice out of human life. The extent to which we have been integrated into our new environment during that period varies in each case according to age at the time of arrival and other personal circumstances. The number of those who have been absorbed without any traces of their origin is comparatively small, even among the younger generation. This is only natural and in accordance with all immigrant groups.

Yet within these limitations we have, consciously or unconsciously, attuned our outlook and our habits to the life of this country. This process has been accelerated in the case of those who could watch their children growing up here. Apart from the very old, almost all former refugees are settled in occupations or professions and have been able to consolidate their financial positions. The bed-sitter with gas-ring has become a matter of the past for most of them, and they are now accommodated in flats or houses. Thus it can be stated that, with unavoidable exceptions, the immigration of the Nazi persecutees has been a success.

However, things would have taken an entirely different course had not this island admitted us to its shores during the darkest period of our history. It cannot be stressed often enough that between the pogroms of November, 1938, and the outbreak of war, Britain admitted more Nazi victims from Central Europe than any other single

country. We should not forget either that this rescue work was carried out at a time when the country was going through an economic crisis. Now, as we have struck roots in our country of adoption, the time has come to express our thanks in a tangible way. Each of our readers will have received a special letter in which he is asked to contribute his share to a "Thank-you Britain" Fund. The proceeds of the Fund will be used for annual awards of research fellowships and annual lectures under the auspices of the British Academy, and they will thus serve as a perpetual memorial of our gratitude. The research work to be sponsored will preferably be concerned with the welfare of this country. As any comprehensive welfare scheme has to be based on thorough analyses—we only have to think of the Beveridge Report or, more recently, of the Townsend Report on Old People—the fellowships will ultimately be important contributions to constructive, practical welfare work.

#### 'Thank-you Britain' Fund

The patrons of the fund are Lord Robbins and Sir Isaiah Berlin, President and Council Member of the British Academy respectively; Professor Ernest B. Chain and Sir Hans A. Krebs, the two Nobel Prize winners of Continental origin in this country, and Professor Ludwig Guttmann, C.B.E., widely known for his work as Director of Stoke Mandeville Spinal Injuries Centre.

It is particularly gratifying that all major organisations of immigrants from Central Europe have identified themselves with the "Thank-you Britain" Fund. The 19-member committee comprises personalities who hold leading positions in the AJR and the following other organisations: Self-Aid of Refugees, Leo Baeck (B'nai B'rith) Lodge, New Liberal Jewish Congregation, Ex-Service (N.B.) Association, Club 1943, P.E.N. Centre of German-speaking Authors abroad, and the organisations of immigrants from Hungary and Czechoslovakia. Also on the committee are Dayan Dr. I. Grunfeld, holder of a distinguished office in Anglo-Jewry, and Mr. Victor Ross, one of the initiators of the scheme. Most of the preparatory work was carried out by the AJR which will also take charge of the administrative tasks arising from managing the appeal.

During the first period of the 25 years which have now passed we were at the receiving end, benefiting from the generosity of this country and tens of thousands of its citizens who, at considerable sacrifice to themselves, helped us by their hospitality and support. The present opportunity to make a gesture of collective gratitude is without precedent in the history of our community and also unlikely to arise again. It is, therefore, unique in the fullest sense of the word. We are confident that everyone in our midst will live up to the occasion. W.R.

## FROM THE GERMAN AND AUSTRIAN SCENES

### ARMS FOR EGYPT

The West German newspaper, "Frankfurter Rundschau", has accused 91 German firms, including some of the largest industrial enterprises in the country, of supplying equipment for the Egyptian armed forces through a Swiss intermediary, the Motor, Turbine and Pump Company. The paper also claimed that 50 Swiss firms were involved in similar deals.

The Bonn Ministry of Economic Affairs denied a report that the Federal Government had given permission to German firms to export components for military rockets and jet aircraft to Egypt. Reports that permission for such exports to Egypt had been given in the past by the Government were entirely without basis, a spokesman declared. But he pointed out that products not falling under special restrictions could be freely exported.

In an editorial comment the "Frankfurter Rundschau" said that it was "terrible" that Germany should be supplying assistance in the construction and production of arms to President Nasser, whose avowed aim was the destruction of Israel. The delivery of arms and other equipment to strengthen Nasser's military potential was an "immoral business", the newspaper declared. No firm should have a hand in this business because Germany's indebtedness to the Jews was too huge.—(J.C.)

### GERMAN RESISTANCE

The 20th anniversary of the unsuccessful attempt to assassinate Hitler was honoured in West Berlin. Dr. Luebke placed a wreath at the foot of a statue to the memory of Count Stauffenberg, leader of the resistance men.

Dr. Gerstenmaier, himself one of the few survivors of the plot, said that abroad the plotters had often been dismissed as men who had revolted against Hitler only when they realised that the war was lost. This was a wrong assessment, as there had been a resistance movement in Germany since 1938. Nor was it true that the plotters were out to ease the way of the Western Powers to victory. Their aim had been to "end the robbery and violence, the murder and torture being committed in Germany's name". The day was not for recrimination, but the failure of the Western Powers to back the plotters had "handicapped the chances of a successful coup".

### CHANCELLOR SEES "ZENTRALRAT"

#### DELEGATION

A delegation of the Zentralrat der Juden in Deutschland, consisting of Professor Dr. Herbert Lewin, Rechtsanwalt Dr. F. Manasse, Mr. Werner Nachmann and the General Secretary, Dr. H. G. van Dam, was received by Chancellor Erhard recently. In the course of a frank discussion the Chancellor expressed his appreciation of the existence of an organised Jewish community in Germany.

### WAR CRIMES' TRIALS

In Hanover a war crimes court is charging Richard Nitschke, a former police official, with the murder of 7,000 Jews in White Russia during the war.

Georg Engelschall, a former S.S. sergeant, who gave evidence on behalf of one of the 21 former Auschwitz death camp staff on trial in Frankfurt, was arrested as he left the witness box. He is suspected of participation in the crimes with which the defendants are charged.

The West German Ambassador to Britain, Dr. Hasso von Etdorf, gave evidence in favour of ex-S.S. General Karl Wolff, one-time chief of staff to Heinrich Himmler, and now on trial in Munich charged with complicity in the wartime murder of 300,000 Jews. Dr. Etdorf said that Wolff had saved the sister of a former German Ambassador in Paris, Baroness von Maltzan, from the Gestapo. Baroness Maltzan's mother was a Jewess.

Hans-Walter Zech-Nenntwich, the former S.S. officer who escaped from a Brunswick gaol in April after being sentenced to four years' imprisonment on wartime murder charges, has given himself up to the Hanover police. In a statement he said he was innocent and could have remained abroad in safety. After being traced to Cairo by "Stern", the Hamburg weekly magazine, Zech-Nenntwich was reported to have sought refuge in Ethiopia, South Africa and Spain. Police claimed that his escape had been organised by his woman friend, Margit Steinhauer, who fled with him, but who has not returned to Germany because she fears arrest. Hanover police have arrested an alleged woman accomplice in the escape from gaol, Rosemarie Holt-Brueggemann, who was said to have been with Zech-Nenntwich when he was seen in Cairo.

Kurt Wiese, who has been charged with the murder of 80 children in Bialystok, Poland, during the war, was arrested by Austrian police on a train going to Italy. He was believed to be on his way to Egypt. Wiese was arrested in Cologne some months ago but released on bail because of a foot complaint. He escaped from Germany and had been living in Austria since the beginning of June under an assumed name. It is understood that Wiese will be handed over to the German authorities.

The Frankfurt State prosecutor-general, Dr. Fritz Bauer, has received a report from an unnamed person in Paraguay saying that Martin Bormann, Hitler's former deputy, was living in the South American Republic. It also stated that Bormann was seen several times in Asuncion, the capital, with Josef Mengele, the chief S.S. doctor at Auschwitz concentration camp, who is accused of killing prisoners by injections, gassing and medical experiments.

A reward for information leading to the arrest of Mengele has been increased from 20,000 marks to 50,000 marks. There is also a reward of 10,000 marks offered by an unnamed person.

Austria's first important war crimes trial will take place in Vienna in the autumn. The public prosecutor has now completed bills of indictment against Franz Novak and Erich Rajakovitch, and pre-trial investigations against Robert Jan Verbelen are almost finished.

Novak was a leading member of a special S.S. command in Budapest in 1944, which organised the transport of Hungarian Jews to Auschwitz, and was a former accomplice of Adolf Eichmann.

Rajakovitch, also a former S.S. officer, is another suspected accomplice of Eichmann.

Verbelen, a former Belgian S.S. general, was sentenced to death *in absentia* by a Belgian court in 1947. He fled to Austria at the end of the war, living there under an assumed name. In 1959 he applied for and was granted Austrian citizenship under his real name.—(J.C.)

### MEMORIAL FOUNDATION OF CLAIMS CONFERENCE

The meeting in Geneva of the board of directors of the Conference on Jewish Material Claims Against Germany has resulted in the activation of the Memorial Foundation for Jewish Culture and the retention of the Claims Conference itself, although it will cease its "global operations" by the end of this year.

Dr. Nahum Goldmann, president of the Claims Conference, explicitly stated that even when the Claims Conference does finally wind up—and this may take probably two years—the Memorial Foundation will not be a continuation of the Claims Conference. It would be "the central instrument of world Jewry to preserve Judaism by educating Jews and teaching them the place of Jewish values in the world today".

The Claims Conference concluded that by the beginning of 1965 it will have discharged one of its two major tasks—the provision of allocations to communities and organisations serving victims of the Nazis. By the end of this year these allocations will total more than \$111 million (about £39½ million). Most of this money has been spent in Europe. It was administered by the American Joint Distribution Committee, which added \$21,760,000 to this sum.

But the other task of the Claims Conference, which it regards as the major one, has not yet been completed, that is to ensure adequate legislative provision by the German Federal Republic for the indemnification of the victims of the Third Reich. Dr. Goldmann claimed only "a partial success" in one sphere—claims for lost furniture and jewellery of Jewish victims hitherto unable to file them before October, 1953, the time limit. The amount, originally only 400 million marks, has been doubled.

Negotiations with four German industrial concerns for the payment of compensation to survivors of the slave labour force had, however, been successful. I.G. Farben, Krupp, A.E.G. and Siemens had all agreed to pay. Talks with other companies, including Dynamite Nobel, were continuing.—(J.C.)

### CONFERENCE OF JEWISH ORGANISATIONS

At its meeting in Geneva the Conference of Jewish Organisations (Cojo) undertook two new initiatives—the establishment of a worldwide clearing-house on Arab-Jewish propaganda and the erection of a Jewish memorial pavilion at the site of the Auschwitz death camp. A decision about the future nature of Cojo itself was, however, once again shelved.

When it was established at the initiative of Dr. Goldmann in 1958, he expected it one day to become the effective and fully representative instrument of international Jewish co-operation in the Diaspora, in time replacing the World Jewish Congress, which had failed to fulfil that role. So far, however, the communities and organisations within Cojo have been working on the loose basis of consultation, only able to take joint action when there is complete unanimity.

Cojo also recommended its member-organisations to send delegates to the ceremonies in May next year marking the 20th anniversary of the liberation of Auschwitz.—(J.C.)

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# HOME NEWS ANGLO-JUDAICA

## MANCROFT'S WITHDRAWAL

Six M.P.s and a deputation of leading Jews met the London Chamber of Commerce to protest against the Lord Mancroft affair. They wanted to know why Lord Mancroft had been asked to stand down as possible next president of the Chamber. In a statement issued by the Chamber it was said the delegation was assured by the Earl of Verulam, the Chamber's President, that at no time had the Chamber been subjected to any pressure in connection with the presidency. They were also told that the traditional procedure of electing a president ensured a fair chance to any candidate without prejudice to his "racial or religious background".

The M.P.s consisted of Sir Barnett Janner, a Labour M.P., and five Conservative M.P.s. The deputation of Jewish leaders consisted of groups from the Board of Deputies of British Jews and the Trades Advisory Council, an organisation representing businessmen and trade unions, led by Mr. Solomon Teff, president of the Board, and Mr. M. P. Greengross, national chairman of the Council.

Mr. W. I. Laxton, a director of the London Chamber of Commerce, in reply to a protest sent by Mr. H. N. Feld, a partner in the firm of L. I. Silber and Co., has stated that no pressure, either from the Arabs or from any other source, was exerted on those honorary officers of the Chamber who asked Lord Mancroft to stand as president and then changed their minds. Their sole consideration in asking Lord Mancroft not to stand was to avoid bringing the presidency into a controversy that would prove detrimental to the Chamber's activities.

Lord Mancroft has declined to make any further comment on his statement indicating that he did not wish to be nominated for the presidency.

According to a joint statement by the Board of Deputies, the Trades Advisory Council and the Chamber of Commerce, issued on August 7 in connection with their meeting the previous day, agreement was reached that it was the policy of the Chamber of Commerce to elect its president "irrespective of his ethnic origin or creed. It is the normal practice for confidential approaches to be made to distinguished persons to allow their names to go forward. Occasionally, names are withdrawn. It is regretted that in connection with a recent approach and withdrawal, a public misunderstanding has arisen which is jointly deplored". The statement also says that the Chamber has since 1951 been adamant in being opposed to any form of recognition of the Arab boycott.

## NAZI ACTIVITIES

### Members Fined

Three members of Colin Jordan's National Socialist Movement were fined at Marlborough Street Magistrates' Court for insulting behaviour. The court was told that the men, wearing swastika armbands, attracted a shouting, jeering, fist-waving crowd outside Mr. John Bloom's Rolls washing machine premises in Regent Street.

The men carried placards bearing the words "Boycott Bloom and Jewish Business" and "Free Britain from Jewish Control" and distributed copies of a National Socialist newspaper. All three pleaded not guilty and intend to appeal. They had gone, said one of the defendants, to protest against "the business practices of the Jew, John Bloom".

### Permission for Rally Refused

The Ministry of Public Building and Works refused an application from Colin Jordan for permission to use Trafalgar Square for a meeting of his National Socialist Movement. A spokesman for the Ministry said that the reason for the refusal was that the meeting was likely to cause "grave public disturbance".—(J.C.)

## HOUSE REFUTES DISCRIMINATION

In the House of Commons Sir Barnett Janner protested at employment exchanges recording the discriminatory requests of employers against employees. He suggested that employment exchanges should be required to expunge such references from their present records.

In reply to a request from Mr. Fenner Brockway that he should issue a declaration deploring this conduct, Mr. Joseph Godber, Minister of Labour said: "I deplore this conduct very strongly, and I say that publicly. I have given great thought to this and what I have done is to institute a new procedure whereby if local officials are unable to persuade firms not to use this discrimination they refer it to the regional office and they try to use persuasion. If they fail they refer it to head office and finally the Parliamentary Secretary or myself will refuse to deal with vacancies for that firm. This is a new action I have taken".

The Minister said he would welcome the help of trade unions in co-operating to try to break down this discrimination.

## YOUTH HELP STEPNEY'S NEEDY

The youth section of World Union for Progressive Judaism and the Christian Movement for Peace organised a group of 20 young Jews and Christians from many parts of Europe who went out daily into the back streets of Stepney during August to decorate the homes of needy people in the area.

The young people paid their own expenses to reach London. They lived at the Bernhard Baron Settlement and their living expenses were met out of funds collected by the Association of Women's Guilds of the Reform Synagogue.

## CENTRE 42

Mr. Louis Mintz and Mr. E. Alec Colman have made a magnificent gift to Arnold Wesker's Centre 42. They have purchased the Round House at Chalk Farm, London, which the Centre hopes to convert into a theatre, a cinema, an art gallery, a dance hall and concert hall, workshops, committee rooms, a library and a youth club.

Mr. Wesker, chairman of Centre 42, said that the Centre was born in 1960, when the T.U.C. passed a resolution calling for an inquiry into the state of the arts. The most important factor behind this new venture is that eventually all artistic work will be presented to the community free of charge.

## OXFORD REFUGEE SCHOLARSHIP

The Junior Commons Rooms of Trinity and St. John's Colleges, Oxford, wish to award a scholarship to a refugee or member of a developing country, within or outside the Commonwealth. This will be for a period of two or three years at Oxford, from October, 1965, and open to men only. The closing date for applications will be November 15, 1964. Particulars may be obtained from Mr. C. M. Bate, Trinity College, Oxford.

## ZEMEL CHOIR IN CHURCH

When the Zemel Choir gave a recital in All Saints' Church in the Buckinghamshire village of Brill, crucifixes and altar were screened from sight. The performance was the choir's first recital in a church and the 50-strong choir sang liturgical melodies, Israeli and international folk-songs and Negro spirituals. The concert—the climax of the week-long Brill Festival—was held to raise funds for a new roof and other renovations for the church.

## AID FOR EX-PRISONERS

The Jewish Discharged Prisoners' Aid Society, after 62 years' existence, will henceforth be known as the Jewish After-Care Association. It was felt that the former name no longer reflected the extent of the work being done for Jewish prisoners and their families.—(J.C.)

## Next Chief Rabbi

A committee of synagogue and communal representatives has been appointed by the Chief Rabbinate conference in London to select the successor to Dr. Israel Brodie. The committee will also consider the duties, privileges and emoluments of the new Chief Rabbi, as well as the procedure for his election. The committee, consisting of 35 members, which will begin its work in October, is to present its report to the full conference.

## Welfare Plans

The Jewish Welfare Board is planning to house 700 elderly people in flatlets and hostels in the near future. Announcing this at a meeting of the Women's Appeal Committee of the Board, Lady Karminski, the president, said these projects would materialise only if sufficient funds were available. There were at present 450 elderly people in the existing homes run by the Board and a further 2,000 were being cared for in their own homes. Other forthcoming projects included a block of three-bedroomed "family" flats and a £50,000 hostel in North-West London for mental rehabilitation.

## Blind Centre Opened

Opening the Jewish Blind Society's new day centre in Stamford Hill, London, Princess Margaret praised the generosity and resourcefulness of the Jewish community, who, she said, had often achieved wonderful results through these two qualities.

The ceremony began with a blessing by the Chief Rabbi. After the Princess had declared the centre open and unveiled a commemorative plaque, she toured the building.

## Synagogue for Bushey District

At a meeting held at the Stanmore Synagogue it was decided to form a new congregation in the Bushey district. It will cater for about 100 Jewish families, some of whom now attend the Stanmore Synagogue.

## Slough Community

The Jewish community in Slough, which has dwindled to 50 families comprising about 120 people, is in danger of dissolution. According to two honorary officers of the congregation, Slough has been told by the United Synagogue, to which it is affiliated, that its synagogue will have to be closed if there is no religious revival in the community—(J.C.)

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## NEWS FROM ABROAD

### BLOOD LIBEL PAMPHLET WITHDRAWN

Trent's Catholic ecclesiastical authorities have withdrawn from circulation a pamphlet perpetuating the lie of a "ritual murder" committed by the Jews of this town in north-eastern Italy before Passover in 1475. The "victim", Simon, a three-year-old child, has been venerated as a local saint for centuries.

The decision to withdraw the pamphlet, written by a priest, is believed to be partly the result of repeated representations by the Union of Italian Jewish Communities.

Guides in the town still show to visitors the mummified body of St. Simon in a glass case, a fifteenth-century wooden sculpture depicting a group of Jews in the act of "ritually killing the child" and stained-glass windows with the same theme in the church of St. Peter and St. Paul, put in only ten years ago. The town's art gallery shows paintings of the same scene.

Every year a procession led by the bishop goes through the streets of the town exhibiting the body of Simon and the instruments with which he was said to have been tortured by the Jews. Children take part in the procession.

Italian Jews have tried for a long time to end this hate-producing myth, but discreet inquiries from local Catholic authorities have indicated that no bishop, however progressive, is prepared to renounce a local saint. Approaches to the Vatican have met with the response that there are no precedents for reversing or modifying a proclamation of a saint by the Sacred Congregation of Rites.—(J.C.)

### LUTHERANS DENOUNCE ANTISEMITISM

The International Lutheran Consultation on "The Church and the Jewish People", attended by 40 theologians, ministers and church administrators in Denmark, strongly denounced anti-Jewish attitudes, describing "Christian antisemitism" as "spiritual suicide" and condemning the charge of deicide against the Jews as "reprehensible".

Citing the "long terrible history of Christian culpability for antisemitism", the report said that "no Christian can exempt himself from involvement in this guilt. As Lutherans, we confess our own peculiar guilt and we lament with shame the responsibility which our Church and her people bear for this sin".

The Consultation urged the Lutheran Church to take three steps: to examine their publications and remove antisemitic references; to work to prevent "all national and international manifestations of antisemitism"; and to fight against discrimination and seek to develop mutual understanding with Jews.

The Consultation has, however, not weakened its plans of continuing missionary activities among the Jews and the report states: "Where Jewish communities in the world cannot normally be reached by Christian congregations, mission organisations must provide for the proclamation of the Gospel to these people."—(J.C.)

### RHODES COMMUNITY

The once flourishing 4,000-strong Jewish community of the island of Rhodes in the Dodecanese (Aegean Sea) has now dwindled to 37, according to Mr. Morris Soriano, its president. Out of the 37 members of the congregation fewer than 15 are natives of the island. The others, who settled there after the war, are either refugees from Egypt or Greek Jews from Thessaly who remained homeless after the earthquakes at Volos in 1954.

The Rhodes Jewish community has restored the oldest of the four pre-war synagogues destroyed during the enemy occupation. The funds for the restoration were provided by the State organisation administering in Rhodes the heirless property of victims of Nazism.

The Rhodes community is self-supporting and its normal expenditure is covered by the contributions of wealthy Jews who left the island to settle in other countries. The congregation is without a rabbi and, for special ceremonies, a rabbi is invited to fly over from Athens.

The community's Board has decided to erect a memorial in the local Jewish cemetery to more than 2,000 island victims of the Nazi persecution.—(J.C.)

### ARGENTINA

Argentina, which has a population of more than 400,000 Jews, has had new antisemitic manifestations. A group of young nationalist extremists held up traffic in the centre of Buenos Aires while they publicly burned an Israeli flag and shouted anti-Jewish and anti-Zionist slogans. Youths raided the Zionist Federation office and threatened the Negro watchman with death if he continued to "serve the Jews". Damage to the extent of £500 was caused to the building and its contents.

Renewed protests have been made against the unchecked activities of antisemitic extremists. In a memorandum submitted to President Illia by the Progressive Party, the immediate implementation of the law ordering the dissolution of the Nazi-type Tacuara and Guardia Restauradora Nacionalist groups was urged. The Progressive Party also demanded the immediate expulsion of the Arab League representative Hussein Triki, and the closure of his hate-propagating magazine, "Nacion Arabe"; a warning to foreign envoys not to interfere in local issues, and an amendment to the criminal code providing punishment for any kind of racial or religious persecution.

The Jewish-Christian Brotherhood organisation issued a sharp protest against the mounting wave of antisemitism which, they stated, "induces us to believe that there is a deliberate intention to create a climate of terror".—(J.C.)

### THE ISRAELI SCENE

#### Jewish-Christian Relationship

The Rev. Peter Schneider, former chaplain of St. Luke's, in Haifa, and newly appointed director of Jewish Studies in the Archbishopric of Jerusalem, who is of Jewish origin, addressed a meeting at St. Paul's, organised by the London Diocesan Council for Christian-Jewish Understanding.

A complete reversal of the historic Jewish-Christian relationship had come about with the establishment of Israel, said Mr. Schneider. He recalled that since the fourth century the Christian-Jewish relationship had been that of a Christian majority usually supported by political sovereignty over and against a minority and politically dependent Jewish people. "It is this pattern that the fact of Israel has reversed as far as the Christian churches in that country are concerned". He stressed that there was complete religious liberty for the Christian communities in Israel. Mr. Schneider declared that the question of how the Christian churches were regarded in Israel could not be separated from the total Christian-Jewish relationship and particularly from the attitude which the Christian churches adopted towards Israel's majority religion—"rabbinical Judaism".

#### Russian Emigration

A spokesman of the Jordan Foreign Ministry stated in Amman that the Foreign Minister had asked the Soviet Ambassador to request his Government to stop Jews emigrating to Israel from Eastern Europe.

#### Children Invited

The Soviet authorities have invited ten Israeli children to spend a holiday in the international summer camp in the Crimea organised by the Young Pioneers. It is understood that Jewish and Arab children, between the ages of ten and 14 years, have been invited through Communist groups in Israel. They will spend a few days in Moscow before going to the camp, where they will be under the supervision of Russian-trained staff.—(J.C.)

#### NAZI PROPAGANDA IN SYDNEY

Commenting on various incidents after the arrest in Sydney of Australian Nazis, Mr. H. B. Newman, president of the Jewish Board of Deputies, urged Australian Jews to refrain from precipitate action.

Two floats depicting Nazism were featured in the New South Wales University foundation-day parade, while the students' newspaper of Sydney University published an interview with the now gaoled leader of the National Socialist Party of Australia, Arthur C. Smith. The paper also published an article by Colin Jordan, self-styled leader of the National Socialist Movement in Britain, denying that German Nazis murdered six million Jews. A later issue of the paper accused Jews of trying to limit the paper's editorial freedom.

Sydney University's Christian Student Movement has issued a public protest at the Nazi propaganda being purveyed at the University.

Two more men, arrested by Sydney police during a raid on the headquarters of the National Socialist Party of Australia in a Sydney suburb, have been gaoled.—(J.C.)

#### SWISS INCIDENT

An incident in Berne, which occurred in March, has only recently been disclosed. M. Etienne Serra, the Swiss chief of Protocol, during a Saudi Arabian reception is alleged to have said that it was incredible that the Jews should claim Palestine on the pretext that they had lived there many centuries ago. "Christian nations should unite to make them leave Palestine", he was also heard to say.

M. Georges Brunschwig, president of the Swiss Federation of Jewish Communities, protested to Professor Friedrich Wahlen, the Minister for Foreign Affairs, who announced that M. Serra had been admonished. Swiss Jewry considers that Professor Wahlen has not gone far enough. The German-language press condemned this incident.—(J.C.)

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## NEWS FROM U.S.A. AND U.S.S.R.

## AMERICAN NEWS

## Protest against Schacht

Rabbi Ralph Simon of Chicago, protested after the appearance on a Chicago television programme of Dr. Hjalmar Schacht who, as Economics Minister during the Nazi régime, made German rearmament possible before the war.

In a letter to General Julius Klein, head of a public relations firm with West German clients, Dr. Schacht said the protest was "untruthful". He wrote that he had been acquitted at Nuremberg as well as in all following denazification proceedings. "Is it really possible to be surprised that there still exists antisemitism in the world when it is such people who represent Jewish interests?" he added.

The Nuremberg war crimes trial ruled in 1946 that Dr. Schacht's central role in German rearmament did not make him a party to Nazi planning for war.

## Segregation Opposed

The Rabbinic Alumni Association of the Jewish University of America, near Chicago, has passed a resolution urging members of their congregations to "recognise the value of racially mixed neighbourhoods". Orthodox rabbis from all over the country attended the meeting, which ignored the pleas of two southern rabbis, who said the resolution would disrupt the "delicate balance between Jews, Negroes and White Christians in the South".

## Victims of Riots

There were no openly antisemitic overtones to the recent riots in New York, which were directed against the Whites generally, after a White policeman shot and killed a Negro boy for drawing a knife on him. Nevertheless, as most of the shops in the huge Negro slum of Harlem are owned by Jews, they were the main sufferers in the spate of looting accompanying the riots.

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## Rabbis and Civil Rights

Rabbi Israel Dresner and Rabbi Martin Freedman, both of New Jersey, were among ten Negro and White clergymen arrested last year during a sit-in in a segregated restaurant at the airport in Tallahassee, Florida. Found guilty and sentenced to 60 days or a \$500 fine, they all chose gaol rather than pay. The clergymen are prepared to serve the entire sentence rather than pay a fine which, one of them said, "would be almost a betrayal of the situation".

While taking part in the voters registration drive in Hattiesburg, Mississippi, Rabbi Arthur Lelyveld of Cleveland, was beaten up and taken to hospital. Rabbi Lelyveld, who is chairman of the Cleveland Emergency Committee of Clergy for Civil Rights, has returned to his home but said he would go back to Mississippi soon. In a message to the Mississippi press the rabbi urged Mississippi Jews to be faithful to Israel's covenant, either by "standing up for decency and freedom among all the risks involved" or by leaving the area.—(J.C.)

## Ex-German Jew U.S.A. Trade Aide

The New York Times published a profile of Werner Michael Blumenthal, a 38-year-old Jew from Germany who, as Deputy to Mr. Christian A. Herter, is one of the leading trade negotiators of the U.S.A.

He came to the States via Shanghai where, for some time, he was confined in the ghetto created by the Japanese during the war. When he arrived in the U.S.A. after the end of the war, he found himself a job in two days as a billing clerk. Though he had no High School Diploma, he got into College. To earn a living, he worked on a dice table and also as a truck driver and a dishwasher. After his graduation he first taught at Princeton University, and later he went into business where he stayed until he was appointed U.S.A. chief negotiator in the international agreements on cotton textiles and on coffee.

Blumenthal is fluent not only in English and German, but also in French and Spanish. His chief, Mr. Herter, has described him as "a unique brilliant individual with an exceptional knowledge of the international trade field".

## SOVIET JEWRY

## Appeal to Russell

A letter has been written to Lord Russell by a war veteran and a member of the Communist Party on behalf of "a great number of people", pointing out that it is impossible and pointless for Russian Jews to take up their own case with the Soviet Government, and asking Lord Russell to appeal to Mr. Khrushchev on their behalf. "We want nothing more than to receive the same rights as the Jews in Poland, Rumania and Czechoslovakia", declares the letter.

Lord Russell has written to the editor of "Sovietish Heimland", Mr. Aron Vergelis, asking him to publish the letter from the Russian Jews and also his own letter, in which he refers to the "urgent and important problem". Expressing concern for justice and for the good name of the Soviet Union, Lord Russell explains that the Jews in the Soviet Union wish to enjoy a full cultural life, denied to them at present because they are not allowed the same facilities as other national and minority groups.

## "Criticism of Judaism"

Special new courses in the "criticism of Judaism" are being organised in Kishinev, the capital of the Moldavian Soviet Socialist Republic, and other localities where religion is said to be still flourishing. An article published in "Sovetskaya Moldavia," the official organ of the republic, calls for increased atheistic activity. The newspaper reports that in Kishinev the authorities felt it necessary to organise special atheist groups who received instructions in "criticism of Judaism" because of the large number of people "professing the Jewish faith".—(J.C.)

## Old Acquaintances

*Miscellaneous:* A memorial tablet has been affixed to the house at Schumanstr. 13, in memory of Lenin's attendance at a performance of Gerhart Hauptmann's "Die Weber" at the Deutsche Theater on August 8, 1895.—The manuscripts, notes and letters of Franz Molnar have been offered to the Szechenyi Library in Budapest by Lili Darvas, widow of the Hungarian playwright.—In 1943 Otto Horcher left Germany and his famous restaurant in Berlin with 200,000 Marks and two wagons of cutlery, to open a restaurant in Madrid. The 66-year-old restaurateur has visited his native city to see the ruins of his house in Lutherstr.—Lotte Lehmann and Hans Jaray received the "Ehrenring" of the City of Vienna.

*Home News:* Tania Lieven is directing "Three After Six" for ITV.—Wanda Rotha is to visit Basle to appear in "Who's Afraid of Virginia Woolf?" at the Komödie.—Peter Illing is in Reginald Rose's "Twelve Angry Men" at the Queen's.—The "Encyclopedia Britannica" has commissioned Hans Tasiemka to write about German TV.—Rudolph Cartier produced the six-part series, "Midnight Men", starring Eva Bartok, for BBC-2.

*Milestones:* Mirjam Ziegel-Horwitz, the well-known actress and widow of Erich Ziegel, who survived Nazi persecution inside Germany through the help of Gruendgens became 75 in Hamburg.—Eric Pommer, famous Ufa producer of "Caligari", "Dr. Mabuse", "Blue Angel" and "Kongress tanzt", celebrated his 75th birthday in Hollywood. Together with Charles Laughton he ran a company in London before the war and afterwards was a film officer in Germany for the U.S.A.—Oskar Maria Graf, the non-Jewish Bavarian author who emigrated to the States when the Nazis came to power, celebrated his 70th birthday whilst visiting Munich.—Wolfgang Stresemann, conductor of Berlin's Philharmonic Orchestra and son of the late German Minister and Chancellor, has turned 60 years of age.—Helene Thimig, Reinhardt's widow and sister of Hans and Hermann Thimig, is now 75. She returned to Vienna from the States and, eight years ago, changed from acting at the Burg to the Josefstadt.—Joseph Plaut, who began his career as an opera singer and became the well-known "Rezitator", is now 85.

*Obituary:* Comedian Hans Moser has died in Vienna, aged 84.—Fega Frisch, 86-year-old widow of Efraim Frisch, editor of the German monthly "Mercur", died in Ascona.—Paul Eipper has died in Munich at the age of 73. In 1928 his best-seller "Tiere sehen dich an" was published.—Ninety-year-old Ludwig Gruber, of "Mei Muatterl war a Weanerin" fame, has died in Vienna.—Friedrich Sieburg, literary critic and biographer who before 1933 was on the staff of the *Frankfurter Zeitung*, died in Gaertringen, at the age of 71.—The painter Oskar Stoessel, brother of the actor Ludwig Stoessel, died in Vienna at the age of 86.—Hans Springer, the 75-year-old dentist to many famous artists, died in London.

*Germany:* Berlin's Theater des Westens, under the directorship of K. H. Stracke, will open with "The Merry Widow".—Grete Mosheim is to go on tour in "Glasmengerie".—Lil Dagover will appear in Vicki Baum's adaptation of "Gigi" at Baden-Baden.—Peter Zadek's production of Behan's "Spassvogel" will be presented at the Berlin Theatre Festival.—Albert Lieven will take part in the new Durbidge series "Der Schluessel" on T.V.—Hilde Koerber resigned after 13 years as director of Berlin's Reinhardt School for Actors.—W. Dieterle produced "Macbeth" and "Sommernachtstraum" at Bad Hersfeld.

PEM

H. E. Murrell

## THE YOUNGER GENERATION AND THE AJR

### Some Proposals

The author of the following article was one of the younger speakers, who, as reported in our July edition, contributed to the debate at this year's General Meeting. Whilst readers may not share his views in every respect, they will certainly agree with the basic object he has in mind, namely the need for safeguarding the continuity of our work. Any comments on Mr. Murrell's article would be greatly welcomed, especially if they also dealt with the intellectual and psychological aspects of the problem.—The Editor.

It is undoubtedly realised and agreed on that the work of AJR must continue for a very long time to come, and in order for this to be possible, interest and support in the work of the organisation must be actively aroused and sustained in the age groups down to 30 years of age at present.

It is appreciated that some efforts in that direction are being made, e.g., by asking next-of-kin and children of deceased members to take up membership of the Association. However, it is felt, that while a fairly high rate of affirmative replies may be received at a time shortly after the actual bereavement, often only due to sentimentality, a very high percentage of membership wastage must occur in that group.

There are, without question, a very considerable number of "original" refugees in this country, who at present are outside the membership of AJR, particularly among the—at present—under 50s, and the number of members at present under 40 years of age is only a small percentage of what it should ideally be.

While it is considered of importance that the largest possible number of refugees of all age groups be encouraged to take up membership, and give active and/or financial support to the work of the organisation, it is felt that special consideration must be given to the encouragement to membership to the younger generation. And special problems arise in that direction which must be considered and given attention to towards the fulfilment of that aim.

A very considerable proportion of these members and prospective members are living outside the areas in which the bulk of the older refugees are at present residing (i.e., London N.W., Manchester, Leeds, etc.) and are in fact

living isolated in outer suburbs, small towns and villages all over the country, often with little or virtually no contact with other refugees, and indeed often married to English-born—and often non-Jewish—partners.

It must also be realised and understood that, particularly the younger ones, represent all classes of the community among which they work and live. (The word "classes" is used with some considerable reluctance in this connection, but only for want of a more suitable description.) They represent both self-employed and all types of employees, professionals in every sphere, office and factory workers of all levels and all types of public servants. To many, German is now only a second language, and quite a number are unable to read and write in that language, or even speak or understand it. Many are not in contact with any Jewish organisation, religious or social, yet they should be encouraged to support the AJR, and to assist actively in its social and welfare work, although it must be realised that difficulties are bound to arise due to limitation in time available by them. Also, many are active in all sorts of organisations, political, sport, social, etc., which make up their present way of life in this country.

The following suggestions towards the aim outlined above should be given consideration:

Articles in "AJR Information" must repeatedly stress the need for an increase in membership, impressing on those who receive copies to pass these on to non-members. Literature on the aims and work of the AJR should also be made available on request to existent members, suitable for forwarding to friends and acquaintances, to which preferably a personal note should be added by the member sending it. Members should also be encouraged to send to the AJR office the names and addresses of other refugees, believed to be non-members, and after a check on the office membership records to avoid overlapping and annoyance, the office should invite them to take up membership. Alternately, where members in the area of the addressee are prepared to do so, a personal visit by a member to a "prospective" would be a good thing.

The latter would also help to make personal and social contacts, at present lacking or non-existent in fringe areas, and possible social group activities would not only be a good thing for the people concerned, but would also enable any necessary welfare work locally. Such activities would also indirectly strengthen the central organisation.

Lectures and discussions on problems peculiar to ourselves could be arranged. The question of youth club activities for the next generation should be considered.

To members in general, "AJR Information" is the only link with AJR, and it must be realised that many of the articles therein of a cultural nature are of very little interest to the 30-50s. For instance, does that age group really care what Heine thought of us Jews? It is not suggested that that type of article be dropped, as it is undoubtedly of interest to many members, but that it should be supplemented by other articles, giving matters of interest and problems with the background past 1933 and in the present. To quote some

subjects at random: To what extent are we integrated into our English environment and to what extent are we still different? Have we a narrower or a wider outlook owing to our specific position? In which way has our fate influenced our attitude to post-war Germany? It is realised that some attempts at dealing with questions of this kind have been made by "AJR Information", but they should be pursued more vigorously.

### "GERMANY AFTER THE WAR"

#### A Wiener Library Catalogue

The catalogue series of the Wiener Library fulfils a twofold purpose. It records the vast arsenal of relevant literature which has been collected by this unique Institute for the benefit of the student of contemporary history as well as of the occasional enquirer who is in need of reliable information. At the same time the catalogues are comprehensive bibliographies of all important publications which have appeared in a particular field.

The subjects of the first three catalogue volumes were "Persecution and Resistance under the Nazis", "From Weimar to Hitler—Germany 1918-1933" and "German Jewry—Its History, Life and Culture". Now the fourth volume dealing with post-war Germany has become available.\* It covers more than 2,500 books, brochures and articles which are listed in ten sections, referring, amongst others, to works on the Third Reich in Retrospect, on Politics and Parties in East and West Germany, on Restitution and on Christian-Jewish Relations in Post-War Germany. Whilst, as a matter of course, the collection includes most of the books published on the subject, its specific value derives from the fact that it also comprises rare and less-known brochures and documents (some of them only in typescript). To quote a few examples at random: An address on the Restoration of Jewish Rights by Judge Proskauer (1944), the Military Government Gazette for the British Zone, Autobiographies by Nazis and Persecutees, Attacks on Anti-Nazi Resistance.

The 260-page book is enhanced by a detailed index.

\* After Hitler: Germany 1945-1963. Wiener Library Catalogue Series. Edited by Ilse R. Wolff. Vol. 4. Compiled by Helen Kehr. Vallentine, Mitchell 1963. 42s.

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## ISRAEL'S LANGUAGES

Only now are the results of the General Census, carried out by the Central Bureau of Statistics in May/June, 1961, being gradually published. Interesting data have been obtained about the use of languages in Israel. Eighty per cent of the total population aged two or over use Hebrew as an everyday language, either principally or additionally. For Jews the figure is 87 per cent and for non-Jews 14 per cent. It was also found that Hebrew is consistently more frequently spoken by males, young persons and persons of long residence. The differences between these three strata are considerable: while 99 per cent of Israeli-born aged 15 to 29 speak Hebrew as their first or only language, the corresponding figure for women aged 65 and over who immigrated in 1955 or later is three per cent.

At the time of the First World War, Yiddish and Arabic were the principal languages among those Jews in Palestine whose everyday language was not Hebrew. In the Mandatory period Arabic lost ground owing to the European character of the immigration, while Yiddish continued to be predominant, although against a more varied background of other languages. From 1948 to 1961 there has been a marked reduction in the use of Yiddish and German as the main languages and a relative expansion of Arabic, Persian, Rumanian and French.

For the Jewish population the most frequently used language other than Hebrew is Arabic, spoken by 31 per cent of foreign-language speakers. Yiddish has gone down to second place, used by 23 per cent of non-Hebrew-speaking people. Its decline reflects the shift in balance between the Ashkenazi and Sephardic elements of the population—in the year 1919 the corresponding figure for Yiddish was 59.1 per cent; in 1948 46.8 per cent; and in 1950 33.3 per cent. In Israel Yiddish is today to some extent the language of the older generation, whilst Arabic and Persian are more frequent among children, as these languages are spoken by a sector having large families.

## Use of German Declining

No other language reached as much as ten per cent of the share of foreign-language speakers. Most conspicuous is the decline of German, falling from 16.9 per cent in 1948 to 6.2 per cent, mostly spoken by adults. Of all non-Jews in Israel, 96 per cent use Arabic for everyday purposes.

The rise of Hebrew was by no means continuous. A short time after the establishment of the State, in November, 1948, Hebrew was extensively spoken by the Jewish population, but mass immigration caused a radical decline, and only by 1961 had the use of Hebrew as the

principal language reached its 1948 level. The number of illiterates was 156,500 in 1961, constituting 12 per cent of the Jewish population aged 14 and over.

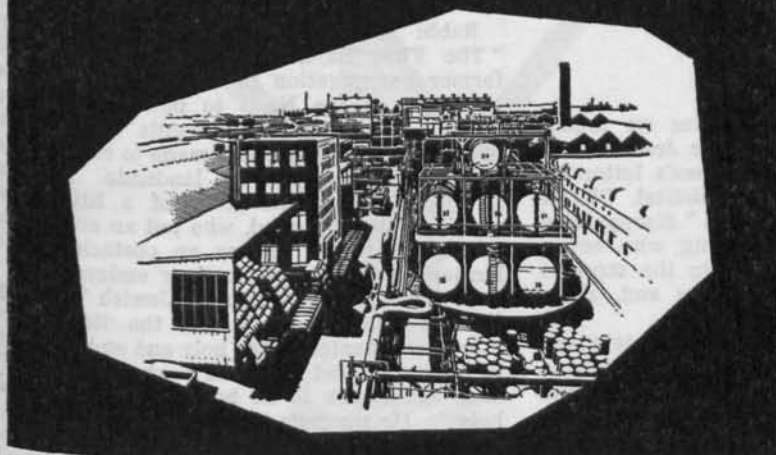
While the country's educational system has practically eradicated illiteracy amongst the young, only few illiterate adults acquired reading and writing skills after their immigration from Asian and African countries.

An important feature is the steady improvement in the literacy rate of the non-Jewish population. The figure of 81 per cent illiterates found in the 1931 Census for the whole of Mandatory Palestine declined in Israel to 52 per cent by 1961. This rate is considerably lower than those in all Moslem countries for which data are available. (Iraq—89 per cent illiteracy; Iran—85 per cent; Egypt—80 per cent.)

## Low Rate of Illiteracy

The rate of illiteracy for the whole Israeli population is much lower than that in the Moslem countries from which have come about half of the immigrants since the establishment of the State. For Israeli-born Jews and Jews born in Europe and America the percentage of illiterates is similar to that found in the most advanced countries (5 per cent and under). Nevertheless, because of the relatively low literacy level of non-Jews and of Asia-Africa-born Jews, the illiteracy rate for the whole population is higher than that of the most advanced countries—16 per cent. However, even this is not higher than the rate found in several European countries—Turkey 61 per cent; Yugoslavia 33 per cent; and Greece 20 per cent.

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## LIVING LEGACY

### The Hugo Hahn "Festschrift"

Amongst the many Jubilee Volumes which have appeared in recent years the one dedicated to Rabbi Hugo Hahn on the occasion of his 70th birthday occupies a special position.\* It combines scholarly studies with thorough analyses of burning issues. In other words, it focuses on past, present and future, obviously reflective of both the contemplative interests and the dynamic personality of the recipient himself.

Eric W. Norden pays tribute to the man who, after an accomplished rabbinical career in Central Europe, started a second life in this country, blending "the tradition and ideals of Liberal Judaism long practised in the old country into the religious and social life of the new homeland".

F. S. Brodnitz, writing about "A Rabbi from Germany", gives a biographical sketch of Dr. Hahn's "first life" in Germany. Against such background must be assessed the measure of achievement of the immigrant—the ingathering of a voluntary group of over 1,000 families in Congregation Habonim, the adjustment of ritual and worship, an adult education programme, etc.

Gustav Jacoby devotes himself to "some of the specific problems of this Congregation", quoting in the title of his article Robinson Jeffers' "And all the Past is Future". He believes in the congregation's future even when the second generation will have taken over; however, it must "assert its place in the community at large to a greater extent than . . . heretofore", and "the lay leaders . . . will have to play a more active part . . .".

Stephen S. Kayser discusses "The Art of the Modern Ceremonial Object". His thesis is that "ritual objects must be conceived with a full awareness of the visual values in Jewish life".

#### Rabbi's Position in Israel

Ernst Simon analyses "Rabbiner in Erez Jisrael" historically and under the point of view of the spiritual interlocking between Centre and Periphery, culminating in the towering personality of the late Chief Rabbi A. J. haKohen Kook. He recognises the currently restricted scope for the activities of conservative and reformed rabbis in the political circumstances of the State. On the other hand he recommends at least one year of instruction in Israel for any future rabbi anywhere in the world.

Alfred Jospe, in an article "Religious Issues on Campus", offers "some observations on the religious attitudes of Jewish college students". His evaluation—in this writer's opinion the most soul-searching individual contribution to the entire book—draws its importance from the statistical fact that "two out of every three young Jewish men and women of college age in the United States are enrolled in institutions of higher learning today" and that this percentage will probably increase further. On campus they are exposed to intellectual and emotional influences not previously experienced in their family homes and their families' congregations. He recommends a guidance programme which (a) will enable the student to approach his religion

with the same maturity and intellectual integrity which should characterise his other academic activities; (b) teaches to look for truth more than the comforts of "security"; (c) addresses itself, even in worship experiences, "to the questions and predicaments of the students as human beings-born-Jews"; (d) furnishes a body of value judgments drawn from the heritage of traditions thus enabling him to face his concrete and personal problems; (e) stimulates a quest for "a philosophy of life that looks beyond the present historical situation to the meanings of human existence". In the context of this programme the personality and horizon of the religious educator himself are admittedly of paramount importance.

Kurt Wilhelm publishes and annotates the Rules and the Minute Book of *National-jüdischer Verein der Hörer an der Lehranstalt für die Wissenschaft des Judentums*, Berlin. During its ephemeral period of existence (1901-2) it had eleven student members, all of whom were to establish reputations for themselves in later years, including Rabbis J. L. Magnes and Emil B. Cohn, Professors G. Weyl and E. Taubler, a.o., besides some additional guests. Their common purpose had been the promotion of the Jewish national idea amongst the students of the Lehranstalt and the deepening of the knowledge of modern Hebrew. Their efforts came to nought when they became involved in a controversy with the anti-Zionist *Rabbinerverband* in Germany, whose President, Rabbi Siegmund Maybaum, was also a member of the faculty of the Lehranstalt.

#### Essay on Zunz

Nahum N. Glatzer contributes an article entitled "Leopold Zunz and the Jewish Community" which is based on Zunz's letters to the Ehrenberg family in Wolfenbüttel. Glatzer presents Zunz as a "lonely man" disappointed by the decline of Jewish learning, who, nevertheless, "devoted his energy to the struggle for Central European democracy and, above all, to Jewish scholarship".

Fritz Schwarzschild publishes the text and translation into English of a letter addressed to him by Franz Rosenzweig, a document not included in the collection of Rosenzweig's *Briefe*, Berlin, 1935. Therein the writer pleads for the awakening of a broader interest for the course in Bible, taught by Eduard Strauss in the sense of "taking the Bible seriously as the document of the Jewish encounter with God in history".

Fritz Bamberger publishes for the first time and annotates four letters acquired by him in 1937. They had been addressed to Moses Mendelssohn by Gentiles showing the esteem wherein they held him severally. J. F. Löwen,

who was first to formulate the idea of a German National Theatre, solicits the review of a book of his by Mendelssohn. J. Th. Lessing, younger brother of the poet and critic, asks Mendelssohn for an interpretation of Hebrew phrases in *The Song of Songs*. J. J. Dusch, rector of the Altona Akademisches Gymnasium, tries to vindicate the reputation of Salomon Maimon, then a student at the institution. C. W. von Dohm, noted author of a book in favour of Jewish civic emancipation, reports the difficulties created by the French authorities in letting copies pass.

Alexander Altmann contributes the text and a translation into English of a letter written by Abraham Geiger to his colleague, S. Formstecher, on the divorce problem of a certain couple in San Francisco. The inherent interest in this letter derives from the fact that it reveals the wrestling of a champion of religious Reform with minutæ of Halakha.

The late Professor D. Baumgardt's aphorisms ("Gedankensplitter zur Religiosität der Juden") cover a broad range of philosophical ground, but can perhaps be summarised in the antithesis between form and content, both as to religious observance and political action. The philosopher's verdict is that Judaism has the capacity for mature answers to the problems at hand because it disciplines the emotions while prescribing enjoyment of life in all its aspects.

Professor A. Leschnitzer envisages "The Enigma of Jewish Survival". He distinguishes three consecutive different "Jewries": (a) the people of ancient history; (b) believers in a religion which attracted pagan proselytes down to the end of the *Völkerwanderung*; (c) the endogamous community of the second millennium c.e. He sees in the survival of the Jews not a biological miracle, but a development whose determinant factors are accessible to historical and sociological analysis.

#### Reminiscences of Mannheim

Rabbi Max Gruenewald reminisces about "The First Days, the First Years" of his former congregation in Mannheim after the ascension of the Nazis to power. His is a moving report on daily events easily overlooked when an attempt is made to re-create in writing the impact of the landslide. Particularly pathetic is the story of a little boy, physically handicapped, who put an end to his life so as to be neither an obstacle nor a burden on his parents in their emigration.

Arthur A. Cohen drafts a "Jewish Theology for the Interregnum", i.e., the time after "Jews covenanted to the holy and endeavoured to be holy" and the time "when they shall once again seek to be holy and may become holy". He suggests the shedding of "middle-class" values which—says the author—have become characteristic of American Judaism. He recommends exclusive care for "the Bible and the tradition, the word and the commandments"—to "obey or disobey them, but them alone".

Shortly before he passed away Gustav Löffler drafted a letter to Dr. Hahn which is incorporated in the book under the title "Erneutes Gespräch". It crystallises his "Auffassung von der Gedanken-Gefühls-Welt der G'ttsuche als zentralem religiösem Motor und von der Macht der Meditation", which would include the utilisation as catalysts of such external artistic accessories as Chagall's glass windows in the Hadassah Hospital synagogue in Jerusalem.

The above brief résumé of the contributions to the Hahn Jubilee Volume bespeaks the breadth of interests and involvement on the part of the distinguished authors as well as the depth of mind and heart of its recipient.

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## Jacob Bornfriend Exhibition

Jacob Bornfriend, who will celebrate his 60th birthday on October 25, was born in Slovakia and has been living in London since 1939. Eastern and Western elements combine in his art, and are interwoven in a pure and harmonised unity. The Roland, Browse-Delbanco Gallery, which has taken care of his work for many years, is now showing his recent paintings. They reveal that Bornfriend, always an important artist, has now reached a particularly high stage of accomplishment. His maturity is based on the human experiences of a hard and difficult life. His is an artistic dynamism, but one which has come to terms with life.

Two tendencies are reconciled in his work: the dynamism of his large paintings and the calm of his small ones, the colours of which irradiate like precious stones, and could almost be described as modern icons. In spite of all this variety in style, the artistic identity is always preserved. His technique is not complex but rather simple and straightforward, in keeping with his sincere and straightforward inner self. He starts from an optical or pictorial motive which is soon filtered through the painter's eyes: the pictorial element becomes abstract because it is the language appropriate to this painter who transforms reality into images of colour. His splendid colours, though full of restraint and economy, are a delight to the eyes and the senses; they bear the unique and unmistakable signature of a great artistic personality.

Bornfriend has succeeded in reconciling incompatible contrasts and has thus created harmonies where others would fail. He wields various cultures into an unusual synthesis—the Slavic and Austrian elements of his home country; the English restraint of his adopted country, by which his innate gifts, artistic discretion and harmony, have been brought to perfection and, last but not least, his Jewishness which expresses itself in his dynamism.

Bornfriend has just had a great success in Sweden, which has established him as an important painter of international standard. His works present a rare opportunity for the discerning collector.

R. SPIRA.

### A MAHLER PREMIERE

At the Promenade Concert on August 13th, Mahler's last work, the Tenth Symphony, was given for the first time in its entirety. Mahler had completed the orchestration of the first two movements (which have frequently been played) and also the beginning of the third movement; the remainder of the work exists only in the composer's draft. From this, Deryck Cooke has prepared his full-length performing version, which, after initial objections, has now been sanctioned by Mahler's widow. "The Times" calls the performance "the major event of this year's promenade season", and the "Daily Telegraph" begins its report: "Musical history was made . . . at the Albert Hall".

There can be little doubt that Mahler would

still have made many changes had he lived to complete the score. Nevertheless, even in its present form, the Tenth must rank among his greatest works and moreover as one in which he breaks new ground and takes decisive steps towards a twentieth-century idiom. One can hardly overrate the difficulties with which Mr. Cooke had to cope, but the tremendous impact of this late Mahler première must be proved to him that his labour has not been wasted. The performance was conducted by Berthold Goldschmidt, and it was broadcast in the Third Programme.

H.W.F.

### AUSTRIAN-JEWISH AUTHORS

A comprehensive study of the Jewish contribution to Austrian culture needs still to be written. In the meantime, less ambitious publications recording the merits of Jewish writers, artists and men of learning serve a useful purpose. Professor Harry Zohn's book, "Wiener Juden in der deutschen Literatur", (106 pages, Verlag "Olamenu", Tel Aviv, 1964), is obviously destined to reach a readership usually neglected by specialists: the members of the younger generation, whose links with the past are getting more and more tenuous. The thumbnail sketches of 14 Austrian-Jewish writers may, at least, indicate to them the astounding diversity of personalities and talents produced by Austrian Jewry. They range from the far-from-outdated Arthur Schnitzler to Friedrich Torberg, who is bravely "holding up the flag" in present-day Vienna. The essay on Stefan Zweig is distinguished by warmth and understanding.

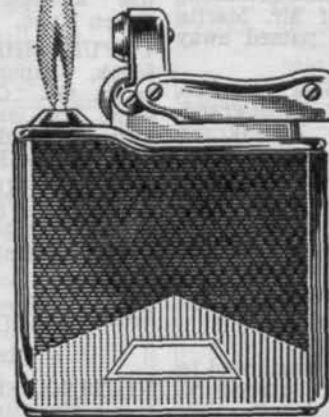
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# OBITUARY

## PROFESSOR ERWIN FREUNDLICH

Professor Erwin Finley Freundlich, the astronomer and physicist, has died in Wiesbaden. His loss will be felt not only in the world of science but by a wide circle of friends in all parts of the world. As a young man he started research on gravitation and in about 1911 he met Albert Einstein, who entrusted him with the development of the astronomical side of his Theory of Relativity. Both men kept in close collaboration and in 1926 Freundlich led an expedition to Batavia of a team of scientists, hoping to confirm Einstein's calculations during a full eclipse of the sun. The observations failed by a small margin to agree with Einstein's. The stature of both scientists was, however, such that their friendship was unimpaired. Freundlich never ceased to revise the results until, in 1963, with the use of new instruments, it became possible to prove the hitherto unknown divergence of light near the sun, thus justifying Einstein's theory.

Professor Freundlich left Germany in 1933 and accepted an invitation of the Turkish Government. From Turkey he went to Prague, but was again forced to escape Nazi persecution by emigrating. He spent the following twenty years in St. Andrew's, Scotland's oldest university, famous for its work in the field of astronomy. There he created a new modern observatory. Past retiring age, he returned to his birthplace, Wiesbaden.

His striking personality, as well as his merits, gained him friends everywhere. In Berlin he befriended the prominent artists of his generation, amongst them Feininger and Max Pechstein, who frequently painted his portrait. On his advice Erich Mendelsohn built the "Einsteinium" in Neubabelsberg for him—a pioneer work of lasting importance in modern architecture. Freundlich was also an accomplished cellist, bringing out the mathematical element in Bach. The range of his interests and knowledge revealed itself in conversation by his rare clarity and integrity of thought. Though he died at the ripe age of nearly 80, it will seem unbelievable to all who knew him that he is no longer alive. Last February his final work on the gravitation of light was published. G.F.

## HEINZ HERALD

Heinz Herald, who died last month in Kreuth (Tegernsee) aged 73, was the man nearest to Max Reinhardt all his life. Even after the death of the "great magician" and after Herald's return from the States to Germany a few years ago, he worked in his master's spirit as artistic adviser for Munich's Kammerspiele.

At the age of 20, Herald joined Reinhardt as lector and director and, next to brother Edmund Reinhardt, became Reinhardt's right hand. When, together with stage designer Ernst Stern, he edited the book "Reinhardt und seine Buehne", published in 1918 by Dr. Eysler, his contributions were the most important because nobody knew the work of the genius of the stage better than Herald. He was the invisible good spirit in the background, leaving Reinhardt to concentrate completely on his art. For a time he was director of the Berliner Theater, no longer in existence, and also of the Grosse Schauspielhaus.

Together with Reinhardt he left Germany in 1933 for Paris, London, and eventually Hollywood, where he wrote scripts for films. In 1937 he was awarded an "Oscar" for his work on "Emile Zola", directed by William Dieterle and starring Paul Muni. His son Peter Herald is European representative of Walt Disney's productions. PEM.

## PROFESSOR W. W. ROGOSINSKI

Professor Werner Wolfgang Rogosinski, F.R.S., Emeritus Professor of Pure Mathematics in the University of Durham, died at Aarhus (Denmark), at the age of 69. He was born in Breslau and, from 1923 to 1936, was Privatdozent and Ausserordentlicher Professor of the University of Königsberg. In this country, he became an assistant lecturer at Aberdeen University in 1941 and, four years later, went to Newcastle, where he held the Chair at King's College, Durham University until 1959. After his retirement he became Professor of Pure Mathematics at Aarhus University. He was elected a Fellow of the Royal Society in 1954. In its obituary, "The Times" pays tribute to him as an enthusiastic and successful lecturer who gave the warmest encouragement to younger mathematicians by his evident interest in their progress and concern for their welfare.

## DR. ALFRED LANDSBERG

Dr. Alfred (Abraham) Landsberg, one of the leading personalities of German Zionism before 1933, died in Ramat Chen (Israel) at the age of 77. Prior to his emigration, he practised as a lawyer in Wiesbaden. From 1923-1924 he was president of the Zionist Organisation for Germany; it was due to his initiative that the organisation acquired the house at Meineckestr. 10. In Palestine Landsberg was one of the founders of Rasso and thus helped to create settlements for middle-class immigrants from Germany. Later, he passed his law examinations and again embarked on a legal career. From 1951 to 1956 he was head of the Hamburg District Office of the Jewish Trust Corporation for Germany.

## DR. BRUNO SCHINDLER

The sinologist, Dr. Bruno Schindler, died in London at the age of 81. He was born in Leschnitz (Upper Silesia) and, prior to his emigration, was a lecturer in Chinese at Leipzig University. His interest in Oriental studies began when, as secretary and librarian to Haham Dr. Moses Gaster in the early years of the century, he worked at the British Museum. Dr. Schindler was the president of the Hendon Reform Synagogue.

## DEATH OF JEWISH M.P.

The death occurred of Michael Cliffe, Labour M.P. for Shoreditch and Finsbury since 1958. He was 60. Active in Jewish affairs, Mr. Cliffe was a leading member of the delegation which made the pilgrimage to Warsaw in 1961 for the Ghetto anniversary.

## MISS BRIGIT CASSEL

Mr. PETER W. JOHNSON writes:

"We of the *Hyphen* have regrettably lost another of our most active members. Brigit Cassel was our Hon. Secretary last year, our most conscientious ramble leader for many years, and a good sportsman all round. After a very painful, bravely borne illness, she passed away in July at an early age. Our group will honour her memory, and we extend our deep-felt sympathy to her family".

## FAMILY EVENTS

### Deaths

**Littmann.**—Mrs. Antonia Littmann, née Stern, widow of Mr. Martin Littmann, peacefully passed away on July 31.

**Rosenkranz.**—Our dear mother, grandmother and great-grandmother, Mrs. Jenny Rosenkranz, née Sladowsky, widow of Dr. Max Rosenkranz, died peacefully on 13th August, in London. For the family, Dr. Edith Busse (née Rosenkranz), Ramat Aviv, Tel Aviv, Israel.

### Classified

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## MISSING PERSONS

### Personal Inquiries

**Herz.**—Will Mr. Armin Herz, originally Patentanwalt Ing. from Vienna, kindly telephone STAMford Hill 0749.

**Levi.**—Dipl. Ing. Levi (or Lewi) until 1933 Berlin Baumschulenweg, worked for A.E.B. Berlin-Treptow, wanted by Director L. Dienstbach, formerly A.E.G. now Ueberlandwerk Ipsheim, 8531, Ipsheim, Bavaria.

**Salomon.**—Dr. med. Salomon (formerly Berlin), son of Dr. Ing. Salomon, wanted by Otto Gieseler, 3351 Greene/b. Krelensen, Gerichtsstrasse, 2.

## Enquiries by AJR

**Koenigsberger.**—Mr. Gerd Koenigsberger, born 1925 in Berlin, last residence in Germany: Berlin-Schoeneberg, Pallasstr. 8/9, last known address in U.K.: c/o Mr. J. Boetcher, Ribblesdale, Riversmead, Lancs.

**Lasdun.**—In connection with a claim of Mrs. Jennie Herzog, evidence is required that her deceased mother, Mrs. Pauline Lasdun, born March 3, 1863, in Babronisk (Russia), had her last residence in Koenigsberg/OP, Borcherstr. 11.

**Pollak.**—Would Mrs. Hanna Pollak, a daughter of the late Mrs. Erna Krasny née Rittermann by her first marriage, communicate with URO, 183/189 London, N.W.3, in connection with a restitution case.

## JEWIS IN NORDHORN REMEMBERED

Nordhorn is a medium-sized textile industry city in the Osnabrück district, near the Dutch border. Now about 40,000 people live there. However, 70 years ago, when Nordhorn was still a small township, it only had about 2,000 inhabitants. According to a book by A. Piechorowski, "Der Untergang der juedischen Gemeinde Nordhorn", published under the auspices of the Society for Local History, a substantial Catholic and a small Jewish minority were living among the Protestant majority population.

It has been assessed that Jews were already resident in the town around the middle of the eighteenth century. In 1809 their number amounted to 23, in 1842 there were 30. After the great fire in the town in 1878 a new synagogue was built. The Nordhorn Jews had their own religious life, but they were accepted by the general community without reservations. In 1930, of the twelve Jewish families, four had textile businesses, four were butchers, two dealt in raw materials, one was a cattle dealer and one an estate agent. There was nothing extraordinary or conspicuous in their lives. Piechorowski writes: "They were neither more nor less active and enterprising than their fellow-citizens. They had the same proportion of poor and better-off persons and they embarked on new industrial ventures as little as the other conservative citizens of Nordhorn. They were middle-class people, had the same kind of life as their neighbours, spoke the same language, the Nordhorn 'Plattdeutsch', attended the same schools and were members of the same organisations."

Piechorowski describes the events during the Nazi period which ultimately led to the extinction of the Jewish community. He records the fate of forty Jews, including those who died a natural death and who were not born in Nordhorn. He often quotes official documents, lists and eye-witness reports. "The book", he writes, "is to remind us of the victims of inhuman deeds. It is to help our young generation to learn the difference between good and evil, and the responsibility

which everybody carries for his fellow-man".

The publication was proposed by the German Co-ordinating Council of the Societies for Christian-Jewish Co-operation and sponsored by the municipality of Nordhorn. It is mainly meant to serve as material for teachers. The preparatory research work lasted four years. Apart from books and local periodicals, files and public registers were scrutinised and information by witnesses in the district of Bentheim or on the Dutch side of the border were also perused.

E.G.L.

### ESSAYS ON BEETHOVEN

A volume of essays on Beethoven by Dr. Ludwig Misch\* merits our particular interest on account of the circumstances under which some of these essays were written. The German-Jewish author was for many years music critic of the *Berliner Lokalanzeiger*. After 1933 he wrote for the *Juedisches Gemeindeblatt* and also contributed to the Jewish musical life of that period as founder and conductor of the "Neue Madrigalvereinigung". The loyalty of his non-Jewish wife, to whom the present volume is dedicated, saved him from deportation, and he has since emigrated to the U.S.A.

The collection includes material which had been published in Germany and elsewhere between 1920 and 1941, but has partly been revised. As Dr. Misch says in his preface, many of these essays were written "in Atempausen zwischen den Schrecknissen der Nazi-Zeit" and could have served as preliminaries for larger studies, "die in der jahrelangen Bedraengnis durch grauenhafteste politische Verfolgungen ungeschriebenen bleiben mussten". The essay, "Fidelio als ethisches Bekenntnis", appeared in the *Juedisches Gemeindeblatt*, "um eine vom Terror gepeinigten, seelisch aufs tiefste bedruckte Gemeinschaft auf eine Auffuehrung des 'Fidelio' vorzubereiten (it was the Kulturbund performance). Erschienen ist davon seinerzeit

\* Ludwig Misch: *Beethoven-Studien*. Walter de Gruyter, Berlin.

nur ein Teil, und auch dieser nur einem engumschriebenen Leserkreis (den Besitzern des Judenausweises) zuganglich und unter dem Druck der Zensur verstuemelt".

The two essays which were published in Zuerich and Copenhagen in 1938 and 1941 were presumably written after 1933 and bear evidence that conditions could not deter Dr. Misch from wrestling with the works of the great German composer.

The essays range from programme notes for Furtwaengler and Edwin Fischer concerts to the most detailed studies, especially one on the "Egmont" Overture. This longest of the essays bears the dedication: "Den Manen meiner in Auschwitz umgekommenen Freunde Dr. Erich Loewenthal und Theodor Liedtke, die diese Ouvertuere so liebten."

Dr. Misch's approach combines the most painstaking scholarship with an admirable artistic insight. In harmonic analysis, he follows the method developed by W. Klatte, his colleague at the *Lokalanzeiger* and Professor at the "Sternsches Konservatorium" (where I myself enjoyed his tuition). Misch's research is always based on pure musical facts, and the way in which he proceeds from here to the dramatic significance of the music is wholly sound and acceptable. His profound enthusiasm for Beethoven extends to the little-known "Battle Symphony" which celebrates Wellington's victory over Napoleon and which culminates in a fugue on the English National Anthem ("Beethoven wollte nach eignem Wort 'den Englaendern ein wenig zeigen, was in dem God Save the King fuer ein Segen ist'").

Many chapters in the book are mainly for the expert who can follow the argument with the score in his hands. But the degree in which Dr. Misch can also communicate to the ordinary music-lover the impact of the living music becomes nowhere more evident than in his comment on the Minister's passage in the final scene of "Fidelio": "Es sucht der Bruder seine Brueder"; "Diese wunderbaren, vom Ausdruck reinster Menschen-guete ueberstroemenden Takte..." If words can be adequate at all, these are!

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## ORGANISATIONAL NEWS

### WORLD EDUCATION COUNCIL

A World Council on Jewish Education, with two centres in Jerusalem and New York and five geographical regions, has been established.

Dr. Nahum Goldmann, president of the Conference on Jewish Material Claims Against Germany, in Geneva told the two-day conference on Jewish education that Jewish education was the only means of ensuring Jewish continuity.

The Council will be headed by Dr. Goldmann and will include representatives of the main religious and education trends in world Jewish life, with 13 from the United States, eight from Israel, four from Europe, two from Britain, five from Latin America, and one each from Canada, South Africa, Australia and Persia. Fifteen delegates-at-large are to be co-opted with the object of calling on the services of experts or, if required, to correct any imbalance in the geographical or ideological basis of the Council.

The New York centre will maintain close links with the newly established Memorial Foundation for Jewish Culture, which will be the Council's main source of finance. Dr. Goldmann assured delegates that each of the existing educational bodies would retain their complete autonomy.—(J.C.)

### MORRIS FEINMAN HOMES TRUST

#### Annual General Meeting

The Annual General Meeting of the Morris Feinmann Homes Trust (Manchester) will take place on September 20, 1964, at 4.30 p.m., at Morris Feinmann House, Spath Road, Didsbury, Manchester, 20.

AJR members from Manchester and nearby are cordially invited to attend, because some questions of general interest will be discussed.

### GARDEN PARTY AT OSMOND HOUSE

On Sunday, July 26, a garden party was held in the grounds of Osmond House. About 150 persons participated. The function was all the more enjoyable, as it was favoured by beautiful weather. Its main object was to bring some variety into the life of the residents, most of whom are to a certain extent afflicted by physical handicaps. This aim was certainly achieved in full measure. All residents took part in the function; even those who are usually completely confined to their rooms were taken into the garden in their special chairs. Amongst the guests were children and grandchildren of the residents, as well as a group of residents from the neighbouring Leo Baeck House.

A small orchestra had been engaged for the occasion. There was also a bazaar, at which many articles made by the residents of Osmond House and Leo Baeck House were sold and which proved a great success. Slightly over £100 was realised and will be entirely remitted to "Jewish Child's Day" for their work amongst underprivileged Jewish children.

### AJR ATTENDANCE SERVICE

#### Relief Workers Needed

The AJR Social Services Department is faced with an increased demand from sick and invalid people, especially after release from hospital, who require help. Sometimes only relief work for a few days or hours is required. The work is paid for. It would be greatly appreciated if any ladies who are willing to co-operate, would register with the AJR Attendance Service (8 Fairfax Mansions, N.W.3, Tel.: MAIda Vale 4449, hours Monday-Thursday 10-1, 3-6, Friday 10-1).

### LIGHT WORK FOR RESIDENTS OF HOMES

In the course of the past years social workers in this country and abroad have increasingly experienced that it is of decisive importance for the fitness of elderly people that they are kept occupied. At present many residents in our Homes are already busy with handicraft work, and the articles produced by them are exhibited and sold for the benefit of good causes at the bazaars which most Homes have held on various occasions. However, it appears essential to provide opportunities for light work on a more systematic and permanent basis. This, among others, requires proper supervision and training, as well as working facilities, and ways and means of implementing proper schemes are under consideration. One of the prerequisites is the co-operation of firms in light industry who are prepared to place orders on a piece-work basis. It would be appreciated if firms which might be interested in the scheme kindly contacted the AJR. This would, of course, not commit them in any way at this stage.

### THE HYPHEN

The Hyphen Group carries on with its week-end activities of "At Home" functions, theatre, opera and concert visits, car outings, etc. Details are obtainable from the Hon. Secretary, Miss Marion Koppel, 3a Westbourne Terrace Road, London, W.2.

### DR. WALTER GORDON 80

On September 26 the physician, Dr. Walter Gordon, will celebrate his 80th birthday. Prior to his emigration he practised in Hildesheim. In this country he was Geriatric Physician at St. Mary's Hospital, Bury St. Edmunds, from 1948 until he retired five years ago. Dr. Gordon always took a great interest in the work of the AJR. We extend our sincerest congratulations to him.

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# DAS DRITTE GESETZ ZUR AENDERUNG DES BUNDESRUECKERSTATTUNGSGESETZES (BRueG)

Kurz dargestellt von  
Dr. Ernst Schaefer (London)

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dargestellt von

**DR. ERNST SCHAEFER (London)**

### I. DIE NEUE BEGRIFFUNG DER ZAHLUNGEN AUS DEN BEFRIEDIGUNGSBESCHLEIDEN DER OBERFINANZDIREKTIONEN (Befriedigung zu 100%)

Das BRueG hatte nach Abschaffung der westlichen Alliierten die Befriedigungsfähigkeit der Bundesrepublik und des Ansehens der Dritten Welt auf 1,25 Milliarden DM beschränkt, wobei keine Anleihe zu diesem Zweck aufgenommen werden durfte. Durch das BRueG wird die Befriedigungsfähigkeit auf 2,5 Milliarden DM erhöht, wobei die Aufnahme von Anleihen bis zu 1,25 Milliarden DM zulässig ist. Die Befriedigungsfähigkeit wird durch die Aufnahme von Anleihen bis zu 1,25 Milliarden DM erhöht, wobei die Aufnahme von Anleihen bis zu 1,25 Milliarden DM zulässig ist. Die Befriedigungsfähigkeit wird durch die Aufnahme von Anleihen bis zu 1,25 Milliarden DM erhöht, wobei die Aufnahme von Anleihen bis zu 1,25 Milliarden DM zulässig ist.

Sonderbeilage zu "AJR Information"

September 1964

# ORGANISATIONAL NEWS

## WORLD ECONOMIC FORUM

A World Council on Economic Cooperation, with its headquarters in Geneva, Switzerland, has announced that it will be holding a series of seminars on the theme of "The World Economic Forum" in 1964. The seminars will be held in Geneva, London, and New York, and will be open to all interested parties. The seminars will be held in Geneva, London, and New York, and will be open to all interested parties.

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# DAS DRITTE GESETZ ZUR AENDERUNG DES BUNDESWEHRWESENSGESETZES

## (BRUG)

The third law for the amendment of the Federal Armaments Act (BRUG) is a significant piece of legislation. It addresses various aspects of the military structure and personnel. The law is expected to have a major impact on the German military. The law is expected to have a major impact on the German military.

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# DAS DRITTE GESETZ ZUR AENDERUNG DES BUNDESRUECKERSTATTUNGSGESETZES (BRueG)

kurz dargestellt von  
Dr. Ernst Schaefer (London)

Inhalt und Bedeutung des Bundesrueckerstattungsgesetzes (BRueG) sind von mir in einer mit dem Juliheft der AJR Information 1957 erschienenen ausfuehrlichen Sonderbeilage geschildert worden. Ueber das erste und zweite Aenderungsgesetz zum BRueG wurde in der AJR Information selbst zu gegebener Zeit berichtet. Auch die durch Verwaltungsmassnahmen (Erlasse des Bundesfinanzministeriums) bisher durchgefuehrten Auflockerungen der Auszahlungsvorschriften durch die an Stelle der fruerehen sog. Darlehen zu gewaehrenden Vorschuesse wurden in AJR Information jeweils bekannt gegeben.

Ueber das nunmehr verabschiedete Dritte Aenderungsgesetz hat Dr. F. Goldschmidt im Augustheft 1964 von AJR Information bereits eine einfuehrende Darstellung gegeben, in welcher die Kernpunkte der Novelle zusammengefasst worden sind und in der namentlich auch die rechtspolitische Wuerdigung des Gesetzes zum Ausdruck gelangt ist. Bei allem Bedauern ueber die Nichterfuellung mancher berechtigter Wuensche der Verfolgtenorganisationen hat Dr. Goldschmidt die Verbesserungen, welche die Novelle bringt, dennoch als dankenswert und wesentlich anerkannt.

Die im Nachstehenden gegebene ergaenzende Darstellung *sieht von der rechtspolitischen Wuerdigung der Novelle bewusst ab* und beschaenkt sich auf die Schilderung der wesentlichsten Punkte des Inhalts des neuen Gesetzes, so wie es nun einmal vorliegt. Aber auch in dieser Begrenzung muss sie in ihrer Zielsetzung wesentlich bescheidener sein als die eingangs erwahnte fruere, 16 Seiten umfassende Sonderbeilage. Sie muss sich auf die wichtigsten Neuerungen beschaenken, welche die Novelle bringt. Es ist schon aus Raumgruenden unmoeglich, den Leser an dieser Stelle nochmals ausfuehrlich in den Sinn und die Bedeutung des BRueG einzufuehren. Insofern muss der interessierte Leser auf meine fruere Darstellung verwiesen werden. Dort war in aller Breite historisch und rechtlich geschildert worden, weshalb das BRueG zur Ausfuellung einer wesentlichen Luecke im Gesamtgebäude der Wiedergutmachungsgesetzgebung notwendig geworden war und was es mit der sog. Dritten Masse, die den Gegenstand seiner Regelung bildet, auf sich hatte.

Hier sei lediglich noch einmal angedeutet, dass das BRueG die Rueckerstattungsansprueche wegen Entziehung solcher beweglicher Vermoegensgegenstaende regelt, die nach dem Zusammenbruch des Dritten Reichs nicht mehr greifbar vorhanden, also nur fuer den Zeitpunkt ihrer Entziehung, nicht aber in der Gegenwart "feststellbar" sind (die "Dritte Masse")—im Gegensatz zu den auch nach dem Zusammenbruch greifbar vorhandenen Objekten wie z.B. Grundstuecke, Hypotheken, lebende Firmen oder Beteiligungen, in einzelnen Faellen auch ihrem jetzigen Verbleib nach noch festzustellende bewegliche Gegenstaende, die das Objekt der urspruenglichen, von den westlichen Alliierten erlassenen Rueckerstattungsgesetzgebung in den drei Westzonen und in West-Berlin gebildet hatten. Demgegenueber behandelt das BRueG die rueckerstattungsrechtlichen Geldverbindlichkeiten des Deutschen Reichs (und gleichgestellter Rechtstraeger) wegen der von ihm vorgenommenen Entziehungen solcher Vermoegensgegenstaende, die "jetzt" nicht mehr greifbar vorhanden sind. Goldschmidt hat a.a.O. die wichtigsten Beispiele derartiger Objekte gegeben, naemlich Wertpapiere, Hausrat, Lifts, Schmucksachen, Edelmetallgegenstaende, Pelzgegenstaende, Sammlungen, eine Liste, die sich noch vermehren liesse.

Bei manchen von derartigen Entziehungen, wie z.B. der von Wertpapieren (Effekten), die im Zusammenhang mit der Entrichtung diskriminierender Abgaben oder mit einem Vermoegenstransfer vorgenommen wurden, koennen Ueberschneidungen mit Entschae digungsanspruechen auf grund des Bundesentschaedigungsgesetzes (BEG) eintreten, die im BRueG und BEG Spezialregelungen erfahren haben. Einer der Hauptgruende fuer den Erlass des BRueG war, wie ebenfalls in Erinnerung gerufen sei, der Umstand, dass es im Beginne der Rechtsentwicklung bestritten und zweifelhaft war, ob die Ansprueche wegen der Dritten Masse im Rueckerstattungs- oder

im Entschae digungsverfahren zu verfolgen seien. Das hatte dazu gefuehrt, dass viele Berechtigte die Ansprueche im Rueckerstattungs verfahren nicht innerhalb der damals geltenden Anmeldefristen angemeldet hatten, waehrend andere, die eine solche Anmeldung vorgenommen hatten, durch rechtskraeftige Entscheidungen abge wiesen wurden oder ihre Ansprueche in der Annahme, sie seien aussichtslos, zurueckgenommen hatten. Wie die gegenwaertige Darstellung zeigen wird, spielt dies Problem auch in der Novelle eine Rolle.

Der Verzicht auf eine nochmalige umfassende Einfuehrung in das BRueG als solches mag fuer die Leser auch deshalb tragbar sein, weil viele von ihnen durch ihre eigenen Verfahren inzwischen persoendlich mit der Materie vertraut geworden sind.

Die unvermeidliche Beschaenkung auf die Neuerungen der Novelle wirkt sich zwangsglaeufig auch auf die Form der jetzigen Darstellung aus. Die fruere Darstellung behandelte das BRueG in seiner Gaenze. Sie konnte daher fluessig und sozusagen aus einem Guss geschrieben werden. Ebenso wie die Novelle selbst nur einzelne Teilpunkte des Gesetzes aendert, kann auch ihre Darstellung nur fragmentarisch wirken. Nur einzelne Steine des Gesamtmosaiks sind durch neue ersetzt worden. Der Gesamthintergrund und das geistige Band muessen in der jetzigen Darstellung leider zu kurz kommen.

## I. DIE NEUE REGELUNG DER ZAHLUNGEN AUS DEN BEFRIEDIGUNGSBESCHIEDEN DER OBERFINANZDIREKTIONEN (Befriedigung zu 100%)

Hierin liegt die wesentlichste Neuerung der Novelle gegenueber dem bisherigen Rechtszustande und fuer viele Leser ihr wichtigster Punkt.

Das BRueG hatte (mit Zustimmung der westlichen Alliierten) die Maximalverbindlichkeit der Bundesrepublik aus den Anspruechen der Dritten Masse auf 1,500 Millionen DM beschaenkt, sodass hohe Ansprueche gewissen Kuerzungen unterworfen waren. Bisher wurden Ansprueche bis DM 20 000 voll befriedigt. Bei Anspruechen bis DM 40 000 betrug die Befriedigungsquote daher nur 50%. Bei Anspruechen von mehr als DM 40 000 waren (von einem gewissen spaeteren Zeitpunkte an) ebenfalls 50% des festgestellten Gesamtbetrags zu beanspruchen. Darueber hinaus konnten Zahlungen lediglich an solche Berechtigte geleistet werden, welche die in den in der Einleitung erwahnten Verwaltungserlassen normierten Altersvoraussetzungen erfuehlten. Die Hoehe der hiernach zu gewaehrenden Vorschuesse war fuer Ansprueche zwischen DM 20 000 und DM 40 000 einerseits und fuer solche ab DM 40 000 andererseits verschieden geregelt. Die Einzelheiten dieser Regelungen sollen hier nicht wiederholt werden, da sie durch die Schlussregelung der Novelle ueberholt sind.

Durch die Novelle ist die Maximalgrenze der Haftung der Bundesrepublik in Wegfall gekommen und die festgestellten Kapitalforderungen werden voll befriedigt. Es sind mit dem Inkrafttreten des Gesetzes (fuer Berlin mit seiner Verkuendung im "Land Berlin") *einschliesslich* der im Einzelfalle auf grund der bisherigen Vorschriften gemachten Zahlungen alsbald zu befriedigen Ansprueche bis zu DM 40 000 und in Hoehe von 75% des DM 40,000 uebersteigenden Betrages.

Die restlichen 25% des DM 40 000 uebersteigenden Betrages werden befriedigt

- (a) ab 1. Januar 1965, wenn der Anspruch einer natuerlichen Person zusteht, die das 65. Lebensjahr vollendet hat. (Hierbei genuegt es bei einer Mehrheit von Anspruchs berechtigten m.E., dass einer von ihnen diese Voraussetzung erfuehlt.)

(b) ab 1. Januar 1966, wenn der Anspruch einer juristischen Person zusteht, die kirchlichen, gemeinnuetzigen oder mildtaetigen Zwecken dient.

(c) ab 1.1.1967 in allen anderen Faellen.

#### Beispiel 1

Festgestellte Gesamtforderung DM 25 000.

Bisher gezahlt DM 20 000.

Mit dem Inkrafttreten der Novelle faellig DM 5 000.

#### Beispiel 2

Festgestellte Gesamtforderung DM 25 000.

Auf grund des Bescheids gezahlt DM 20 000.

Wegen Alters gezahlt DM 2 500.

Mit dem Inkrafttreten faellig DM 2 500.

#### Beispiel 3

Festgestellte Gesamtforderung DM 40 000.

Auf grund des Bescheids gezahlt DM 20 000.

Mit dem Inkrafttreten faellig DM 20 000.

#### Beispiel 4

Festgestellte Gesamtforderung DM 60 000.

Auf grund des Bescheids gezahlt DM 20 000.

Ferner gezahlt DM 10 000.

Mit dem Inkrafttreten faellig einschliesslich der bisherigen Zahlungen DM 40 000 plus 75% von DM 20 000, d.h. DM 15 000, also zusammen DM 55 000. Da DM 30 000 bereits gezahlt sind, so sind mit dem Inkrafttreten zahlbar DM 25 000. Die restlichen DM 5 000 sind, wenn der Berechtigte am 1.1.1965 mindestens 65 Jahre alt ist, mit diesem Tage, sonst sind sie ab 1.1.1967 zahlbar.

#### Beispiel 5

Festgestellte Gesamtforderung DM 60 000.

Auf grund des Bescheides gezahlt DM 20 000.

Ferner gezahlt DM 10 000.

Wegen Alters gezahlt DM 5 000.

Mit dem Inkrafttreten faellig einschliesslich der bisherigen Zahlungen DM 55 000, wie im Beispiel 4, also effektiv zu zahlen DM 20 000.

Wegen der restlichen DM 5 000 gilt dasselbe wie im Beispiel 4.

Die in dem bisherigen BRueG vorgesehene Zinsregelung kommt in Wegfall. Sie waere wegen Ueberschreitung der Maximalgrenze praktisch nie zum Zuge gelangt. Verzinst werden vielmehr nur diejenigen Betraege, die am 31. Dezember 1967 noch nicht ausgezahlt worden sind. In diesem Falle beginnt der Zinslauf ab 1.1.1968 und betraegt der Zinssatz 1% je Vierteljahr.

## II. ENTZIEHUNGEN IM OSTSEKTOR BERLINS

Fuer Entziehungen, die in Ost-Berlin erfolgten, bestand in der bisherigen Regelung eine empfindliche, ganz besonders sinnwidrige Luecke. Gerade sie haette laengst ausgefuellt werden sollen. Nunmehr ist das im wesentlichen geschehen. Auch dieser Punkt ist fuer zahlreiche Leser von praktischem Interesse. Schon in meiner fruheren Darstellung hatte ich auf diese Luecke hingewiesen. Sowohl damals als auch in einem Artikel in der "Rechtsprechung zum Wiedergutmachungsrecht" (RzW) hatte ich darzulegen versucht, dass die Rechtsprechung der Gerichte bei vernuenftiger Auslegung des allerdings unguenstigen Gesetzeswortlauts zu einer positiven Loesung dieses Problems gelangen sollte. Die Rechtsprechung des Obersten Rueckerstattungsgerichts Berlin ist dieser meiner Ansicht nicht gefolgt, obgleich Wilden, einer der Hauptkommentatoren des BRueG, sie sich in einem Aufsatz (im Gegensatz zu der im Kommentar von Blessin-Wilden urspruenglich vertretenen Meinung) spaeter zu eigen gemacht hatte. Es mag daher gerechtfertigt erscheinen, wenn die Neuregelung dieses Punktes hier etwas ausfuhrlicher erlaeutert wird, zumal da der Tatbestand nicht unkompliziert ist.

Ost-Berlin liegt ausserhalb des "Geltungsbereichs" des BRueG, das sich auf die Bundesrepublik und West-Berlin beschaenkt. Grundsaeztlich betrifft das BRueG nur Entziehungen innerhalb des Geltungsbereichs. Entziehungen ausserhalb des Geltungsbereichs kommen nach § 5 BRueG nur dann zum Zuge, wenn die entzogenen Vermoegensgegenstaende nach der Entziehung in den Geltungsbereich oder nach Gross-Berlin (West- und Ost-Berlin) gelangt sind. War daher ein Vermoegensgegenstand in Ost-Berlin entzogen worden und hatte er sich schon vor der Entziehung dort befunden, so bestand nach dem bisherigen Wortlaut des BRueG kein Anspruch, da der Gegenstand nicht nach der Entziehung nach Berlin gelangt war. Eine Novelle zu der Berliner Rueckerstattungsordnung (REAO) hat eine Ausnahme hiervon nur fuer den Fall geschaffen, dass der Geschaeidigte oder einer seiner Rechtsnachfolger in der Periode vom 30. Januar 1933 bis zum 8. Mai 1945 zu irgend einer Zeit seinen Wohnsitz oder dauernden Aufenthalt in Westdeutschland oder West-Berlin gehabt hatte. Jetzt geneuet es, dass der Berechtigte oder einer seiner Rechtsnachfolger zu irgend einem Zeitpunkte in der Zeit vom 30.1.1933 und dem 31.12.1961 seinen Wohnsitz oder dauernden Aufenthalt in den genannten Gebieten oder in solchen Gebieten hatte, mit deren Regierungen die Bundesrepublik diplomatische

Beziehungen unterhaelt. (Israel und Finnland sind trotz des formellen Fehlens diplomatischer Beziehungen gleichgestellt.)

Die Tragweite dieser Verbesserung bezieht sich nicht etwa nur auf die Wertgegenstaende von Ostberlinern, die in der im Osten belegenen Pfandleihanstalt abgeliefert werden mussten, auf Ostberliner Wohnungseinrichtungen, die in Ost-Berlin entzogen worden sind, und aehnliche Faelle. Sie bezieht sich auch auf Wertpapiere und Bankguthaben, die sich bei den Grossbanken in Ost-Berlin befanden. Dabei kommt in Betracht, dass in zahllosen Faellen Effekten von Nichtberlinern, die fuer den Eigentuemer buchmaessig im Depot einer Filiale oder Niederlassung der Bank ausserhalb Berlins gefuehrt wurden und wegen welcher die Entziehungsanordnung von der zustaendigen Behoerde ausserhalb Berlins ausging, sich in Wirklichkeit (physisch) schon vor der Einziehungsverfuegung bei der Zentrale der Bank in Ost-Berlin befunden hatten. Auch in diesen Faellen hatte die Rechtsprechung bisher angenommen, dass die Entziehung sich von vornherein in Ost-Berlin ausgewirkt hatte, sodass die Effekten nicht nach der Entziehung nach Berlin gelangt waren. Dasselbe gilt, wenn, wie es in manchen Bezirken der Fall war, die juedischen Eigentuemer von Wertgegenstaenden, weil an ihrem Wohnorte keine Ablieferungsstelle vorhanden war, gezwungen wurden, sie an die Pfandleihanstalt in Ost-Berlin abzuliefern. Da es sich in diesen Faellen um einen erst durch die Novelle neu begruendeten Anspruch handelt, wird eine neue Anmeldefrist eroeffnet. Sie betraegt ein Jahr seit dem Inkrafttreten des Gesetzes. Die Fassung der diesbezueglichen Bestimmung ergibt, dass die neue Anmeldefrist nur fuer diejenigen Berechtigten eroeffnet wird, die nicht schon auf grund der oben erwaehnten Ausnahmenvorschriften, z.B. wegen sog. Westwohnsitzes in der Zeit vor der Machtuebernahme bis zum Kriegsende, die Ansprueche besaessen, und sie daher schon fruher haetten anmelden koennen.

## III. ENTZIEHUNGEN IN DEN EHEMALS BESETZTEN ODER EINGEGLIEDERTEN (AUSSERDEUTSCHEN) GEBIETEN

Die urspruenglichen Rueckerstattungsgesetze der Alliierten betrafen—wie schon unter II angedeutet—grundsaeztlich nur Entziehungen, die innerhalb des Geltungsbereichs erfolgt waren. Von den insofern durch das BRueG selbst geschaffenen Ausnahmen kann eine, naemlich die des § 13 BRueG, hier nur andeutend erwaehnt werden. In der Darstellung der Novelle spielt sie keine Rolle, da diese den § 13 unberuehrt laesst. Insofern muss auf die fruhere Darstellung verwiesen werden.

Eine gewisse Durchbrechung des sog. Territorialitaetsprinzips lag, wenigstens nach der in meiner fruheren Darstellung eingehend begruendeten Ansicht, aber auch in dem § 5 des BRueG, dessen wesentlicher Inhalt oben im 2. Absatz des Abschnitts II wieder gegeben ist.

Schon unter den alliierten Rueckerstattungsgesetzen fuer die britische und amerikanische Zone und fuer West-Berlin war die Rechtsprechung allmaechlich ueberwiegend dazu gelangt, im Falle der Entziehung ausserhalb des Geltungsbereichs Ansprueche auch dann zuzulassen, wenn der entzogene Vermoegensgegenstand nachweislich spaeter in den Geltungsbereich gelangt war. Die Entziehung hatte sich in solchen Faellen auch innerhalb des Geltungsbereichs, in dem die Gegenstaende zuletzt belegen waren, ausgewirkt. Fuer Faelle, in denen zwar das Gelangen in den Geltungsbereich als solchen nachweisbar war, waehrend nicht feststand, an welchen bestimmten Ort innerhalb des Geltungsbereichs die Verbringung erfolgt war, gelten die Gegenstaende lt. § 5 als nach West-Berlin gelangt. Fuer Faelle, in denen die Verbringung nachweislich nach Gross-Berlin (einschliesslich Ost-Berlins) erfolgt war, gelten die Gegenstaende nach einer in § 5 enthaltenen Fiktion ebenfalls als nach West-Berlin gelangt.

Die hiernach erforderliche Nachweisbarkeit der Verbringung in den Geltungsbereich hat in der praktischen Anwendung zu unendlichen Schwierigkeiten gefuehrt, wie zahlreichen Lesern aus praktischer Erfahrung nur allzugut bekannt ist. Es war naemlich nur in einer Minderzahl von Faellen moeglich, fuer die im Einzelfalle entzogenen Vermoegensgegenstaende den individuellen Nachweis ihrer Verbringung zu fuehren. In zahllosen Faellen war ein solcher individueller Nachweis den Berechtigten (ohne ihr Verschulden) nicht moeglich. Es sind daher solche Ansprueche sehr haeufig durch rechtskraeftige Entscheidungen, naemlich "mangels Verbringungs nachweises", zurueckgewiesen worden. In vielen anderen Faellen haben die Antragsteller den Anspruch als aussichtslos zurueck-



genommen, oft auf Anregung der Wiedergutmachungsbehörden oder-gerichte. Fuer diese Faelle schafft die Novelle nun eine, allerdings begrenzte, Abhilfe.

Haben die Berechtigten dagegen aus derselben Erwaegung heraus—anscheinende Unmoeglichkeit des Verbringungs nachweises—die rechtzeitige *Anmeldung unterlassen* (und zwar oft auf den damals durchaus vertretbaren Rat ihrer Rechtsberater, jedenfalls aber ohne dass man von einem Verschulden sprechen koennte), so ist die durch die Novelle geschaffene Abhilfe noch weit enger begrenzt. In den im vorigen Absatz eroerteten Faellen (*Zurueckweisung oder Zuruecknahme*) kann der Anspruch im Rueckerstattungsverfahren in vollem Umfange *erneut geltend gemacht* werden. In den Faellen *unterlassener Anmeldung* wird fuer die Berechtigten dagegen nur ein Antrag auf Gewaehrung eines *Haerteausgleichs*—nicht zu verwechseln mit dem schon im BRueG selbst vorgesehenen Haerteausgleich (siehe unten)—eroeffnet, der erschwerten Voraussetzungen unterliegt, zu viel geringeren Leistungen fuehrt und ausserdem wenigstens dem Wortlaut nach keinen Rechtsanspruch im eigentlichen Sinne darstellt (es "kann" auf Antrag ein Haerteausgleich gewaehrt werden).

Ehe die diesbeueglichen Vorschriften im einzelnen dargestellt werden, seien zum Verstaendnis einige allgemeine Bemerkungen vorausgeschickt:

Bei der praktischen Anwendung des § 5 hat sich im Laufe der Jahre eine urspruenglich kaum voraussehbare Entwicklung vollzogen. Durch umfassende Ermittlungen der Gerichte und Behoerden im In- und Auslande und teilweise auch durch die Forschungsabteilung der URO sind allmaechlich aus Archiven und anderen Quellen ueberaus zahlreiche Dokumente ans Licht gebracht worden, die ergaben, dass aus gewissen fruher besetzt gewesenen Gebieten gewisse Arten eingezogener Vermoegensgegenstaende teils saemtlich, teils *in ueberwiegendem Ausmasse*, spaeter nach Westdeutschland oder Berlin verbracht worden sind. Der zur Verfuegung stehende Raum erlaubt nicht, diese Entwicklung hier im einzelnen zu schildern. Nur als *Beispiel* seien die Entziehungen in Holland erwaehnt, bei deren Erforschung namentlich auch die niederlaendischen Behoerden sehr verdienstvolle Arbeit geleistet haben. Von den in Holland im Zuge der sog. M-Aktion (M fuer Moebel) von den Deutschen eingezogenen Hausraten ist ein Teil *in Holland selbst* von den Deutschen versteigert worden. Ein Teil wurde zur Einrichtung von Buero- oder Wohnraeumen der Besatzungsmacht *an Ort und Stelle* verwendet. Ein Teil wurde zur Verteilung an Bombengeschaedigte *ausserhalb* des Geltungsbereichs, z.B. solche in Danzig und Kaernten, in diese Gebiete verbracht. Der *Grossteil* dagegen gelangte nach *Westdeutschland oder Berlin*. Noch guentiger liegt es bei in Holland im Zuge gewisser allgemeiner Massnahmen entzogenen Schmuck- und Edelmetallgegenstaenden. Diese und aehnliche Ermittlungsergebnisse, die eine Vermutung fuer die ueberwiegende Verbringung rechtfertigen, haben in der Praxis schon jetzt in vielen Faellen dazu gefuehrt, dass Rueckerstattungsverfahren erfolgreich durchgefuehrt werden konnten, nachdem der Bundesfinanzminister gewisse Richtlinien dafuer aufgestellt hatte.

Aehnliche Ermittlungsergebnisse sind auch fuer Entziehungen von Hausrat, Schmuck und Edelmetall in anderen besetzt gewesenen Westgebieten (Belgien, Frankreich, Luxemburg) gewonnen worden. Am staerksten ist die Dokumentation fuer Schmuck und Edelmetall; bei diesen Gegenstaenden umfasst sie alle besetzt oder eingegliedert gewesenen Gebiete. Fuer Hausrat liegt es bei den Westgebieten ebenso. Fuer Gegenstaende anderer Art und fuer die oestlichen Laender sind die Ermittlungsergebnisse ebenfalls reichhaltig, aber wohl noch nicht abgeschlossen, ebenso wohl auch fuer die besetzt gewesenen noerdlichen Laender. Auch sind die Verhaeltnisse fuer jedes der besetzt oder eingegliedert gewesenen Gebiete verschieden. Fuer manche Gebiete und manche Typen von Gegenstaenden ist die Entwicklung noch im Flusse, es moegen noch weitere Dokumente gefunden werden. Es sei nochmals betont, dass Einzelheiten im Rahmen dieser Darstellung nicht gegeben werden koennen. Dies vorausgeschickt, seien nunmehr die in Frage stehenden Bestimmungen der Novelle woertlich wiedergegeben.

## 1. Zurueckgewiesene oder zurueckgenommene Ansprueche

Fuer die Faelle, in denen die Ansprueche *zurueckgewiesen* oder wegen Aussichtslosigkeit des Verbringungs nachweises *zurueckgenommen* wurden, bestimmt die Novelle:

(1) Ist ein rueckerstattungsrechtlicher Anspruch (§§ 1, 3) wegen der Entziehung von Hausrat in den ehemals besetzten Westgebieten oder wegen der Entziehung von Schmuck- und Edelmetallgegenstaenden in den ehemals

besetzten oder eingegliederten Gebieten rechtskraeftig zurueckgewiesen oder zurueckgenommen worden, weil nicht nachzuweisen war, dass die entzogenen Vermoegensgegenstaende in den nach § 5 massgeblichen Bereich gelangt sind, kann der Anspruch erneut im Rueckerstattungsverfahren geltend gemacht werden, wenn solche Vermoegensgegenstaende aufgrund allgemeiner Massnahmen aus dem Entziehungsgebiet ganz oder ueberwiegend in den nach § 5 massgeblichen Bereich gelangt sind.

(2) Die in Absatz 1 genannten allgemeinen Massnahmen und die Entziehungsgebiete und Entziehungszeitraeume, fuer die sie getroffen wurden, werden durch Rechtsverordnung der Bundesregierung, die der Zustimmung des Bundesrates bedarf, bezeichnet.

(3) Der Anspruch ist innerhalb eines Jahres nach Inkrafttreten der in Absatz 2 genannten Rechtsverordnung geltend zu machen. § 27 Abs. 4 und § 28 Abs. 4 finden entsprechende Anwendung.

(4) Durch Rechtsverordnung der Bundesregierung, die der Zustimmung des Bundesrates bedarf, kann bestimmt werden, dass Absatze 1 bis 3 entsprechend auch fuer andere als die in Absatz 1 genannten Gegenstaende Anwendung finden, wenn solche Gegenstaende aufgrund allgemeiner Massnahmen ganz oder ueberwiegend in den nach § 5 massgeblichen Bereich gelangt sind.

(5) Rechtsverordnungen nach Absatz 2 und 4 koennen nur bis zum 31. Dezember 1965 erlassen werden.

Diese Bestimmungen beziehen sich, wie oben bereits gesagt, auf Ansprueche, die rechtzeitig *angemeldet*, jedoch *zurueckgewiesen* oder *zurueckgenommen* worden sind, *weil der Verbringungs nachweis nicht zu fuehren war*. (Wegen der nicht angemeldeten Ansprueche siehe unten.)

Im Lichte der vorhergehenden Ausfuehrungen duerfte die wieder-gegebene Bestimmung verstaendlich sein. Folgende Gesichtspunkte seien hervorgehoben:

Auch bei Entziehungen von Gegenstaenden der in der Vorschrift aufgefuehrten Arten besteht die Moeglichkeit zur Neuaufnahme des Verfahrens *nur dann*, wenn Gegenstaende der in Frage kommenden Art auf grund *allgemeiner Massnahmen* aus dem Entziehungsgebiet ganz oder ueberwiegend in den nach § 5 (siehe oben) massgeblichen Bereich gelangt sind. Diese allgemeinen Massnahmen und die Gebiete, Zeitraeume und Gegenstaende, fuer die sie getroffen wurden, werden durch Rechtsverordnung bestimmt werden. Eine Erweiterung hinsichtlich der in Abs. 1 genannten Gegenstandsarten (bisher nur Hausrat in den besetzt gewesenen Westgebieten, Schmuck und Edelmetall in allen besetzt oder eingegliedert gewesenen Gebieten) kann nach Abs. 4 ebenfalls durch Rechtsverordnung erfolgen.

Ich halte es nicht fuer zweckmaessig, im jetzigen Stadium der Entwicklung an dieser Stelle allzu konkrete Vermutungen darueber aufzustellen, fuer welche weiteren Arten von Gegenstaenden und fuer welche raeumlichen Gebiete die Erweiterung durch Rechtsverordnung erfolgen wird. Fuer manche raeumlichen Gebiete koennte das vielleicht fuer Warenlager, Betriebseinrichtungen, Wertpapiere, Markensammlungen, Pelze usw. in Betracht kommen.

## 2. Nicht angemeldete Ansprueche

Fuer die Faelle, in denen die *Anmeldung* wegen Aussichtslosigkeit des Verbringungs nachweises *unterlassen* worden ist, lautet die massgebende Vorschrift der Novelle wie folgt:

(1) Ist ein rueckerstattungsrechtlicher Anspruch (§§ 1, 3) wegen der Entziehung von Hausrat in den ehemals besetzten Westgebieten oder wegen der Entziehung von Schmuck- und Edelmetallgegenstaenden in den ehemals besetzten oder eingegliederten Gebieten innerhalb der Frist der §§ 29, 27 nicht angemeldet worden, kann auf Antrag ein Haerteausgleich gewaehrt werden, wenn solche Vermoegensgegenstaende aufgrund allgemeiner Massnahmen aus dem Entziehungsgebiet ganz oder ueberwiegend in den nach § 5 massgeblichen Bereich gelangt sind. Die in Satz 1 genannten allgemeinen Massnahmen und die Entziehungsgebiete und Entziehungszeitraeume, fuer die sie getroffen worden sind, werden durch Rechtsverordnung der Bundesregierung, die der Zustimmung des Bundesrates bedarf, bezeichnet. Durch Rechtsverordnung der Bundesregierung die der Zustimmung des Bundesrates bedarf, kann bestimmt werden, dass ein Haerteausgleich auch wegen der Entziehung von anderen als in Satz 1 genannten Gegenstaenden gewaehrt werden kann, wenn solche Gegenstaende aufgrund allgemeiner Massnahmen aus dem Entziehungsgebiet ganz oder ueberwiegend in den nach § 5 massgeblichen Bereich gelangt sind; Satz 2 gilt entsprechend. Rechtsverordnungen nach Satz 2 und 3 koennen nur bis zum 31. Dezember 1965 erlassen werden.

(2) Ein Haerteausgleich wird nur natuerlichen Personen, die im Zeitpunkt der Entziehung Eigentuerer der entzogenen Gegenstaende waren, gewaehrt. Ist der Eigentuerer verstorben, wird der Haerteausgleich dem ueberlebenden Ehegatten und den Kindern des Eigentuerers gewaehrt.

(3) Ein Haerteausgleich wird nicht gewaehrt, wenn die nach Absatz 2 empfangsberechtigten Personen am . . . (Inkrafttreten der Novelle) ihren Wohnsitz oder dauernden Aufenthalt in Gebieten hatten, mit deren Regierungen die Bundesrepublik Deutschland zu diesem Zeitpunkt keine diplomatischen Beziehungen unterhaelt. § 45 Abs. 2 findet entsprechende Anwendung.

(4) Der Antrag auf Haerteausgleich kann von den nach Absatz 2 empfangsberechtigten Personen gestellt werden; sind mehrere Personen empfangsberechtigt, so gilt der Antrag eines Empfangsberechtigten zugunsten

aller empfangsberechtigten Personen, die der nach Absatz 5 zuständigen Behörde bei der Entscheidung ueber den Haerteausgleich bekannt sind. Ist ein Antrag von mehreren nach Absatz 2 empfangsberechtigten Personen gestellt oder gilt ein Antrag zugunsten mehrerer Empfangsberechtigter, so wird der Haerteausgleich ihnen gemeinsam gewaehrt. Sie sind in den Faellen des Absatzes 2 Satz 2 im Verhaeltnis zueinander zu den Anteilen berechtigt, die ihren Anteilen am Nachlass des Eigentuemers (Absatz 2 Satz 1) entsprechen.

(5) Die Bundesregierung bestimmt durch Rechtsverordnung, die der Zustimmung des Bundesrates bedarf, die fuer die Entgegennahme des Antrages und zur Entscheidung ueber den Haerteausgleich zustaeundige Behoerde. Der Antrag muss bei der nach Satz 1 zustaeundigen Behoerde binnen eines Jahres nach Inkrafttreten der Rechtsverordnung eingegangen sein.

(6) Die nach Absatz 5 zustaeundige Behoerde hat von Amts wegen alle fuer die Gewaehrung des Haerteausgleichs erheblichen Tatsachen zu ermitteln; alle Behoerden und Gerichte haben ihr unentgeltlich Amts- und Rechtshilfe zu leisten. Die nach Absatz 5 zustaeundige Behoerde ist zur Entgegennahme von Versicherungen an Eides Statt befugt.

(7) Nach Ablauf der in Absatz 5 genannten Frist kann bei der Entziehung von Hausrat in den ehemals besetzten Westgebieten ein Haerteausgleich von 4000 Deutsche Mark, bei der Entziehung von Schmuck- und Edelmetallgegenstaenden in den ehemals besetzten oder eingegliederten Gebieten ein Haerteausgleich von 1000 Deutsche Mark als Vorauszahlung gezahlt werden. Der Haerteausgleich betraegt jedoch hoechstens zwei Drittel des Wiederbeschaffungswertes (§ 16) der entzogenen Vermoegensgegenstaende.

(8) Soweit die in Absatz 1 Satz 3 vorgesehene Rechtsverordnung einen Haerteausgleich auch fuer andere als in Absatz 1 Satz 1 genannte Gegenstaende zulaesst, kann sie auch bestimmen, welche Vorauszahlungen auf den Haerteausgleich gezahlt werden; Absatz 7 Satz 2 gilt entsprechend.

(9) Sind Vermoegensgegenstaende mehreren Mitgliedern einer Familiengemeinschaft entzogen worden, wird der Haerteausgleich nur einmal gewaehrt. Die Zahlungen nach Absatz 7 erhoehen sich in diesem Falle um 20 vom Hundert fuer den Ehegatten und mit 10 vom Hundert fuer jedes Kind. Der Haerteausgleich betraegt jedoch hoechstens zwei Drittel des Wiederbeschaffungswertes (§ 16) der der Familiengemeinschaft insgesamt entzogenen Vermoegensgegenstaende. Als Familiengemeinschaft gelten Ehegatten sowie ihre unverheirateten ehelichen Kinder, die das 21. Lebensjahr noch nicht vollendet hatten; massgebend sind Alter und Familienstand im Zeitpunkt der Entziehung.

(10) Der Haerteausgleich wird im Falle des Absatzes 9 den Mitgliedern der Familiengemeinschaft gemeinsam gewaehrt. Sie sind im Verhaeltnis zueinander entsprechend den Wiederbeschaffungswerten der ihnen entzogenen Gegenstaende am Haerteausgleich beteiligt. Ist ein Mitglied der Familiengemeinschaft verstorben, findet Absatz 2 Satz 2 entsprechende Anwendung.

(11) Fuer die Durchfuehrung der Bestimmungen der Absatze 1 bis 10 werden im Rahmen der im jeweiligen Haushaltsplan ausgebrachten Mittel bis zu 800 Millionen DM zur Veruegung gestellt. Die endgueltige Hoehe des im Einzelfall zu gewaehrenden Haerteausgleichs ist durch eine bis zum 1. Juli 1967 zu erlassende Rechtsverordnung der Bundesregierung festzusetzen die der Zustimmung des Bundesrates bedarf.

Wie schon oben erwaeht, begruetet diese Vorschrift keinen Rechtsanspruch ("Muss-Anspruch"), sondern nur einen "Kann-Anspruch." Im uebrigen wird auf den Wortlaut der Vorschrift verwiesen. Erbberechtigt sind nur Ehegatten und Kinder eines verstorbenen Geschaedigten. Fuer den Haerteausgleich ist ein Fond von "bis zu" 800 Millionen DM vorgesehen. Die endgueltige Hoehe des Haerteausgleichs wird wiederum durch Rechtsverordnung festgelegt werden. Ebenfalls durch Rechtsverordnung wird die fuer die Entgegennahme und Bearbeitung der Antraege zustaeundige Behoerde (wahrscheinlich die Sondervermoegensverwaltung beim Landesfinanzamt Berlin) bestimmt werden. Da nach dem Vorstehenden die endgueltige Hoehe des im Einzelfalle zu gewaehrenden Haerteausgleichs erst spaeter festgelegt werden wird, sieht Abs. 7 der Bestimmung vorerst Vorauszahlungen vor, und zwar fuer Hausrat, der in den besetzt gewesenen Westgebieten entzogen wurde, DM 4000 und fuer Schmuck und Edelmetall, die in den besetzten oder eingegliederten Gebieten entzogen wurden, DM 1000. Fuer den Fall einer (auch fuer den Haerteausgleich durch Rechtsverordnung moeglichen) Ausdehnung auf andersartige Gegenstaende kann die Hoehe der Vorauszahlungen fuer solche Objekte ebenfalls durch die Verordnung festgesetzt werden.

Die Nichteroeffnung einer neuen Anmeldefrist fuer die in der Haerteausgleichsvorschrift geregelten Faelle und die Begrenzung der Leistungen im Verhaeltnis zu den zurueckgewiesenen oder zurueckgenommenen Anspruechen ist bedauerlich. Selbst bei voller Ausnutzung der "bis zu" 800 Millionen DM werden die Zahlungen an die einzelnen Antragsteller weit hinter den normalen Schadensersatzbetrageen fuer gleichartige Gegenstaende zurueckbleiben. Wie in der Einleitung betont, will jedoch die gegenwaertige Darstellung rechtspolitische Erwaegungen ausschalten.

### 3. Keine Neuregelung bei Entziehungen in Ostdeutschland

Auch in einem anderen schwerwiegenden Punkte ist die Regelung lueckenhaft und unbefriedigend. Sie betrifft nur Entziehungen in den besetzt gewesenen Westgebieten bzw. den besetzt oder eingegliedert gewesenen Gebieten. Es fehlt eine entsprechende Abhilfe fuer Entziehungen in der Ostzone (D.D.R.) und in den sog. deutschen Vertreibungsgebieten (den jetzt polnisch oder russisch verwalteten fruher deutschen Gebieten oestlich der Oder-Neisse-Linie). Auch in solchen Faellen sind angemeldete Ansprueche wegen des fehlenden Verbringungsnaehweises zurueckgewiesen, zurueckgenommen oder Ansprueche nicht angemeldet worden.

Fuer gewisse Arten von Vermoegensgegenstaenden, z.B. gewisse Typen von Edelmetallgegenstaenden, sind auch fuer diese Bezirke spaeter Dokumente aufgetaucht, die eine Verbringung nach Westdeutschland oder Berlin ergeben. Wohl erstmalig ist derartiges Material in einer Entscheidung des Kammergerichts aus dem Jahre 1961 bekannt geworden. Damals waren manche Ansprueche bereits zurueckgewiesen oder zurueckgenommen worden, und die Frist zur Anmeldung war verstrichen.

Hinsichtlich der Gebiete oestlich der Oder-Neisse-Linie mag in manchen Faellen das Lastenausgleichsgesetz eine gewisse Abhilfe schaffen, nicht aber hinsichtlich der Ostzone, fuer die es nicht gilt. Es waere dringend zu wuenschen, dass der Gesetzgeber sich mit diesem Problem nochmals beschaeftigt.

### IV. DIE NEUFASSUNG DES § 30 BRueG

Die hier zu eroerternde Bestimmung der Novelle steht, wie sich im Fortgang der Darstellung ergeben wird, teilweise im Zusammenhang mit den unter III behandelten Anspruechen, doch umfasst sie namentlich auch "normale" Faelle, naemlich Entziehungen innerhalb des Geltungsbereichs. Aehnlich wie die zu III 2 geschilderte Bestimmung ist auch die Neufassung des § 30 fuer die Berechtigten ungunstig. Sie ist es sogar noch mehr als die oben eroerterte Beschaenkung gewisser Berechtigter auf den Haerteausgleich und zwar deshalb, weil sie eine der umstrittensten Zweifelsfragen des BRueG im Sinne einer "gesetzgeberischen Klarstellung" rueckwirkend zu ungunsten der Berechtigten regelt, obgleich des Oberste Rueckerstattungsgericht die Frage in staendiger Praxis zu gunsten der Berechtigten entschieden hat. Diese Bestimmung koennte daher moeglicherweise einer Nachpruefung des Bundesverfassungsgerichts unterliegen, weil ihre Vereinbarkeit mit der Verfassung der Bundesrepublik (dem "Grundgesetz") nicht unzweifelhaft ist.

Wie in der Einleitung in Erinnerung gerufen, war es urspruenglich zweifelhaft gewesen, ob die Ansprueche der "Dritten Masse," d.h. die schliesslich durch das BRueG geregelten Ansprueche, Rueckerstattungs-, oder, wie zuerst vielfach angenommen, EntschaeDIGungsansprueche seien. Auf grund der letzteren Annahme haben viele Berechtigte derartige Ansprueche irrtuemlich und ohne Verschulden nur im EntschaeDIGungsverfahren angemeldet, und zwar oft infolge der damals durchaus vertretbaren Beratung durch die von ihnen befragten Wiedergutmachungsjuristen. Infolgedessen sah § 30 vor, dass die Ansprueche, wenn sie gemaess dem BEG in EntschaeDIGungsverfahren fristgemaess angemeldet worden waren, auf Antrag in das Rueckerstattungsverfahren uebergeleitet werden konnten.

Im Lichte der Eroerterung unter III ergibt sich ohne weiteres, dass auf diesem Umwege auch Ansprueche wegen ausserhalb des Geltungsbereichs entzogener, spaeter dahin verbrachter Gegenstaende, die nicht im Rueckerstattungs-, wohl aber im EntschaeDIGungsverfahren angemeldet worden waren, fuer die Rueckerstattung gerettet werden konnten, ohne das die Berechtigten jetzt auf den neu geschaffenen Haerteausgleich beschaenkt waren. (Freilich kommt dies nur fuer solche Antragsteller in Betracht, die nach dem BEG ueberhaupt entschaeDIGungsberechtigt sind.) Aber vor allem auch solche Antragsteller, deren Vermoegensgegenstaende innerhalb des Geltungsbereichs entzogen worden waren, d.h. Antragsteller, fuer deren Ansprueche ein Verbringungsnaehweis nicht erforderlich war, konnten bei rechtzeitig erfolgter Anmeldung im EntschaeDIGungsverfahren die Verweisung in das Rueckerstattungsverfahren beantragen, auch wenn sie die Anmeldefrist fuer das Rueckerstattungsverfahren versaeumt hatten.

An diese Regelung des § 30 BRueG hat sich im Schrifttum und in der Praxis der Wiedergutmachungsaeemter und der Gerichte—der Landgerichte (Wiedergutmachungskammern), der Oberlandesgerichte, der drei Senate des westdeutschen Obersten Rueckerstattungsgerichts

(ORG) und des ORG Berlin—eine unuebersehbare Kasuistik entwickelt. In Bezug auf die Anforderungen, welche die Anmeldung im Entschadigungsverfahren erfuellen muesse, damit die Verweisung in das Rueckerstattungsverfahren zulaessig sei, ist jede auch nur denkbare Nuance—von der strengsten bis zu der mildesten Auslegung—in der Literatur und Rechtsprechung vertreten worden.

Im Gegensatz zu zahlreichen Entscheidungen der Wiedergutmachungsbehoerden und der unteren Gerichte, und in Uebereinstimmung mit anderen, entgegengesetzten Entscheidungen, hatten schliesslich die drei westlichen Senate des ORG und das ORG Berlin die Auslegung des § 30 in staendiger Praxis in einem den Berechtigten guenstigen, weitherzigen Sinne vorgenommen. Im Hinblick darauf, dass die Anmeldung im Entschadigungsverfahren nach der Rechtsprechung des fuer dies Verfahren zustaendigen hoechsten Gerichts, des Bundesgerichtshofs, formlos erfolgen konnte, genuegt es nach dem ORG fuer die Zulaessigkeit der Verweisung in das Rueckerstattungsverfahren, dass der Anspruch, wenn auch noch so formlos, im Entschadigungsverfahren fristgemaess angemeldet worden war. Es ist also nach den Entscheidungen des ORG nicht erforderlich, dass die Natur der entzogenen Vermoegensgegenstaende in der Entschadigungsanmeldung *naeher gekennzeichnet* wurde, etwa durch die wenn auch summarischen Angaben "Wertpapiere," "Bankguthaben," "Schmuck," "Edelmetallgegenstaende," "Hausrat" oder dergleichen. Nur dann, wenn in der Entschadigungsanmeldung die Frage, ob Ansprueche wegen Schadens am Eigentum oder Vermoegen geltend gemacht werden, *ausdruecklich verneint* worden war—sei es durch Streichung der Antwort "ja," waehrend die im Formular daneben gedruckte Antwort "nein" stehen blieb oder angekreuzt wurde, oder in anderer Weise—sieht das ORG die Verweisung in das Rueckerstattungsverfahren als *unzulaessig* an.

In bewusstem Gegensatz zu dieser Rechtsprechung des ORG hat die Novelle, und zwar mit *Rueckwirkung*, nunmehr den § 30 BRueG dahin eingeschraenkt, dass die Verweisung in das Rueckerstattungsverfahren *nur dann zulaessig ist*, wenn "aus der Anmeldung im Entschadigungsverfahren die feststellbaren Vermoegensgegenstaende, fuer die Ersatz verlangt wird, *erkennbar sind*." Sie muessen daher *zum mindesten* in der oben angedeuteten *summarischen Weise gekennzeichnet* worden sein. Es genuegt also nicht, wenn im Entschadigungsverfahren nur alle zulaessigen Arten von Entschadigungsanspruechen formlos, z.B. global angemeldet waren. Ebenso wenig genuegt es, wenn Ansprueche wegen Schadens am Eigentum und Vermoegen ohne eine wenigstens summarische Kennzeichnung der Gegenstaende angemeldet waren, z.B. durch Stehenlassen des "ja" unter Streichung des "nein" oder durch Ankreuzen des "ja." Eine Ausnahme von der Rueckwirkung dieser Regelung sieht die Novelle nur fuer solche Faelle vor, in denen im Rueckerstattungsverfahren bereits vor ihrem Inkrafttreten rechtskraeftige Beschluesse oder rechtswirksame Vergleiche auf grund einer fuer den Berechtigten guenstigeren Auslegung des § 30 zustande gekommen waren (Besitzstandsklausel). Ueber die Gruende, die den Gesetzgeber zu der Einschraenkung des § 30 veranlasst haben, hat Goldschmidt a.a.O. Andeutungen gegeben.

## V. VORSCHRIFTEN ZUR ANGLEICHUNG AN DIE RECHTSENTWICKELUNG IN DEN BESATZUNGSZONEN

Wie in meiner fruerehen Darstellung ausgefuehrt, bestand einer der Zwecke des BRueG darin, Ungleichheiten zu beseitigen, die sich durch die verschiedenartige Fassung der urspruenglichen Rueckerstattungsgesetze und durch die verschiedenartige Rechtsprechung ergeben hatten. Auf diesem Wege geht die Novelle einige Schritte weiter. Dabei hat sich aber der Novellengesetzgeber, wie die Begrueundung zu dem Gesetz ergibt, bewusst Beschraenkungen auferlegt. (Nicht geregelt ist—um nur ein fuer manche Leser wichtiges Beispiel zu nennen—u.a. die noch immer nicht hoechsterichterlich entschiedene Frage, ob bei den in Oesterreich entzogenen Edelmetallgegenstaenden die in den Geltungsbereich verbrachten Metallbarren, die aus den Gegenstaenden verschiedener Eigentuemer zusammengeschnitten wurden, als Surrogat und daher als in feststellbarer Form in den Geltungsbereich gelangt anzusehen sind, und wenn ja, ob in diesen Faellen fuer den Façonwert der urspruenglichen Silbergegenstaende Ersatz zu leisten ist, oder nur fuer den Anteil des einzelnen Berechtigten an dem in den Geltungsbereich gelangten Schmelzmetall.) Es sind nur zwei Angleichsvorschriften erlassen worden, naemlich die folgenden :

### 1. Amerikanische Zone

In der *amerikanischen Zone* ging die bisherige Rechtsprechung des fuer sie zustaendigen 3. Senats des ORG dahin, das Reich sei nur dann rueckerstattungspflichtig, wenn es an dem entzogenen Vermoegensgegenstaende die *Eigentuemerstellung* erlangt, d.h. formellrechtlich (sei es auch durch unrechtmassige Entziehung) das Eigentum erworben hatte. Die uebrigen Senate des westlichen ORG und das ORG Berlin betrachten es dagegen als ausreichend, wenn das Reich sich entgegen rechtsstaatlichen Grundsuetzen den *Besitz* oder die *Verfuegungsmacht* angemasst hat. Dem tragen gewisse Vorschriften der Novelle Rechnung. Das Reich (dem hier wie stets gewisse andere in BRueG bezeichnete "Rechtstraeger" gleichstehen), haftet auch dann, wenn es dem Eigentuemer auferlegt hat, den feststellbaren Vermoegensgegenstand an einen bestimmten oder mehrere bestimmte Erwerber zu veraeussern. Das gilt auch, wenn der Eigentuemer gezwungen worden war, selbst an der Veraeusserung mitzuwirken. (Hat er dagegen einen Vermoegensgegenstand, z.B. Effekten, selbst veraeussert, um aus dem *Erloes* eine rechtswidrige Sonderabgabe zu bezahlen, so hat er nach der Novelle, wie schon nach dem bisherigen BRueG, nur Ansprueche im Entschadigungsverfahren.)

Die Fassung der Novelle ergibt, dass sich die neue Vorschrift auf Entziehungen in der *amerikanischen Zone beschraenkt*. Faelle, in denen im Anfang der Entwicklung fuer Entziehungen z.B. in der britischen Zone oder in Berlin rechtskraeftige Entscheidungen in unguenstigstem Sinne ergangen waren, bevor sich die "moderne" Rechtsprechung in diesen Bezirken durchsetzte, koennen *nicht* wieder aufgerollt werden.

Fuer die Faelle der U.S. Zone kann die Neuregelung fuer manche Interessenten wesentliche Bedeutung haben. Hatte z.B. ein Kaufmann sein Warenlager unter Zwang an einen "Ariseur" veraeussert, und war dann der Erlaes eingezogen worden, so stand ihm bisher (in der U.S. Zone) Schadensersatz nur wegen der gezahlten RM-Summe zu, umgestellt nach dem Umstellungsverhaeltnis 10:1, waehrend er nunmehr den Wiederbeschaffungswert des Warenlagers zum BRueG-Stichtage (1.4.1956) im Verhaeltnis 1:1 beanspruchen kann.

Die Begrueundung zu dieser Bestimmung der Novelle hebt hervor, dass das Reich sich bei der Aneignung des Vermoegens der Verfolgten einer Vielzahl von rechtstechnischen Moeglichkeiten bediente. Oft sei sie durch Bestellung eines Treuhaenders, Abwicklers, Pflegers, Liquidators oder dergleichen erfolgt. In der Begrueundung heisst es :

Der Ausschuss legt Wert darauf, dies eindeutig klarzustellen. Er ist der Meinung, dass die Beruecksichtigung dieser historischen Ereignisse auf den Einzelfall der Rechtsprechung uerberlassen bleiben soll, da er eine zu perfektionistische Gestaltung des Gesetzes vermeiden will.

Fuer die Faelle der Zwischenschaltung eines Abwicklers usw. hat die Novelle als solche also die neue Rechtsnorm nicht ausdruecklich als anwendbar erkluert. Es ist aber zu erwarten, dass die Rechtsprechung auch fuer diese Faelle, wie in der Begrueundung angeregt, zur Anwendung der Vorschrift gelangen wird.

### 2. Britische und Franzoesische Zone

Die zweite zur Vereinheitlichung und Angleichung getroffene Bestimmung der Novelle kann aus Raumgruenden an dieser Stelle nur durch einen kurzen Hinweis eroertert werden. Hier handelt es sich um eine Rechtsfrage, in der die bisherige Rechtsprechung des ORG-Senats in der *britischen Zone* unguenstiger war als die in der amerikanischen und die in Berlin. Auch fuer die britische und zugleich fuer die franzoesische Zone wird nunmehr rueckwirkend klargestellt, dass der Anspruch gegen das Reich auch dann besteht, wenn die Gegenstaende, die es entzogen hatte, in der Hand eines *Nacherwerbers*—an den das Reich sie veraeussert hatte—verloren gegangen, beschaedigt oder in ihrem Wert vermindert worden sind. Dabei haftet das Reich auch fuer Zufall.

## VI. WEITERE NEUERUNGEN DER NOVELLE

Von den weiteren Vorschriften der Novelle sind manche juristisch-technischer Art und muessen in dieser einfuehrenden Darstellung, die sich vorwiegend an Laien wendet, unberuecksichtigt bleiben. Ihre Eroerterung wuerde zu langen materiell- und verfahrensrechtlichen Ausfuehrungen zwingen, fuer die der Raum nicht ausreicht. Folgende Neuerungen seien jedoch kurz erwahnt :

1. Auf dem Gebiete des Entschadigungsrechts bestand schon bisher die Moeglichkeit, Entschadigungsansprueche zu versagen oder unter Umstaenden geleistete Zahlungen zurueckzufordern, wenn der Antragsteller unwahre Angaben gemacht oder sich sonst unlauterer Mittel bedient hatte. Derartige vereinzelte Faelle waren, was bei

der ungeheuren Anzahl der Verfahren zwangsläufig war, als beklagenswerte Randerscheinungen in der Tat vorgekommen. Die Novelle führt einen ähnlichen Grundsatz nun auch fuer das Rueckerstattungsrecht ein. Ein Anspruch kann ganz oder teilweise durch gerichtliche Entscheidung *versagt* werden, wenn der Berechtigte sich *unlauterer Mittel* bedient oder vorsätzlich oder grob fahrlässig *unrichtige oder irreführende Angaben* ueber Grund und Hoehe des Anspruchs gemacht, veranlasst oder zugelassen hat. Unter Umstaenden und innerhalb gewisser Fristen kann die Oberfinanzdirektion auch in bereits entschiedenen Faellen Antraege in diesem Sinne stellen und Rueckzahlung verlangen.

2. Fuer den *Erbnachweis* werden gewisse Erleichterungen geschaffen.

3. Unter III 2 wurde der durch die *Novelle* neu eingefuehrte *Haerteausgleich* eroertert, der nicht angemeldete Ansprueche wegen Entziehung ausserhalb des Geltungsbereichs betrifft.

Bereits das bisherige BRueG enthielt eine *allgemeine* Bestimmung ueber einen *Haerteausgleich*. Diese Bestimmung hat bisher nur eine relativ geringe Bedeutung gehabt. Die Frist fuer entsprechende Antraege war laengst abgelaufen und *bleibt* auch nach der *Novelle*, soweit es sich um natuerliche Personen handelt, *abgelaufen*. Die Neuerung der *Novelle* besteht darin, dass ein derartiger *Haerteausgleich*, der bisher nur natuerlichen Personen zustand, nunmehr auch von gewissen gemeinnuetzigen juristischen Personen beantragt werden kann. Fuer diese musste daher die *Novelle* eine neue Antragsfrist (von einem Jahre) eroeffnen. Wegen der Einbeziehung gemeinnuetziger juristischer Personen ist der fuer diesen *allgemeinen* *Haerteausgleich* jetzt fuer natuerliche und juristische Personen zur Verfuegung stehende Betrag, der bisher nicht ziffermaessig normiert war, nunmehr auf maximal 10 Millionen DM festgelegt worden.

4. Zwei weitere Bestimmungen der *Novelle* gewahren den Berechtigten zwei klarstellende Verbesserungen bei der Beruecksichtigung der sog. *Altsparer-Vorrechte*, die dazu fuehren koennen, dass die Ansprueche der Berechtigten sich etwas erhoehen. Diese Vorschriften, die nur fuer Entziehungen von gewissen Wertpapieren und RM-Forderungen von Bedeutung sind, koennen hier nur gestreift werden. Ihr Inhalt ist teilweise von der Rechtsprechung und daher in vielen Faellen auch im Befriedigungsverfahren vor den Oberfinanzdirektionen bereits vorweggenommen worden. Soweit das nicht geschehen ist, sind die Befriedigungsbescheide auf Antrag entsprechend zu ergaenzen.

## VII. UEBERGANGS- UND SCHLUSSVORSCHRIFTEN

Wie die meisten Gesetze, insbesondere jedes Aenderungsgesetz, enthaelt die *Novelle* gewisse Uebergangs- und Schlussvorschriften. Am *Schlusse* ist festgelegt, dass das Gesetz und die dazu in Aussicht genommenen Rechtsverordnungen auch im "Land Berlin" (West-Berlin) gelten, und zwar angesichts der Tatsache, dass West-Berlin nicht im vollen Sinne ein "Land" der Bundesrepublik ist, auf grund besonderer Verkuendung im Gesetz- und Verordnungsblatt. Beim Abschluss dieser Darstellung war auch die Verkuendung der *Novelle* im Bundesgesetzblatt noch nicht erfolgt. Das Gesetz tritt am Tage der Verkuendung in Kraft, mit Ausnahme der rueckwirkenden Neufassung des § 30 (siehe oben zu IV), die mit Wirkung vom 25.7.1957—d.h. gleichzeitig mit dem urspruenglichen BRueG—in Kraft tritt. Die Verkuendung im Bundesgesetzblatt und im Berliner Gesetz- und Verordnungsblatt wird in der AJR Information bekannt gegeben werden.

An Stelle einer Darstellung der technisch kompliziert gefassten *Uebergangsvorschriften*, die namentlich Fristbestimmungen enthalten, seien hier einige Hinweise zur der Frage gegeben:

**Welche Schritte haben die Berechtigten im Hinblick auf die Novelle zu unternehmen?**

Aber auch im Rahmen dieser Fragestellung koennen hier nur kurze Andeutungen gegeben werden. Es ist beabsichtigt, ueber die zu beachtenden Fristen und Formalien in AJR Information, im Jewish Chronicle und anderen Blaettern *besondere Inserate* zu veroeffentlichen, sobald das Gesetz verkuendet ist.

1. Die in Abschnitt I eroerterten nunmehr mit dem Inkrafttreten der *Novelle* sowie teilweise ab 1.1.1965, 1.1.1966 und 1.1.1967 faellig werdenden *Restzahlungen auf grund der in einem Befriedigungsbescheide festgestellten Forderung* werden von den Oberfinanzdirektionen, in Berlin von der Sondervermoegensverwaltung, von

*amts wegen* durchgefuehrt werden. Dennoch ist kein Berechtigter daran gehindert, durch seinen Bevollmaechtigten, sei es ein Anwalt oder URO, oder, wenn er keinen Bevollmaechtigten bestellt hat, selbst entsprechende *Antraege* einzureichen. Es ist wahrscheinlich, dass die Oberfinanzdirektionen Lebensbescheinigungen erfordern werden.

Die Berechtigten werden beachten muessen, dass es fuer die Behoerden praktisch unmoeglich ist, saemtliche nunmehr faellig werdenden Zahlungen schlagartig gleichzeitig durchzufuehren. Bei der Unzahl der Faelle wird eine gewisse Zeit vergehen, bis alle Ansprueche effektiv durch Zahlung verwirklicht werden. Die Ansprueche hochbetagter Berechtigter werden zweifellos vordringlich bearbeitet werden. Wenn seit Vornahme der letzten bisherigen Zahlung Berechtigte verstorben sind, wird, soweit noch nicht geschehen, der *Erbnachweis* zu fuehren sein.

2. Soweit durch die *Novelle* einem Berechtigten *erstmalig* Rueckerstattungsansprueche zustehen, was nach dem Wortlaut der *Novelle* nur bei den oben *unter II* und *unter V 1 und 2* behandelten Faellen in Betracht kommt, gilt folgendes:

(a) In dem oben *unter II* eroerterten Falle (Entziehungen im *Berliner Ostsektor*, falls eine Anmeldung nach bisherigem Recht nicht moeglich war), beginnt mit dem Inkrafttreten der *Novelle* eine *Anmeldefrist* von *einem Jahre*. Siehe schon oben am Ende von II.

(b) In den beiden oben *unter V 1 und 2* behandelten Faellen der sog. *Angleichung* kann der Anspruch binnen eines Jahres nach dem Inkrafttreten der *Novelle* *erneut im Rueckerstattungsverfahren geltend gemacht werden*, wenn er rechtskraeftig zurueckgewiesen oder zurueckgenommen worden war und dem Berechtigten auf grund der zu *VI* und *2* erlaeuerten Regelung der *Novelle* erstmalig ein Anspruch zusteht (hier also *keine* Eroeffnung einer neuen *Anmeldefrist*).

3. In den oben *unter VI 4* gestreiften Faellen (*Altsparerrechte*) ist der Antrag an die Oberfinanzdirektion auf Ergaenzung des Bescheides binnen eines Jahres nach dem Inkrafttreten der *Novelle* zu stellen. Die Interessenten sollten insofern ihre Rechtsberater befragen.

4. Fuer die oben zu *III unter 1 und 2* behandelten Faelle der "Verbringung" (Entziehungen *ausserhalb des Geltungsbereiches*) sind oben die massgebenden Vorschriften der *Novelle* woertlich wiedergegeben, und zwar auch insofern, als es sich um das Verfahren und die *Fristen* handelt.

5. Bei den oben zu *IV* eroerterten Faellen (*Neufassung des § 30*) kommt als neue *Frist* nur folgende in Betracht: Ist ueber den (in Wirklichkeit rueckerstattungsrechtlichen) Anspruch im Entschaeidungsverfahren bereits ganz oder teilweise rechtskraeftig entschieden worden, oder eine Einigung zustande gekommen, so gilt—falls trotz der Einschraenkung der Verweisung in das Rueckerstattungsverfahren durch die *Novelle* eine solche zulaessig ist—die Anmeldung im Entschaeidungsverfahren nur dann als rechtzeitige Rueckerstattungsanmeldung, wenn der Anspruch innerhalb eines Jahres nach der im Entschaeidungsverfahren erfolgten Entscheidung oder Einigung im Rueckerstattungsverfahren geltend gemacht wird; die *Frist* endet jedoch fruehestens ein Jahr nach dem Inkrafttreten der *Novelle*.

6. Noch eine letzte Vorschrift der *Novelle* sei aus Gruenden der Vollstaendigkeit kurz gestreift: Hat ein Berechtigter einen rueckerstattungsrechtlichen Anspruch zwar rechtzeitig (naemlich bis zum 1.4.1959) angemeldet, jedoch irrtuemlich bei einer unzustaeendigen Behoerde der *Bundesrepublik* oder hat er den Anspruch durch Klage bei einem unzustaeendigen Gericht der *Bundesrepublik* geltend gemacht, und sind aus der Anmeldung die feststellbaren Vermoegensgegenstaende *erkennbar*, so gilt die *Frist* als gewahrt, wenn der Anspruch innerhalb eines Jahres nach Inkrafttreten der *Novelle* im Rueckerstattungsverfahren geltend gemacht wird. Diese Bestimmung wird praktisch kaum von grosser Bedeutung sein. Gedacht ist u.a. z.B. an Faelle, in denen der Anspruch im letzten Moment der *Anmeldefrist* bei einer deutschen Auslandsvertretung angemeldet worden ist.

Abschliessend sei wiederholt, dass die vorstehende Darstellung schon aus Raumgruenden, daneben aber auch wegen der in der Einleitung erwahnten Darstellungsschwierigkeiten bei einem derartigen Novellen-Mosaik, nicht erschoeffend sein konnte und dass die Interessenten den Rat ihrer Rechtsberater heranziehen sowie insbesondere die unter VII angekuendigten *Inserate* betreffend *Fristen* usw. sorgfaeltig beachten sollten.