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TEN YEARS AFTER THE WAR

A Changed Jewish World

by Robert Weltsch

THE end of the war in Europe, ten years ago, found the Jewish people in a state of disintegration and despair for which there are few precedents even in Jewish history. But at that moment of crisis a strong feeling of solidarity and energy became apparent among the Jewish remnants, and there was no doubt that the will of survival would conquer in the last resort. A completely new Jewish situation now arose, quite different from the 19th Century and also different from the Jewish world we knew until 1939. Up to the outbreak of war European Jewry was still a strong factor. After the war, not only German Jewry but Eastern European Jewry was destroyed, and only those Eastern Jews who had fled into Russia survived, though, alas, behind the Iron Curtain—i.e. outside the orbit of world-Jewish activity.

European Jewry, with the exception of Britain's, was, if not completely wiped out physically, reduced to spiritual and individual significance. What had remained of all these old proud Jewries was mostly flotsam, known for some years under the tragi-comical name of Displaced Persons, or people who had been saved by some coincidence. It is more than a miracle that order was gradually brought into this chaos. New forces emerged and tried to establish themselves partly by way of emigration and partly by striking roots again in the soil of their former countries. But meanwhile the whole structure of Jewish life had assumed a fundamentally different shape.

One of the most outstanding effects of the Nazi persecution and world-wide anti-Jewish propaganda was a frenzy of Jewish nationalism, often a kind of "Trotz-Nationalism," bidding defiance to the arrogant offender. The national ideal which had been aroused by the Zionist idea and strengthened by direct contact with Palestinian emissaries and members of the Jewish Brigade, gave a new *raison d'être* and morale to the humiliated human beings in the camps. It was to them a message of hope and redemption. This idea transformed the whole Jewish world and practically put an end—at least ostensibly—to the former distinction between "assimilationists" and Jewish nationalists, which had been the most conspicuous feature of Jewish life in the pre-Hitler era. The overriding sentiment of the great majority of Jews was the wish not only to defeat the enemy, but to demonstrate visibly the Jewish victory over antisemitism, the Jewish eternal will to survival, and Jewish solidarity in the face of danger.

The leading role in this striking development fell upon American Jewry. Most significantly, this remarkable and vehement reaction coincided with the rise to domination in Jewish life of the second generation of Eastern European immigrants. This group was more or less Americanized. It had abandoned the Jewish way of life of their fathers; but under the impact of events, confronted with the slaughter of their brethren and with the insult to the Jewish name, it poured its Jewish feelings into an emotional nationalism which had only little substance in their own life, but expressed itself very strongly in their collective public actions. American Jews held a unique position within the nation which after the war emerged as the strongest and decisive world power.

The national movement had one obvious object: the establishment of a Jewish State in Palestine. After the most radical of persecutions Jewish feeling would accept only the most radical of solutions. It was not always clear to American Jews that there was a kind of split consciousness in their attitude: it never occurred to them that as

The Two Major Forces

There were then practically only two major forces in Jewish life after the war—American Jewry and Palestine Zionism, both mainly the offspring of former East European (chiefly Russian) Jewry of the pre-World War I emigration. There were, of course, other elements too; there were also splinters of German-Jewish origin everywhere, but I refer to the leadership which determined action. German Jews were by no means negligible in the development. The Palestine of 1939 owed most of its economic and scientific achievement to the German-Jewish immigration, just as the Israel of 1955 owes its economic existence to German reparations which were achieved on account of German Jewry. But the dynamic urge of leadership came from the exuberant vitality and spontaneity of Eastern Jews, which was equalled by few German Jews.

The leaders of American Jewry before the Hitler era had been more or less anti-Zionist. There was also a strong element of what was called "German Jews" in America, immigrants of 1848 and of the seventies, but these "notables" had been pushed back by the "democratic" trend of the inter-war years. They still remained the nominal leaders of some of the older American Jewish organisations (as the American Jewish Committee or the Joint Distribution Committee), but the

they regarded themselves as nationalist Jews the Jewish State could be understood also as a practical proposition for themselves. Their idea was that those Jews who had been hit by the Nazis should re-establish themselves in their own state, and they were prepared to finance the whole enterprise lavishly. The immediate object was the transfer of the liberated Jews of Europe to Palestine. An ever growing literature now tells the amazing story (originally top secret) of the organisation of illegal immigration to Palestine during the immediate post-war years, one of the most skilful and successful conspiratorial actions in world history. The Zionist leadership which had emerged in Palestine during the war—quite different from pre-war Zionism of the Weizmann shade, which was fading out—was the only group in Jewish life with a clear-cut programme, with ready trained forces for implementation, and with an immense vigour and will-power. Also there, as in America, a complete replacement of the older forces by the younger generation had taken place almost unnoticed. David Ben Gurion, who conceived Zionist action in the shape of "underground," had emerged as the leader of the movement, and his staff exerted real power while the elected leadership of the Zionist Organisation was only nominal.

actual power passed into the hands of the bureaucracy of East European origin. In any case, the post-1945 years saw an alliance of the "underground" forces of Palestine activists with practically the whole of American Jewry, official and unofficial, who followed enthusiastically the proud slogans, though often without much knowledge of the facts.

The combined forces of American and Palestinian Jewry succeeded in clearing the D.P. camps in Europe in an amazingly short time, in winning the struggle against British resistance to illegal immigration into Palestine, and finally in establishing the Jewish State, Israel, in the greater part of West-Jordanian Palestine. There is no doubt that the emergence of Israel is the most important event of the post-war period.

During the struggle for the establishment of the Jewish State practically all Jews (with the exception of those behind the Iron Curtain, of course, as these are silenced) supported Zionism, not only politically and financially, but also in some cases by personal participation, in the form of volunteering for the Jewish army or of preparing for pioneer colonisation (Halutzit). Among the Halutz immigration to Palestine (and later Israel) during these ten years there was a consider-

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RESTITUTION NEWS

CLAIMS CONFERENCE APPLICATIONS FOR 1956

The Conference on Jewish Material Claims Against Germany has announced the following deadline dates for the submission of applications by organisations seeking Conference allocations for the year 1956:—

1. For activity in all countries outside Israel the deadline for the calendar year 1956 is September 15, 1955. Applications should be submitted in 10 copies to the Claims Conference at 270 Madison Avenue, New York City.

Applications should contain a detailed description of the activities for which Conference funds are requested. They should also include precise budgetary information and information on other sources of income for the projects in question which may be available to the organisation.

2. For activity within Israel the deadline for the coming fiscal year is July 1, 1955. The fiscal year will extend from October 1, 1955, to September 30, 1956. Applications should be addressed to the Jewish Agency for Palestine, P.O.B. 92, Jerusalem, Israel.

The Conference, by the terms of the Agreement it concluded with the Federal Republic of Germany, can allocate funds only for those activities that contribute to the relief, rehabilitation and resettlement of Jewish victims of Nazi persecution, in accordance with the urgency of need.

COMMUNAL PROPERTY IN THE BRITISH ZONE Trust Corporation's Report

The process of recovering former communal and organisational property has very nearly come to an end, it is stated in the fourth Annual Report (October 1953—September 1954) of the Jewish Trust Corporation, the successor organisation for heirless and unclaimed Jewish property in the British zone of Germany. As regards claims in respect of individual property, the work has progressed sufficiently for the Corporation to close two of its regional offices in Hamburg and Hanover and considerably reduce its administrative apparatus.

Among the tasks still outstanding is the global settlement of the many thousand claims against the former Reich resulting from confiscatory measures of the Nazi regime. It is, however, expected that such a settlement with the Federal German authorities will be achieved soon.

By the end of 1954 the recoveries of the Corporation of former individual property amounted to DM 21,000,000. Communal property valued at DM 8,100,000 was restored, and restitution in Berlin has so far yielded DM 4,400,000. In the first months of 1955 the city of Berlin has paid the three successor organisations the sum of DM 9,600,000 as compensation for destroyed and damaged former communal property. A global settlement of all claims of the successor organisations in Berlin is at present being negotiated.

Payments to persons who have missed the time limit fixed by the law for the lodging of restitution claims, and who but for the Corporation would have lost the right to secure restitution (equity claimants), amounted to DM 3,024,000 at the end of 1954.

LOOPHOLES IN THE LAW To be closed

Loopholes in the Federal compensation law are to be closed by a special redrafting committee. The intention is to provide for the compensation of those victims whose legitimate claims have so far been rejected on purely technical grounds, more especially to ensure compensation for D.P.s who have been maltreated by the Nazis and whose health and earning capacity have suffered.

German courts have, for example, been able to reject the claims of men who were rounded up in Gestapo raids and taken away to forced labour, or of people who were arrested as hostages although they had taken no action against the German authorities.

In an article on the subject, the *Manchester Guardian* Bonn Correspondent remarks that "the revised law will require careful study, but there can be no question that plenty of good will is going into its framing."

SHANGHAI GHETTO TEST CASE Compensation for Jewish Internee

The Frankfurt Appeal Court, in a verdict of April 13, awarded DM 3,900 damages to a Jewish woman who had been interned in Shanghai by the Japanese during the recent war. The sum was arrived at by adjudging DM 150 for each of the 26 months of internment.

Frau Else Sommer, who went to Shanghai after the November 1938 pogrom, had sued the State of Hesse under the Indemnification Law. A lower court, at Wiesbaden, had dismissed the claim, but on appeal it has been held that responsibility must lie with Germany, which had forced German Jews to emigrate to Shanghai, at that time the only foreign port where emigrants could land without difficulty.

The Shanghai ghetto had been established in 1943 by the Japanese military authorities. This measure, the Appeal Court found, was taken at German instigation. It was the German Nazi regime that had not only forced Frau Sommer to flee to Shanghai, but also, by depriving her of German citizenship, turned her into an outlaw. The action of the Japanese, then a nation friendly to Germany, could never have been taken if the emigrants had been allowed to retain their German nationality. Consequently, it was held, Federal indemnification law must apply as if Shanghai had been a German concentration camp.

The case which will directly affect Frau Sommer's 20,000 German and Austrian fellow-internees, is now to go before the Supreme Court at Karlsruhe.

DIM PROSPECTS IN THE EAST

Hopes of effective restitution being made in the Eastern zone were not encouraged by an announcement in the East German press that "all care and relief, required in terms of Restitution, due to victims of Fascism" had been provided for in the German Democratic Republic "as far back as October 6, 1949, by an order for the safeguarding of the legal position of the recognised victims of Nazi persecution." This "necessary clarification" was published in reply to a resolution passed on February 2 by the Council of the German Protestant Church calling on the Governments of both West and East Germany to speed up Restitution.

"RESTITUTION" CLAIMS BY NAZIS

It appears that "restitution" is increasingly being demanded and obtained by old Nazis. Former members of the Party, for example, who, in the first post-war months, had been called upon to surrender some clothing for the destitute refugees, are now filing claims for compensation, having been emboldened by a leading case decided by the Supreme Court on May 6, 1954. The city of Ansbach has already earmarked DM 10,000 to meet such claims.

A friend of Dr. Werner Naumann's (Goebbels's closest aide), who, with several others, had been arrested in 1953 on charges of political conspiracy, but was later released, was awarded an indemnification for the limited loss of liberty. The *Frankfurter Rundschau* remarked that what was "particularly galling" about the award was the fact that "countless victims of Hitler's tyranny have not yet received any compensation at all for the wrongs that were inflicted on them—wrongings with which the few weeks of detention suffered by Naumann & Co. can never be compared."

Hardly less objectionable is the case of Otto Schnell, a former SA captain and official Party propagandist, who was interned until 1948 but draws a pension to which he is held entitled as a former trade school inspector. Some time ago proceedings were to be taken against him on account of certain speeches delivered by him in his capacity as chairman of the Hesse branch of a "Fellowship of Former Internees." Schnell had told ex-internees' meetings that after 1945 all decent people had been clapped into gaol, that internment camps had been much worse than Himmler's concentration camps, and that the chairmen of De-Nazification Courts were "a lot of scoundrels." The Civil Service Disciplinary Court at Kassel considered the case,

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Austria's Duty

"AMICABLE SETTLEMENT" EXPECTED

Austria's signal success in winning from Russia greater hope of independence seems unlikely to make much difference to her conception of discharging the duties of Restitution and Indemnification. The adumbrated State Treaty would assure her of substantial economic benefits (e.g., full control of the oilfields and the former German assets), but then the Austrians never pleaded poverty. Their argument has always been that they are under no liability as the Jews were persecuted not by Austria but by the Germans who occupied Austria. At the same time they declared themselves willing to help Austrian victims of Nazi policy "according to the dictates of humanity," which appears to imply recognition of a moral rather than legal obligation.

This position will presumably be maintained when official negotiations begin in Vienna on May 5 between the Austrian Government and representatives of the Jewish Committee for Claims against Austria. An intimation of good will was given by the Austrian Ambassador in London, Dr. J. E. Schwarzenberg, who said that the Austrian authorities would do their utmost to facilitate an amicable settlement. The statement was made to Mr. H. A. Goodman, chairman of the Agudas European executive, who stressed the complete unity of all Jewry in its demand upon the Austrian Government in respect both of individual settlements and heirless claims.

Austrian Jewry's View

The views of Austrian Jews in particular were set forth by the President of the Federal Union of Austrian Hebrew Congregations, Dr. Emil Maurer. He dealt especially with the Austrian Chancellor's recent broadcast, in which Herr Raab had claimed certain achievements of his Government's restitution and indemnification policy. Referring to the Chancellor's remark that a sum of 2,000 million shillings (ca. £28m) had been paid in respect of restituted property, Dr. Maurer said that this was not an achievement for which the State could claim credit, as the properties and assets concerned were returned by the "Aryanisers." "All this had nothing to do with indemnification, but was only restoration of stolen property."

The Chancellor's claim to have spent 100 million shillings (ca. £1,400,000) on Jewish refugees should, Dr. Maurer said, be contrasted with the far larger sums spent on non-Jewish refugees who had never been Austrian citizens. In any case, the expenditure on refugees had not been covered by Austrian money, but by American aid which was expressly granted for that purpose. This applied also to the 5,000,000 shilling loan, free of interest, which the Chancellor had mentioned had been made to Vienna Jewry.

Altogether, Dr. Maurer said, the Jewish share in the total of 365 million shillings so far paid out, in the course of eight years, by way of restitution and indemnification, amounted to no more than one third. The negotiations beginning on May 5 would have every prospect of success, Dr. Maurer concluded, if the Austrian Government could see their way to putting forward proposals which would show some appreciation of the Jewish demands.

"Unrealistic"

These demands, in the neighbourhood of 650 million shillings, are at present considerably removed from the Austrian offer of 200 million shillings (150 million for individual claims and 50 million on heirless property), particularly so as the Austrians will only concede an "equalisation of hardships" but no indemnification. Neutral observers in Vienna, weighing both positions, are inclined to be critical of the Government's stand. A dispatch in the distinguished *Christian Science Monitor* recently remarked that "the Austrian offer is definitely more unrealistic than the Jewish claim." So it must be hoped that some sort of reasonable compromise will be hammered out, enabling Austria to discharge an obligation which could be denied only according to the letter of legalism, not in the spirit of justice.

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but found that while his utterances certainly had "gone too far" they did not justify the forfeiture of pension rights!

After Ten Years

JEWS GIVE GERMANS A CHANCE

THE "miracle of German economy" notwithstanding, the average German, who is not badly off, still smarts under the psychological impact of the personal losses which he suffered. He seems little concerned with the disastrous consequences wrought by Nazi tyranny and Nazi cruelty, both in peace and war—even the actual fighting is hardly remembered. Anything, in fact, of which the cause must be sought in the story that began in 1933, or for that matter in 1939, will be repressed. Perhaps such is simply the working of a bad conscience, the feeling of having watched evil with indifference and, as often as not, tacitly approved it.

What will particularly embarrass the average German is any reminder of the most bestial persecution of Jews in all history. That is a thing he will never talk about on his own accord. Seized by emotions of tormenting shame, he will do what he can to fight shy of the subject. This taciturnity, which is by no means a sign of indifference, is far more characteristic of the run of Germans than any of the stirrings of antisemitism which frequently attract attention abroad. Germans have become "Jew-conscious" in a way never known before, though by and large they probably have no feelings either for or against the Jews.

In this psychological atmosphere, the approximately 70,000 Jewish survivors felt at first and for a long time insecure and isolated. Before entering into close co-operation with the German democratic authorities they set all their hopes on help from outside Germany—the Allied armies, UNRRA and the foreign Jewish organisations. What they then needed more than anything else were the necessities of life—food, clothing, fuel and housing.

Exodus

But there was also, in the first post-war years, an urge, strongly supported from abroad, to get away from Germany and in fact to liquidate all Jewish life in Germany. Most of the Eastern and South-Eastern European Jews in the D.P. camps, obeying the call of their Zionist convictions, prepared to leave for Palestine. Different was the situation in the cities where Jewish congregations had begun to form as early as mid-1945—a medley of Jewish partners of mixed marriages, survivors of illegal hiding, liberated concentration camp prisoners, returnees from abroad and, later, refugees from Eastern Europe. Of these, only few were inclined either to emigrate or to liquidate. While, between 1945 and 1950, many young people emigrated from the cities, the elderly remained, with the exception of those who had hopes of joining relatives abroad.

At the same time, the overwhelming majority of the non-German D.P.'s, whose original number (in 1945) of approximately 50,000 was by 1947 doubled as a result of the arrival of "infiltrates" from Eastern Europe, emigrated to Palestine (or Israel), others to the U.S.A. and elsewhere overseas. The camps, with the exception of Föhrenwald, which houses the hard-core cases, are closed, and the D.P.'s once powerful "Central Committees of Liberated Jews" have liquidated themselves.

A matter of present urgency is the economic, social and cultural condition of the Jewish remnant in Western Germany, particularly in the cities. Numerically the problem is exceedingly small. In 1945 there may have been 15,000 Jews; today they are believed to be 20,000, to whom may be added another 8-10,000 who are not, or not yet, registered members of a *Gemeinde*. The number of children amounts to 10 per cent. The Federal census of September 13, 1950, recorded 22,000 members of the Jewish religion (including 5,000 in West Berlin), or .05 per cent of the total population (compared with 0.9 per cent in 1925). Between 1945 and 1948 about a hundred *Gemeinden* had sprung up; they are now reduced to about 75, the result of amalgamation as well as liquidation. Congregations of more than 1,000 members will be found only in Berlin, Munich, Frankfurt, and Hamburg.

The foremost duty of the *Gemeinden* was to provide relief for their destitute members, physically disabled and morally isolated as they were. Having had the generous support, in the beginning, of Jewish organisations abroad, the work soon received subsidies also from a number of *Länder*, and more recently grants were made by the Jewish successor

organisations from the restituted communal property (which the new *Gemeinden* have no title to claim).

This assistance, supplemented by an income of their own from contributions and communal levies, has enabled the *Gemeinden* to build up their administration, to rent meeting and prayer rooms, to organise services, religious or cultural functions and, wherever possible, some sort of Hebrew classes for

ALBERT EINSTEIN

The sad news of Professor Albert Einstein's death arrived as this issue was going to press. A condign appreciation will appear next month. With all mankind we mourn the passing of a universal mind which, we remember with gratitude, was especially one of our own. Competent pens will describe his abiding achievement in the realm of science. We think of him pre-eminently as a mighty revelation of the human genius—a man who vastly increased knowledge but also fought the good fight of Right against Wrong, a man sublimely a citizen of the world but also a Jew, a persecuted Jew, but also, at all times, a proud Jew who kept faith with his brethren, even the lowliest of them, and who drew from his Judaism the inspiration to seek, above the ruthlessness of science, for ever the face of man created in the image of the Lord. He proclaimed the foundations of his belief in a memorable message in 1933 when he at once challenged the barbarian invader:—

"The striving after knowledge for its own sake" (he wrote), "the love of justice verging on fanaticism, and the quest for personal independence—these are the motivating traditions of the Jewish people which cause me to regard my adherence thereto as a gift of destiny. Those who today decry the ideals of reason and of individual freedom, and seek to impose an insensate State slavery by means of brutal force, rightly see in us their irreconcilable opponents. History has ordained for us a severe struggle. But as long as we remain devoted servants of truth, justice and freedom, we shall not only continue to exist as the oldest of all living peoples, but we shall also, as hitherto, create, through productive effort, values which shall contribute to the ennobling of mankind."

THOMAS MANN'S TRIBUTE

The following statement was made by Dr. Thomas Mann:—

"Tief erschüttert durch die Nachricht vom Tode Albert Einsteins, vermag ich im Augenblick nur zu sagen, dass durch den Hingang dieses Mannes, dessen Ruhm schon zu Lebzeiten legendären Charakter angenommen hatte, für mich ein Licht erlosch, das mir seit vielen Jahren ein Trost war in der trüben Wirrsal unserer Zeit.

"Aus meinem eigenen Leben kann ich dasjenige dieses Landmannes und Schicksalsgenossen kaum wegdenken. Die Bekanntschaft mit ihm war alt und wurde während der Jahre, die ich in Princeton verbrachte, zur Freundschaft.

"Seine wissenschaftliche Grösse, dem Laien nur ahnungsweise zugänglich, mögen Berufener auf neue verkünden. Was ich liebte, bewunderte und immer hochhalten werde, ist seine moralische Haltung, in der er, dem Menschheitsgedanken zugewandt und allem Konformismus überlegen, seine Ueberzeugungen kühn vertrat.

"Will man bezweifeln, dass der Gram über den unseligen Gang der Welt und das grässlich Drohende, wozu seine Wissenschaft auch noch unschuldig die Hand geboten, sein organisches Leiden gefördert, ja mit erzeugt und sein Leben verkürzt hat?"

"Er war aber der Mensch, der, im äussersten Augenblicke noch, gestützt auf seine schon mythische Autorität, sich dem Verhängnis entgegengeworfen haben würde. Und wenn heute unter allen Volkheiten, Farben und Religionen einmütige Trauer und Bestürzung sich zeigt bei der Meldung von seinem Tode, so bekundet sich darin das irrationale Gefühl, sein blosses Dasein möchte es vermocht haben, der letzten Katastrophe den Weg zu verstellen.

"In Albert Einstein starb ein Ehrenretter der Menschheit, dessen Name nie untergehen wird."

the children. Instead of distributing food, clothing, etc., received from abroad, among all members of the community, a system of social relief now takes care of those who are really in need, payment being made in addition to public assistance rates. At least a dozen Old Age Homes have been opened and there are Jewish hospitals in Berlin and Hamburg.

It is an astonishing fact that the number of Jews in Germany has been on the whole constant during the last five or so years, and that the average age even declined from 65 to 55. The explanation probably is that emigration and deaths were more than made up for by remigration, former emigrants frequently returning with their children. Whether this development is, in the long run, good or bad remains to be seen. At all events the remigration, not a stream but rather a trickle of individual drops, is a remarkable feature in the unfolding new Jewish story in Germany and will determine the course of the larger *Gemeinden*.

Among the motives causing people to return there is rarely any feeling of affection for Germany as the old home country. Much more important is the consideration resulting from a comparison of the economic difficulties and hardships encountered in the foreign country with the hope of a more comfortable life, likely to be made easy by restitution benefits, in Germany. Acting on this consideration, Jews of all trades and professions and ages (not only, as is sometimes thought, elderly lawyers and civil servants) came originally on a visit to settle their affairs and then decided to stay in Germany. During the first post-war years the returnees came mainly from Britain and America, but more recently a fair number arrived from Israel.

Leaderless

While the *Gemeinden* are, necessarily, first and foremost concerned to secure the economic foundations of Jewish life, there has inevitably been a lag in attending with due care to cultural and educational affairs. The time has now probably arrived when the highly complex administrative apparatus should be overhauled with a view to encouraging Jewish children to develop within the community. This, of course, is no easy matter as there are no independent cultured men and women willing and able to make themselves responsible for infusing a new spirit into Jewish communal life. Another difficulty is that there has never been anything like an adequate response to the permanent demand for trained teachers and ministers: in fact, at the moment Berlin, the British Zone and Bavaria are without any rabbi at all! The result of this leaderlessness is that, though there is no Jewish party rule, much vanity and self-seeking is asserting itself, doing little to promote a true *Achduth*. Great problems are also presented by the fact that the *Gemeinden* are made up of a motley of the most heterogeneous elements. On the other hand, many of the returnees who might exert a conciliatory as well as cultural influence will take no active part in communal life.

It is due to this state of Jewish affairs that German activity in the field of Jewish learning and scholarship is proceeding almost entirely without any Jewish partner. This activity, through broadcasts, the press and literature, is educational, an agency of enlightenment if you like. It supplies a substantial contribution towards that moral restitution which is so often demanded. It makes a real attempt to join issue with that prejudice, the legacy of twelve Nazi years, which is still unbanished among large sections of the German people. It seeks to uphold the abiding values of the Jewish spirit and thus to achieve understanding and conciliation. Altogether responsible German public opinion is in favour of a *modus vivendi* with the Jews in Germany (notwithstanding such well warranted grievances as the delay in making material restitution).

After these difficult ten years of survival, which cannot be summed up as a desire to emigrate from Germany, it is perhaps wise for Jews to try, in spite of their heterogeneous structure, to consolidate their affairs and as far as possible so to normalise their lives as to be able to continue in Germany as upright Jews and without any restriction upon their rights as citizens. This, in turn, must depend chiefly on the strength of their moral resistance to ward off any hazard likely to befall their small but inconquerable number.

E. G. LOWENTHAL (Bonn)

REPORTS From GERMANY

THE ALLGEMEINE IS TEN

The *Allgemeine Wochenzeitung der Juden in Deutschland* (edited by Karl Marx) celebrated its tenth anniversary on April 8. In a leading article, Dr. H. G. van Dam, Secretary General of the Central Council of Jews in Germany, welcomes the event as a sign of the "inconquerable Jewish will to survive" which had made nonsense of the Nazi "dream of a Judenrein Germany." He criticises those "political tourists" who, after a trip to the Federal Republic and Berlin, publish "amateurish" reports, some of which he says have wrought a great deal of harm in the field of Restitution. Whatever the future of German democracy, it was undeniably a duty of statesmanship to encourage, rather than discourage, the revival of Jewish life in Germany.

Congratulatory messages were received from Dr. Baeck, from the Prime Minister of North Rhine Westphalia, Herr Arnold, who stressed the need to remember the "nefarious" past; also from the chairman of the Parliamentary Christian Democratic Union, Dr. von Brentano, who spoke of the duty to "restore the German people's inner peace lost in guilt-laden years." Dr. Thomas Dehler, chairman of the Free Democratic Party, pointed out that "life is more than not forgetting," but Herr Heine, of the Socialist Party's national executive, took the opportunity of assuring Jewry that they did not stand alone in their struggle against the "injustice and indifference" which he said was persistently evident in the Restitution practice.

JEWS IN S.W. GERMANY

Out of the 18,000 Jews who once lived in the Palatinate, only 350 are left. None of the congregations of Speyer, Kaiserslautern, Landau, Ludwigshafen, Pirmasens, Frankenthal and Zweibrücken, has survived the war. A synagogue was consecrated last year at Neustadt.

The memorial erected on the site of the former synagogue at Konstanz was damaged in March. A plaque commemorating the pogrom of November, 1938, was forcibly removed. The culprits are unknown.

LEIPZIG CANTOR'S SUCCESS

Mr. Werner Sander, cantor of the Leipzig Synagogue, recently conducted Mendelssohn's oratorio "Elijah" at the Leipzig Kongresshalle. The performance was enthusiastically acclaimed, both by the audience and the East German press.

GERMANS IN ISRAEL

Erich Lueth, the man who founded and led the German "Peace with Israel" movement, is in Israel on his second visit within two years. Ever since his movement dissolved in 1953, after creating the climate for the conclusion of the German-Israeli reparations agreement, Lueth has been the director of the Hamburg "Society for Christian-Jewish Co-operation," which is one of the most active of its kind in Germany.

Another German visitor to Israel is Dr. Willy Ritter, head of the Middle Eastern section of the Federal Government's Press and Information Office.

German reparations goods received by Israel had reached a value of DM. 591.9 million by January, 1955, it was announced by the Israeli Accountant-General, Dr. E. Ne'eman. Between January, 1955, and March, 1956, about DM. 200 million worth of German goods are expected to be shipped to Israel.

GOOD DEED REWARDED

Kindness shown to Jews was remembered and rewarded when the German Government conferred the Service Cross of the Order of Merit on a German Christian woman now living in Israel. Fräulein Frieda Kroltzik, a 74-year-old domestic, had for 31 years faithfully served a German-Jewish family named Loewy in Hamburg. When Mr. Loewy died, soon after 1933, she looked after the ailing widow, staying with her until 1941, when she was forced to leave by the Nazis. Even then she would not cease from helping the Jewish woman as much as she could. She even dared to take Mrs. Loewy, then wearing the Yellow Badge, for walks. In 1942 she, through the Red Cross, informed the children in Israel that the mother had been deported. After the war, the faithful servant was sent for by the Loewys' grateful grandchildren and she joined the family at Ramat Hadar.

BELSEN ANNIVERSARY

The tenth anniversary of the day when Allied troops reached the first major German concentration camp was commemorated in a stirring ceremony at the memorial for the 50,000 dead of Bergen-Belsen. Kaddish was recited by Cantor Moshe Kraus, now of Antwerp, a former inmate of Belsen, and the sermon was preached by Rabbi Zvi Azariah-Helfgott, a fellow-prisoner.

Addresses were delivered by Lady Rose Henriques, who headed the Jewish relief unit; by Dr. H. G. van Dam, Secretary General of the Central Council of Jews in Germany, which had arranged the ceremony; also by Frau Jeanette Wolff, the Jewish Bundestag member who herself passed through several concentration camps; Dr. Berthold Simonsohn, Secretary General of the Central Jewish Welfare Agency, and Dr. Uri Naor, press attaché of the Israeli Mission in Germany.

President Eisenhower also marked the anniversary by sending a message to a public meeting held in New York. "To those who believe in human brotherhood" (he wrote), "the tenth anniversary of the liberation of Europe's surviving Jews from concentration camps is a significant occasion. I hope its observance will strengthen in free men the spirit of opposition to totalitarian brutality and persecution and of devotion to liberty, justice and goodwill."

IN MEMORIAM HANS GOSLAR

Under the title "A Forgotten Martyr," the official organ of the German Social Democrats, *Vorwärts*, paid a tribute to the memory of Hans Goslar, for many years press chief of the Braun-Severing Government in Prussia, on the tenth anniversary of his death in a concentration camp. Goslar, a strictly orthodox Jew, was a son-in-law of Alfred Klee, the late Zionist leader, whose son, Hans, is now editor of the *Israelitisches Wochenblatt*, Zurich.

Dr. Rudolf Mosse, a grandson of the man who founded the *Berliner Tageblatt*, arrived in Munich with plans to rebuild the old firm.

MORE JEWS IN VIENNA

The number of Jews registered with the Vienna *Israelitische Kultusgemeinde* was, at the end of last year, 9,123—124 more than the previous year.

Erwin Piscator's Return

A Letter from Berlin

After an absence of more than two decades, Erwin Piscator, who was one of the better known theatrical producers in the 'twenties, has returned to Berlin, and his first production was given an enthusiastic welcome at the Schiller Theatre. A distinguished audience rose to applaud and show him that he had not been forgotten. This kind of welcome given to a "returnee" is encouraging, as a sign of sympathy and understanding which most Berliners are eager to show to those connected with the great past of the city, and ready to help them again to success.

It was therefore rather unfortunate that Piscator chose for his first production a play—or shall we say, a text arranged in the manner of a play?—for which he himself was partly responsible. It was a "dramatisation" of nothing less than Tolstoy's "War and Peace," executed by a triumvirate of authors of which the other two were the late Alfred Neumann and a certain Herr Guntram Prüfer. It is hard to comprehend why so experienced a writer as the author of "These Men are Dangerous" and other successful plays, Alfred Neumann, did not think twice before laying his hands on the greatest novel of all times, unaware of the literary and artistic consequences. Squeezed into three hours' playing time, the authors hardly managed to present the skeleton of the novel, and were unable to build up characters or to sketch, however superficially, the atmosphere of early 19th century Russia. Instead of characters we got types; instead of scenery only floating glimpses at pictures, kaleidoscopically arranged by an ingenious *metteur en scène*; and instead of history herself, painted *al fresco* by the "Raphael of the word," we saw puppets dressed up as "Napoleon" or the "Tsar," in the best Madame Tussaud manner, jumping over a

Otto Strasser is back

After a 22 years' exile, Otto Strasser, the Nazi who fell foul of Hitler in 1930, is back in Western Germany, where he expects soon to have an opportunity of practising his old theories. He will not at present found a political party, but he hopes that his policy will attract the "idealistic elements in Germany." That policy is, in the first place, to "oppose any kind of rearmament under a foreign flag, in foreign uniform and under foreign supreme command," and then, to set up, between "the capitalism of Wall Street and the communism of Moscow," a Third Force which would "save the freedom and civilization of Europe."

So far there is no evidence that Strasser has greatly benefited either from the experience of the last "saviour of Europe" or from his own prolonged contact with the Western world. In a very familiar style, too, he described the present Parliamentary parties as "a bunch of swine" and claimed that his return was a victory over "the unholy alliance of Hitler, Morgenthau and Adenauer."

Racialism

He even brought back the racist obsession. Jews, he said (characteristically confusing "Jews" with "Israelis"), should be treated in Germany in the same way as Germans in Israel, but, he added, if they wanted German citizenship, then they would have to assimilate themselves completely. A telling commentary on this remark was provided when Strasser went out of his way to meet in Dublin a notorious British antisemite.

In Germany he has so far found little sympathy. He was refused any accommodation for holding his meetings, and vigorous attacks were launched against him in the press. The *Frankfurter Allgemeine* particularly denounced his references to the Jews, saying that "the suggestion that German Jews should be deprived of their German citizenship had also been made by Hitler when he began his campaign." The paper warned both Government and people not to be indifferent towards this sort of propaganda: "We all paid too dearly for our indifference and obtuseness; millions of our people paid with their lives and we all with the stains on the honour of our nation."

Lord Russell's book "The Scourge of the Swastika" is shortly to appear in German. The publishers are Volk und Welt, East Berlin. In a statement explaining the choice, the author said that he had tried to find a publisher in Western Germany but had been unsuccessful.

glass-covered elevated board on which the "historic," as distinct from the private, events were arranged to take place.

Piscator, obviously, insisted on reviving his *Bekennnisstheater* of old, totally oblivious of the fact that what served to *épater le bourgeois* in the 'twenties has lost its impact on the harassed mankind of to-day. The mere thesis, cut out of Tolstoy's monumental work, that peace is better than war does not need to be illustrated in so voluble a manner, and its emotional appeal hardly justifies elaborate demonstrations of its truth in many scenes, loosely connected with each other and with "history."

And yet there were a few deeply moving moments—for instance, when Count Pierre, like a madman, re-enacts the Battle of Borodino with toy soldiers, or when the two deadly enemies, Prince Andrei and Kuragin, meet in an improvised field hospital, both severely wounded and ready to face death, and, while unable to see, they slowly move their hands towards each other until the fingertips meet, thus signifying forgiveness and the true inner peace of their souls.

Piscator proved himself again a master of scenic devices, a great technician, and a thorough leader of actors on whom he imposes his style and artistic idea. Given a more promising text, he may yet succeed in producing a performance of a less controversial nature. One should, therefore, be grateful to Berlin's *Intendant* Barlog for having given the "returnee" producer a contract for several new productions. West Berlin cannot boast of having too many great producers in its fold, and there can be no doubt that Piscator, who has lost nothing of his youthful vigour and his artistic *élan*, will help to enliven and to stimulate its theatrical life.

OTTO ZAREK.

After Ten Years

Hope of Redress for the Wrongs

by F. Goldschmidt

Some months ago a London paper carried a report under the headline, "Your 1860 Claim is Ready." Riots took place in Sicily in that year and the courts have now—in the year 1955—finished the assessment of the damages due to some claimants. Not a few victims of Nazi oppression who have not yet received any compensation may well be inclined to wonder whether they will also have to wait for more than 90 years till justice is done in their cases, and they will exclaim with Heine:

"Oh Lord, you are immortal and can wait!

I, alas, am a poor mortal and have no time on hand!"

What are the reasons for the slow progress, and is there any hope that the indemnification programme will be carried out within a reasonable period? When the Nazi regime collapsed in May, 1945, no central German authority remained, and there was financial chaos. The Reich was divided into various zones of occupation and only provincial ("Länder") authorities were established. At that time the Allied governments deemed indemnification proceedings impracticable. Claims would have to be directed "against the bankrupt Exchequer of the German Reich." Should the Reich become solvent again after a considerable time, payment of reparations to the Allies was expected, not compensation for victims of Nazi persecution.

On November 10, 1947, however, 2½ years after the Armistice, laws regarding restitution of identifiable property were enacted by the Western Allies, and it was at first the general opinion that only property could be claimed which was still identifiable and could be seized. The Foreign Office in London was surprised when some years later German courts and the Court of Restitution Appeals, the highest court in the American zone, ruled that property which had been identifiable at the time of its confiscation and that damages could be claimed under the Restitution laws against the German Reich.

Little Indemnification

Whether the judgments given against the German Reich, which cannot be executed, were of any value remained uncertain for a long time, even after the establishment of a (West) German central authority, the Federal Government. That authority did not exist in 1949 when the first indemnification laws were enacted in the U.S. Zone. Claims had, therefore (and have still), to be directed against the Länder. In view of the financial weakness of the Länder in 1949, the scope of indemnification was—and unfortunately still is—very limited. On the other hand, it should be remembered that the German authorities (the *Länderrat*) were prepared to convert Reichsmark indemnification claims into Deutsche Mark at the rate of 10 to 3, and that the Allies objected to such a provision as contrary to the rate of the conversion laws (10 to 1). As a compromise, a conversion rate of 10 to 2 was fixed and that rate has been maintained up to now.

A serious setback in the field of indemnification was caused by the Auerbach affair in Munich, which led to the closing down of the State indemnification authority for a long time. Indemnification laws were enacted in the French Zone and in (West) Berlin, but all endeavours to have corresponding laws introduced in the Länder of the British Zone met with no success.

The deadlock in the negotiations ended, however, when on September 27, 1951, Chancellor Dr. Adenauer made a statement on the attitude of the German Federal Republic towards the Jews. In the name of the German people, he stated, unspeakable crimes had been committed which called for moral and material restitution. The Federal Government would take the necessary measures for speeding up legislation. They were prepared to work, together with representatives of Jewry and of the State of Israel, for a solution of the material reparation problem in order to pave the way for a spiritual atonement. Dr. Adenauer's statement was applauded by all members of the Bundestag with the exception of the Communists and the extreme Right Wing.

The "Conference on Jewish Material Claims against Germany" was formed in New York in order to establish a representation of Jewish

organisations outside Israel for negotiations with the German Federal Republic. The "Council of Jews from Germany," the central organisation of the Nazis' Jewish victims, joined the Claims Conference.

Meetings took place in the Hague in 1952 between representatives of the Federal Republic, of the State of Israel, and of the Claims Conference, which led to agreements about global payments to the State of Israel and the Claims Conference for the cost of integration of refugees in Israel and for the relief, rehabilitation and resettlement of Jewish victims of Nazi persecution who on September 10, 1952, were living outside Israel. Furthermore, a legislative programme regarding compensation and restitution was drawn up and signed at Luxembourg.

At the last meeting before the dissolution of the first German Federal Parliament in summer, 1953, the Federal Indemnification Law (BEG) was passed, after members of the Government and the Opposition in both Houses had described the law as an emergency measure and had pointed out that amendments and alterations would have to be made at a later stage.

Action by Jews from Germany

Immediately after the enactment of the BEG the "Council of Jews from Germany" and other organisations of persecutees began work to secure improvements of the law. The provisions regarding special levies (e.g., "Judenvermögensabgabe") and flight tax, the indemnification visualised for members of the free professions and for private employees, the regulations about the order in which the claims have to be settled, and the provisions for special groups of persecutees were particularly criticised. Detailed suggestions for the amendment of the law were submitted by the Claims Conference and other organisations of persecutees to the competent German authorities.

Deputies of the Bundestag (Members of the Christian Democratic Union, as well as Social

Democrats and Free Democrats), especially Professor Boehm, Dr. Arndt, Dr. Greve and Dr. Reiff, considered fair restitution and indemnification a moral duty of the Federal Republic and pressed for the amendment of the BEG. A working committee consisting of representatives of the competent Federal Ministries, of the Länder and of the Bundestag, was formed for this purpose. It is working hard to prepare a comprehensive bill. Its draft is expected to contain considerable improvements of the Indemnification Law regarding extension of the groups of persecutees, concurrence of restitution and compensation claims, extension of the rights of inheritance, widows' pensions for the members of the free professions and for private employees.

The Federal Ministry of Finance is preparing a law on monetary restitution claims against the German Reich (so-called "Dritte Masse" law regarding confiscated bank accounts, securities, lift vans, jewellery, etc.). New time limits will be fixed.

The "Indolent Hearts"

On February 23 last, indemnification problems were debated in the Bundestag. The attitude of some Länder authorities and the judgments of some restitution and indemnification courts were severely criticised.

The organisations and lawyers dealing with restitution and indemnification cases have seldom cause to complain of outspoken antisemitism, but in some cases about the "indolent hearts," bureaucratic behaviour and inexperience, especially of younger officials.

The German authorities are controlled by a Supreme Chamber of Accounts, the "Rechnungshof." Not a few of the German officials have perhaps hesitated to interpret the indemnification law in a liberal way from fear of being censured by the *Rechnungshof* and held responsible for expenses involved. They may now be reassured by a principle of interpretation established by the Supreme German Court in a judgment given on November 22, 1954 (IV ZR 107/54):—"It is the aim and purpose of restitution and indemnification legislation to redress the wrongs committed as soon and as far as at all feasible. Any interpretation of the law which is conceivable and in conformity with this aim is, therefore, preferable to any other interpretation."

A CHANGED JEWISH WORLD

Continued from Front Page

able number of youths of German-Jewish origin, perhaps because these were not yet firmly established in other countries (e.g., Britain, France, South America) which were regarded only as temporary shelter. After the war, the wish to leave the blood-stained soil of Europe dominated Jewish thinking. And while emigration to other oversea countries did not catch much public attention, emigration to Palestine was strongly advertised.

But after a few years the stream of emigrants began to trickle. Two factors contributed to this setback: the economic rehabilitation in Europe and the perpetual economic crises in Israel. While German immigrants had brought to Palestine large amounts of money and capital in various forms, and even the D.P.s coming from Germany after three post-war years had managed to bring vast sums and many tons of goods with them, the new immigrants, collected from Arab countries after the Jewish-Arab war, were for the most part penniless and had to be accommodated in transition camps under hard conditions. This resulted in a check to immigration and gave rise to some re-evaluation of the new situation. Over-enthusiastically, some Israeli leaders had proclaimed the "End of the Exile," the complete "Ingathering" of all Jews into the Jewish State. This not only proved to be impracticable, but it also evoked the opposition of the Diaspora Jews who did not want to leave their

countries of residence. Characteristically, this resistance to Israeli philosophy became most vocal and most determined in America.

The "End of an Exile," as Dr. James Parkes points out in the book which bears that name, did not result in territorial concentration of the Jews; it is rather a dual phenomenon, revealed both in the establishment of the State of Israel and in the re-emergence of a strong Judaism-minded Diaspora—both being inter-related and each dependent upon the other. Gradually, both sections seem to become aware of the urgent necessity of restoring historical Jewish values. The exaggerated secularisation which had been the result of Emancipation, and in a still stronger degree of Statehood, had obliterated the meaning of Judaism. The disillusionment which followed the excitement of the post-war years has led to a stronger sense of realism and of responsibility for the continuation of a Jewish spiritual tradition, but this feeling has not yet crystallized into a way of life which would meet the requirements of modern man.

American Jewry seems to be in a state of transition; it has built up tremendous institutions as no Jewry had before. Israel is creating a new type of Jew; worker and soldier are the mainstays of Israeli society. These two are the strongest factors which dominate Jewish life. Whether from these divergent forces a new uniform Judaism will emerge, only the future can tell.

BRITISH JEWRY 1945-1955

Years that saw the fall of Hitler and the rise of a Jewish Commonwealth will long remain memorable wherever Jews dwell. Among British Jews they have yet a special significance. For when the struggle against Germany suddenly threw up the struggle for a Jewish State, Britain was still the ruler of Palestine, but British Jewry were faced with the cruel dilemma either to approve their Government's plainly misguided policy or to uphold, in spite of specious propaganda, the cause which they felt to be just. The dilemma was resolved, in forthright action, by the Board of Deputies under the bold leadership of the late Professor Brodetsky, who never ceased to proclaim Israel's inalienable right to his inheritance.

The choice has since been abundantly vindicated, and if an assurance were needed it might be found in the stalwart Zionism of Sir Winston Churchill. It was a hazardous choice but also one about which free men, believing that Government is not "our God upon earth," could never be in doubt. In making it, British Jews showed themselves eminently worthy of those rights of citizenship which they gained, after decades of arduous effort, almost exactly 100 years ago, and which they treasure as the finest achievement of their forthcoming centenary.

Having borne so notable a burden in establishing the Jewish State, they did what they could to discharge their material duty in maintaining it. In the grand total of £200 million which the whole of

Jewry has raised since 1948, British Jews have contributed over one tenth—£15 million; last year alone more than £2.2 million.

At the same time, the contribution by way of aliyah has been more modest. Some 3,000 settlers went to Israel through the Zionist Federation, but the figure of 580 in 1950 fell to 140 three years later. What is described as "apathy" in this respect has been put down to the fact that since the departure of prominent Zionists (most of whom now hold important Government posts) leadership in Britain has largely ceased to be inspiring.

But the "apathy" has been noticeable not only in the fortunes of British Zionism. Inasmuch as the synagogue is the centre of Jewish life, it was melancholy news to hear from a communal leader that if synagogues were no longer also burial societies membership would drop alarmingly. There is a religious indifference which looks upon Judaism as little more than a set of social taboos. It seems encouraging that more than 90 per cent of all Jewish householders are registered with kosher butchers, yet (according to Sir Basil Henriques, who himself is not orthodox) "people are becoming so anglicised that there is a very grave danger of our Jewish youth not knowing what it means to be a Jew and being even afraid to be a Jew." There has been an appreciable increase in mixed marriages, affecting, it is said, more than 10 per cent of all British Jews.

"On other People's Vineyards"

The dearth of Jewish knowledge has been consistently and fruitlessly bewailed. Only recently the President of the Board of Deputies remarked on the absence among Anglo-Jewry of that love of books which distinguished other Jewries. He called attention to the "tragedy that University students (among them some of the best brains of the community) concentrate on the vineyards of other peoples and know nothing about the literature of their own."

An annual Jewish Book Week introduced in 1953 has so far attracted scant notice. Jewish books are produced on no substantial scale in this country, though some effort is being made by the *Jewish Chronicle* which, in the course of an ambitious expansion, has launched a book publishing firm of its own. An Anglo-Jewish scholar enquired, somewhat pathetically: "Where is the publisher who will do for us what Schocken did for German Jewry until the last possible minute?"

Nor is the neglect of learning confined to literature. While the J.P.A. can raise at one stroke £500,000, the Jews' College Centenary Appeal for £200,000 has gone a-begging since 1952 and is still far from its target. Another symptom of the same ailment is the well-nigh chronic deficit besetting the majority of Anglo-Jewish organisations, except perhaps the United Synagogue. The nine-year-old London Board of Jewish Religious Education actually fears to be "drifting to bankruptcy."

The financial insecurity in turn has had a great deal to do with the decision of many Ministers to

leave this country, especially for South Africa. Not all were chiefly moved by the legitimate desire to earn a salary more in keeping with the dignity of their office. Many, too, complained of being denied proper influence and status. Whatever the reason, it has been increasingly difficult to find capable successors, though arrangements were made for young men from North Africa to be trained at the Montefiore College, Ramsgate, as rabbis and teachers in their own communities.

Jewish immigration of course has virtually stopped. A few came from German captivity, but among the 250,000 aliens (including 120,000 Poles) who have been admitted since 1945 their number is negligible. The refugees of 1938-39 are now for the most part safely settled, naturalised and as much a part of England as newcomers can hope to be. Many have made their mark in various walks of life, notably scientists such as Professors F. E. Simon, Hans Krebs and Boris Chain.

In Jewish affairs they brought with them what has been called "a new stock of Yiddishkeit." Foremost stands Dr. Leo Baeck, founder of the Society for Jewish Study. Dayan Grunfeld, a respected member of the Beth Din, was chosen to deputise during the Chief Rabbi's absence in Australia, and his colleague on that occasion, Dr. Altmann, has been since 1939 Communal Rabbi of Manchester, where he recently established an Institute of Jewish Studies. A number of refugees, too, are serving on the Board of Deputies as well as other Anglo-Jewish organisations.

Brighter Outlook

While the general picture of Anglo-Jewry could well be brighter in many ways, it is gratifying to see the principal representative organs have been kept clear of the pitfalls to which they sometimes seemed exposed during the past ten years. The Deputies, under the judicious guidance of the Rev. Dr. A. Cohen, have firmly upheld their supreme authority in secular affairs. The A.J.A. still persists in the secession which occurred soon after the war, but the Liberal Synagogue has returned, and much of the old controversy has abated.

An agreeable feature has also been the steady decline in all manifestations of antisemitism. Ten years ago Mr. Bevin's Middle Eastern policy could hardly fail to abet the anti-Jewish subversion. The old Fascists emerged as new "Europeans," and the battle of Ridley Road was for many months a cause for some anxiety. Since then Sir O. Mosley's Union Movement has made little progress, though it cherishes great expectations from a devoutly wished economic slump. Nor has social discrimination been conspicuous, and it was characteristic that, under a new editor, the well-known journal

Truth, long notorious for its antisemitic obsession, purged itself by vigorously disowning the "unfairness and baselessness" of "racial prejudice."

Such evidence of sanity is perhaps appropriately recorded on the tenth anniversary of the downfall of Hitler. It is also fittingly affirmed as Sir W. Churchill retires from office and a new *Parsha* is read in British affairs. Perhaps, too, it is well to remember that the same enlightened sentiments were impressively proclaimed, seven years ago, by the new Prime Minister (who, of course, may be the Leader of the Opposition before this month is out). In the midst of the struggle in Palestine, Sir (then Mr.) Anthony Eden was chosen by the Conservative Party to "entirely repudiate and reject any policy of discrimination between one citizen and another on the grounds of religion, race, class or creed." It would indeed be a strange thing, Sir Anthony then said, "if the Party which honours the name of Disraeli as one of its greatest leaders was not the first to condemn practices which are directly opposed to those on which the British Commonwealth and Empire are based and maintained."

C. C. ARONSFELD

ANGLO-JUDAICA

The Board's Authority

The prospects of restoring community unity were increased when the President of the A.J.A. (Mr. R. N. Carvalho) officially declared that he recognised the Board as "the elected representative body of British Jewry, alone in a position to speak and act in the name of British Jewry," though he would accept no subordinate status for his Association.

The attempt begun last year to restore communal unity in the sphere of foreign affairs has been a failure. Negotiations to bring about co-operation between the Board of Deputies and the four other Anglo-Jewish bodies acting in that field—the Anglo-Jewish Association and the British sections of the World Jewish Congress, the Agudas Israel and the World Union for Progressive Judaism—produced no agreement, partly because the A.J.A. and Agudas refused to recognise the Board as the sole spokesman on behalf of Anglo-Jewry, and partly because the World Jewish Congress would not agree to refrain from permitting representations to be made in Britain by its European or World Executive.

Zionism

Aliyah, education and political work on behalf of Israel are the three main objects of British Zionists, it was stated by Dr. I. S. Fox, their chairman, at the Zionist Federation's annual conference. The Federation has at present 30,000 members.

Are British migrants to Israel materialistic? The chairman of the Professional and Technical Workers' Aliyah (PATWA) Association thinks so. He considers that the idealists of old have died out, that in fact "Anglo-Jewry is materialistic from top to bottom." His opinion was disputed by the Economic Attaché to the Israeli Embassy, who said that if people were actuated only by a desire to obtain in Israel material benefits they had better remain in this country.

In a speech supporting the J.P.A., Mr. Emanuel Shinwell, M.P., said that despite the Jews being freer in England than in any other country outside Israel, they all had the feeling that they were not regarded as other people were. To escape this, every Jew in the Diaspora had a moral responsibility to render every assistance to Israel on which their freedom from servitude depended.

The Disraeli Tradition

In a farewell message, commending his successor, Sir W. Churchill wrote that Sir Anthony Eden would "uphold the causes of Tory democracy which Lord Beaconsfield proclaimed, which Lord Randolph Churchill revived, and which I have tried to serve."

A number of Jews were successful in the recent L.C.C. elections. Candidates of Sir Oswald Mosley's Union Movement contested three divisions—Bethnal Green, Shoreditch and Brixton. They secured altogether 5,033 votes out of a poll of 117,652, a little over 4 per cent. of the total. In Bethnal Green and Shoreditch they were at the bottom of the poll; in Brixton they did slightly better than the Liberals (827 against 696). Some of Mosley's slogans were: "Above Parties—Against Communism," "Keep Aliens out of Council Flats," "Keep Britain White!"

Jews and Christians

The Council of Christians and Jews is endeavouring to remove the misunderstanding which caused its Roman Catholic members to resign last year. Its Senior President, the Archbishop of Canterbury, explained that the differences of opinion were concerned not with the aims of the Council but only with some of the methods of which the Vatican disapproved. On the suggestion of Dr. Fisher, all Roman Catholic representatives were provisionally re-elected.

In an address to the Council on racialism in South Africa, the Bishop of Johannesburg, the Right Rev. R. A. Reeves, called upon Jews to "make a much greater contribution to the racial problem than they have yet done": "Jewish scholars" (he said) "could make a particular contribution both by describing clearly what exactly the concept of a Chosen Nation meant to Israel of old, and—if they have the courage—by pointing out all points at which modern racialists who base their theory of the Chosen Nation upon that of the Old Testament have so radically departed from all the richness of thought originally contained in the idea of the people of God."

Jacob Jacobson:

THE FIRST GERMAN-JEWISH DOCTORS (ii)

Among those who successfully applied for the position of a medical officer during that epoch there was also Dr. Loewe Sobernheim. His father was Dr. Samuel Sobernheim from Bingen on the Rhine. At least one, if not two, of Dr. Samuel Sobernheim's brothers had also been doctors. He himself had studied in Halle about the middle of the 18th Century and had opened a medical practice in the famous Jewish community of Zuelz in Upper Silesia. There he died in 1790. Two of his sons became doctors. The elder, Dr. Salomon Sobernheim, born in Zuelz about 1763, had studied in Frankfurt/Oder and had become a doctor in Posen. There he died in 1820. In 1801 he had been in a clash with the authorities because he, although a follower of the liberal school of religion, had rendered possible the early burial of the Chief Rabbi of Posen, Joseph Pinkus, in accordance with orthodox tradition, by issuing a death certificate.

It is interesting to note that his younger brother explicitly opposed the custom of early burial, just as Marcus Herz had done before him. The younger Dr. Sobernheim, Dr. Loewe (Levi) Sobernheim, had been a pupil of the "Elisabethgymnasium" in Breslau—most probably one of the first Jewish pupils of that school—and had then studied in Königsberg where in 1793, "Philanthropists helped him to pay for his graduation." Obviously his father had not left him much money. In Posen, Dr. Levi Sobernheim first became temporary, then permanent municipal medical officer, and in 1798 he was appointed medical district officer in Schocken. In 1804 he resigned and moved to Bromberg. There he wanted to buy a house, but, owing to the then prevailing narrow-minded legislation, he, being a Jew, was refused the permission. His son, Dr. Joseph Friedrich Sobernheim, a prolific writer in the pharmaceutical and medical field, was an ardent follower of the Christian Philosophy of Nature. Under the easily recognisable pseudonym, Bernso, he also became known as a writer on music. None of Dr. Salomon Sobernheim's sons took up his father's profession. They came to Berlin, one after the other, as corn merchants, and established there the family circle which was to play an important part in the economic and social life of Berlin.

Held in High Esteem

Inside and outside the Jewish communities the Jewish doctor held a highly esteemed position. This was, for instance, shown inside the Jewish circle by the fact that he was called to the Thora with a distinguishing honorary title. His humane work, his profound education and his scientific endeavours facilitated his success with his fellow-men who for a long time saw in him the main representative of academically distinguished Jewish intelligentsia. Whoever did not choose to be baptised and whoever did not dispose of exceptionally large means, was, during the era of reaction, obliged to study medicine if he wanted to become a professional man. Sometimes, however, the study of medicine and the medical profession were only the starting point for a different career. The founder of the telegraphic agency named after him, Dr. Bernhard Wolff, was "candidate of medicine" before he became a bookseller, set up the "Berliner Literarische Comptoir" and then developed the idea of the modern information service. Like him, other Jews who started as doctors later became booksellers or started literary activities, as, for instance, Dr. Isaac Johann Jacob Sachs, from Mecklenburg, and Dr. Neumann Gutmann, from Kalisch.

One frequently reads, e.g., in the Jewish "Lexikon," Berlin, 1930, that the neurologist Professor Dr. Robert Remak (1815-65) was the first unbaptised Jew to teach at the Berlin University (1847). Generations of Jews from Posen were proud of the success of this son of their community, which was rich in spiritual energy. In fact, however, Robert Remak was not the first Jewish lecturer at the Berlin University. It was, as one can read in the Jubilee publication of the University, 1910, Dr. Nathan Jacob Friedlaender. He was born in 1778, in the town of Cziechowa—famous for its wooden synagogue—came to Berlin in 1803 and died there in 1830. Unlike the son of Robert

Remak, Professor Ernst Julius Remak (1849-1911), his son, Carl Jacob Friedlaender, did not take up his father's profession, but studied philosophy.

In one particular the really first Jewish lecturer of the Berlin University set an example for many of his later colleagues: he was very careful in the choice of his wife. He married into one of the most ancient, most distinguished and wealthiest families of Berlin Jewry, that of the jeweller David Jacob Riess. Two of his brothers-in-law, like him, were most remarkable exceptions to the rule then applying during the Prussian reactionary era. One of his wife's sisters married the only regular officer of the Prussian Army, the instructor at the Artillery and Engineering School, Meno Burg, who became a major and was at the same time a member of the Board of the Jewish Community of Berlin. His wife's only brother was the physicist, Dr. Peter Theophil Riess (1804-83), who, after overcoming many difficulties, was the first unbaptised Jew to become a member of the Prussian Academy of Science (1842). He was helped in this achievement by the great and influential scientist, Alexander von Humboldt, who later also helped Dr. Remak. The strange event, however, is that P. Th. Riess who had fought and won his case as a Jew, later on embraced Christianity, both he, his wife—whose maiden name had been Gueterbock—and his entire family.

Concluded

CONSULTATIVE CONFERENCE OF JEWISH ORGANISATIONS TO BE HELD IN LONDON, JUNE 12-16, 1955

The progress made in the re-building of Jewish life in Europe during the past ten years will be marked by a special Consultative Conference of Jewish Organisations to be held in London from June 12 to 16, 1955.

The sponsors of the Conference, which will give the Jewish communities of Europe and North Africa the opportunity to examine their present problems together and to plan for the future, are the Alliance Israélite Universelle, the American Jewish Committee, and the Anglo-Jewish Association, which form the Consultative Council of Jewish Organisations, a non-governmental organisation attached to the United Nations Economic and Social Council.

Among the topics to be discussed at the conference are:—

1. *The relation of the Jewish communities to their environment.* A survey will be made both of the methods in fighting antisemitism and of the positive effort to further greater understanding between Jews and non-Jews.

2. *The re-enforcement of Jewish religious, cultural and educational life.* Information will be exchanged concerning new communal developments in Europe and about measures for alleviating shortages of rabbis, teachers and trained community personnel. There will also be a consideration of the work of the Conference on Jewish Material Claims against Germany.

3. *Jewish concern in the fighting for human rights.* There will be a review of the progress made since the promulgation of the Human Rights Charter, and ways in which its application can be furthered in the future.

4. *Co-operation of Jewish communities in Europe and North Africa with the State of Israel, and with Jewish organisations in Europe and America, in order to meet their social and cultural needs.*

AUFBAU'S 20th Anniversary

The New York *Aufbau* celebrated its 20th anniversary by publishing a 112 pp. issue containing a variety of contributions which between them present a vivid picture of the German Jewish immigrants in U.S.A.

DR. MAYBAUM BROADCAST ON ROSENZWEIG

"Philosophy of Hope: A Talk on Franz Rosenzweig's Life and Work" is the title of a Third Programme broadcast by Rabbi I. Maybaum on Wednesday, May 25, at 8 p.m.

"Physical and Psychological Research"

The publishers of this book, which was reviewed in the April issue, are Omega Press, Reigate.

Old Acquaintances

With Thirteen Voices:—Sponsored by the Anglo-Austrian Society, Maria Fein gave last month a solo reading of Hoffmannsthal's "Der Schwierige" in London. The actress, whose name and fame is connected with the great epoch of Max Reinhardt, lived during the Hitler years in Switzerland, where her daughter, Maria Becker—her father was Theodor Becker—is a star. Many will remember Maria Fein also as the wonderful hostess in Berlin's "Grüner Zweig," the meeting-place for artists in the house of the "Scala." She is still the same impressive heroine she always was, and acted all the thirteen parts of that charming and very Austrian play by herself. The Continental audience, hungry for the music and poetry of Hoffmannsthal and the German language, enjoyed her solo performance immensely.

"Canaris":—On a journey to Zurich your columnist saw the most successful picture the Germans produced lately. "Canaris" is the story of the boss of the German anti-spy organisation "Abwehr," who joined the resistance and was hanged shortly before the end of the war on a butcher's hook—a fact the producers don't risk to show even now. It's one of the better German films, but its success has nothing to do with the quality. People will, no doubt, leave the cinemas with the feeling: what could we, the little men, do against Hitler if such big and powerful personalities failed? "Canaris" is also building up another "Dolchstoß-Legende" by showing the consequences of "unconditional surrender." Why remove the Nazis if the Allies refused to offer better terms to the resistance movement? It's a pity the new German film industry couldn't find a more suitable subject to prove that one can make money with quality.

U.S.A.:—Moritz Goldstein, who, under the *nom-de-plume* "Inquit," was "Sling's" successor on the *Vossische Zeitung*, celebrated his 75th birthday in New York.—Richard Huelsenbeck, one of the founder members of the Dada movement, who lives as psychiatrist in New York, published his new poems "Antwort aus der Tiefe" in Germany.—Paul Andor (Wolfgang Zilzer to you) will go on his first visit to Germany.—Theodore Bikel, who left London for Broadway to play in "To-night in Samarkand," will stay in the States after the show flopped.—Manfred Fuerst and Norbert Schiller joined the cast of "Spiel im Schloss" when Siegfried Arno repeated his New York success in Hollywood.—Walter Slezak, who plays successfully in the musical version of Pagnol's "Fanny," got the "Tony," an award for his outstanding acting.—Cornell Borchers, who got a prize from the British Film Academy for her part in "Divided Heart," signed a Hollywood contract; she is a well-known German star.

Germany:—Else Heims played in "Anastasia" in Frankfurt.—Sybille Binder and Gerda Maurus acted in Fry's "The dark is light enough," directed by H. G. Stroux in Düsseldorf.—Kurt Goetz, returned again from Hollywood, will tour in his own comedy, "Haus von Montevideo."—Hans Habe published a new novel, "Off Limits," with Desch in Munich.—Robert Siodmak is directing with Maria Schell Hauptmann's "Ratten" as a picture.—Leo Mittler will next produce "Tea and Sympathy" in Hamburg.—Ernst Deutsch, recovered from his recent illness, will play "Nathan" in Berlin.—Ernst Neubach, returned from Paris, is producing "Sister Maria" with Luise Ullrich.—E. M. Remarque finished his first play.—Mischa Spolianski wrote the music for a new version of Zuckmayer's "Katharina Knie."

How to Make Millions:—With the assistance of G. L. Schwill, Egon Jameson published his new book, "So macht man Millionen," with Paul List in Munich. The former editor of *B.Z. am Mittag*, related to the famous Herfeld family, has collected the life stories of the most successful people of our time, in order to show one only needs a good idea and a lot of luck to become a millionaire. Especially the chapter about the new Germans is interesting: here you find names like Pferdenges, Thierfelder, Porst, Grundig, Reemtsma, Quandt (the first husband of the late Mrs. Goebbels), Spindler, Neckermann, and Steigenberger, the hotel king. It is an amusing collection, and let's hope the author will be included in one of the later editions of his book.

PEM

EX-GERMAN JEWS IN THE NEWS

Rabbi Prinz

Rabbi Joachim Prinz was awarded 30,000 dollars damages in a libel action against Conde McGinley, owner and editor of a U.S. antisemitic journal, *Common Sense*. In 1952 McGinley had alleged that "Red Rabbi Joachim Prinz, of Newark . . . not unlike Albert Einstein, was expelled from Germany for revolutionary Communist activities." Prinz, who has been in the U.S. since 1937 and a minister of the Temple B'nai Abraham in New Jersey since 1939, said that the statement was false and motivated by antisemitism. He maintained that he was not expelled from Germany for Communist activities and that he had always opposed Communism.

Unjust Charge Rebutted

An attack on German Jewry was recently printed in the *New York Congress Weekly*, published by the American Jewish Congress. In the course of an article on the newly elected Senator from Oregon, it was stated that during a visit to Germany early in 1933, Mr. Neuberger "was greatly disturbed when he learned at first-hand that wealthy German Jews had made heavy financial contributions to the Hitler movement in the hope of moderating Hitler's anti-Jewish policies."

The charge was rebutted, in a letter to the Editor, by Dr. Alfred Wiener, Director of the Wiener Library and former General Secretary of the "C.V." He recalled that the allegation was made some time ago with regard to Dr. Max Naumann's "German-Jewish Nationalists," but he who made it, a German historian of the Pan-German League, had offered not a tittle of evidence. Saying that the same slander was also being directed at the whole of Jewry, Dr. Wiener warns "those Jews who unthinkingly malign the remnant of their sorely tried brethren from Germany" to take heed.

German Decoration

Dr. Wiener was awarded the Grand Cross of the Order of Merit which was presented to him in London by the German Ambassador Dr. Schlange-Schöningen. In a communiqué issued by the German Embassy it was stated that Dr. Wiener had received the distinction by virtue of his great services rendered

in building up the library in London named after him, which contained comprehensive and valuable material on the history of the Nazi movement, and by virtue of his courageous resistance to Nazi tyranny. It was also stated that while determined to oppose Nazidom, Dr. Wiener had been willing, after the war, to stretch out his hand to all victims of the oppression and to those who helped the persecuted in Germany.

The Grand Cross was also conferred on Dr. Fritz Demuth, for many years chairman of the "Emergency Council of German Scholars and Scientists Abroad," who had been forced to leave Germany on racial grounds.

Highest Danish Award

The highest Danish award for women scientists,

the Tagea Brandt Prize, was won this year by Dr. Hilde Levi, an atomic research worker at Copenhagen University, who escaped from Germany in 1934.

"I was an American"

A student refugee from Nazi Germany, Ursula Wassermann, who had lived six years in England before she became an American citizen, was refused a British visa for a brief visit to prepare the publication in London of a book on her experiences. The book which has since appeared, is entitled "I was an American," for Miss Wassermann renounced her new citizenship when she found herself "a victim of the witch-hunt" by the F.B.I. She now lives in Israel. When the Home Secretary was asked by Mr. T. Driberg why she had been barred, he replied that it would not be in the public interest to give details.

Letters to the Editor

LLOYD GEORGE AND HITLER

Sir,—I read with interest of the proposal to erect a monument to Lloyd George in recognition of the eminent services he rendered to the country and the Commonwealth. There can, of course, be no doubt that he was, indeed, as Mr. Attlee said, "one of the most illustrious of Prime Ministers," and Jews, too, more especially Zionists, have great cause to remember him with gratitude.

At the same time, it seems strange to think how completely his judgment failed when he met Hitler. The new Lloyd George biography, by Frank Owen ("Tempestuous Journey"), contains a very full report of the Liberal leader's ill-starred visit to Berchtesgaden in 1936. Lloyd George was fascinated by the man—"his gestures, his eyes, his voice, his talk": "Führer is the proper name for him," the visitor said enthusiastically when he went back to the hotel: "He is a great and wonderful leader. He is a man who cannot only plan but can put his plans into execution."

Had Lloyd George by 1936 never heard of Hitler's plans? Apparently not. "The establishment of a German hegemony in Europe is not even on the horizon of Nazism," he seriously wrote, coming back. As for Britain, "the Germans have definitely made

up their minds never to quarrel with us again." As late as December, 1937, Lloyd George declared: "Mussolini is temperamentally an aggressor. I have never thought that Herr Hitler was, and I do not believe it now." So wrong can great men be.

I am, Yours, etc.,

A Student of History.

FELLOW REFUGEES

Sir,—Walking up St. Marylebone High Street the other day I met some fellow refugees. They were resting in a little church garden, just off the road, and on a tombstone that stood out, it said: "The Burial Place of Claude Champion de Crespigny. A Refugee from France. Died on April 10, 1697. Also of his Wife, Marie de Vierville. Died on June 21, 1708." I thought of the many who rest in Hoop Lane and in Willesden, and as I saluted the Huguenot couple, across 250 years, the lines of Byron came into my mind:—

"But we must wander witheringly

In other lands to die;

And where our fathers' ashes be

Our own may never lie."

Yours faithfully,

Aaron Casper.

FAMILY EVENTS

Entries in this column are free of charge. Texts should be sent in by the 18th of the Month.

Birthday

Mr. Julius Erle (formerly Nuernberg), of 19 Lancaster Grove, will be 80 on May 24, 1955.

CLASSIFIED

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FOR ARCHIVIST WORK in well-known Jewish organisation, 2 or 3 Assistants wanted. Knowledge of German essential. Knowledge of Nuremberg Trials and typing an advantage. Box 121.

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PART-TIME POSITION wanted, pref. aftern., by elderly rel. business man. Engl./German office work. Possibly N.W. district. Box 140.

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SHORTH. TYPG., Engl./German exp., quick worker, wants part-time or home work. Box 122.

TYPIST/TRANSLATOR, intelligent, reliable neat worker, wants home-work. Box 123.

BOOKKEEPER/CLERK, good ref., wants part-time position. Box 124.

SHORTH. TYP., German only, wants part-time work. Box 125.

LADY COOK, exp. Engl. and Continental, wants part-time job, also as companion. Exec. ref. Box 126.

DRESSMAKER wants work with private dressmaker. Alterations considered. Box 127.

EMBROIDERY done neatly by elderly woman as homework. Box 128.

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Personal

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MISSING PERSONS

Enquiries from AJR

Levy, Gerda, born about 1930 in Berlin, daughter of Jonny and Irma Levy, née Baer, for URO, New York. Bromberg, Dr. Kurt, lawyer from Breslau, and sister Grete Cyge, born 19.8.94, for URO, Paris.

Dr. GEORG HERLITZ - 70 Central Zionist Archives

Dr. Georg Herlitz, Director of the Central Zionist Archives in Jerusalem, celebrated his 70th birthday on March 6. He has never been much in the public eye, but he has created something that will surely long remain in Jewish life as a foundation of learning and research. He founded the Zionist Archives in Berlin in 1919, and as they now occupy so prominent and justly honoured a place in the new Jewish Agency buildings, it is well to remember the puny beginnings in those far-off days when the hope of the Zionist fulfilment was hardly sustained by anything except enthusiasm and vision. Now the Archives have become an arsenal of often unique documents, indispensable to any serious student of Zionism, of its far-flung organisation and history or of any of its leaders.

Herlitz was thoroughly qualified when he first set about his work. A pupil of the *Lehranstalt für die Wissenschaft des Judentums*, he was steeped in the knowledge of Jewish literature and the Hebrew language, and he was equally a trained historian and archivist. As he works quietly, unassumingly, so he does devotedly and with that determination which never loses sight of its ultimate goal. The scientist's accomplishment is matched with a warm humanity of which his friends have received many dearly cherished tokens. They will wish him many more years of faithful, fruitful labour.

A. W.

Berthold Rosenthal, a historian of Baden Jewry, celebrated his 80th birthday at Omaha, U.S.A. His "Heimatgeschichte der badischen Juden" (532 pp.) appeared in 1927.

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OBITUARY

Professor Max Neuburger, the celebrated historian of medicine, died on March 15 at his home in Vienna at the age of 87. After the Anschluss in 1938 he came to England, where a place was found for him at once on the staff of the Wellcome Historical Medical Museum. To the large number of his learned publications he added in 1943 a book on "British Medicine and the Vienna School," in

which he showed the reciprocal influence of British and Austrian medicine throughout the 18th and 19th centuries, and, incidentally, recorded his gratitude to and abiding admiration for Britain. In 1948 he went to live in retirement with a son in the U.S. An irresistible urge caused him in 1952 to return once again to, and die in, the city of his birth.

Dr. Martin Gumpert, the physician and author, died at New York, aged 57. Having held a high position in the Berlin municipal health service, he emigrated in 1936 to the U.S.A., where he wrote a number of books, including "Heil Hunger! Health under Hitler," and "Hölle im Paradies" (an autobiography).

We regret to record the death on April 9, at the age of 58, of Mr. David Louis Ross, Vice-Chairman of the AJR branch in Leeds. As founder and for many years chairman of the branch he took an active part in our affairs, beside doing valuable work for the Leeds B'nai Brith. With his wife, to whom our sincere sympathy goes out, he helped many of our people to come to this country. Those who knew him have lost, and will long sadly miss, a trusted adviser and a true friend.

Dr. Walter Moses, who founded the German Zionist ("Blau Weiss") youth movement, died in Israel aged 63.

On March 10, Dr. Walter Lux died at Ramat Gan, aged 74. He was Rechtsanwalt at the Breslau Appeal Court, a well-known writer on legal subjects and a scholarly tutor for young lawyers preparing for their finals.

Dr. William Fink, founder, during the war, of the Council of Jews from Poland, died in London at the age of 69.

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ROYAL FESTIVAL HALL, Wednesday, June 29, 8 p.m.

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DRITTE DURCHFUEHRUNGSVERORDNUNG ZUM BUNDESENTSCHAEDIGUNGSGESETZ (BEG)

vom 6.4.1955 (BGBl. S. 157) (3. DV BEG) betreffend
SCHADEN IM BERUFLICHEN UND WIRTSCHAFTLICHEN FORTKOMMEN

Von K. Friedlander

Die dritte und letzte Durchfuehrungsverordnung (DV) zum BEG bezieht sich auf Schaden im beruflichen und wirtschaftlichen Fortkommen (Berufsschaden).

Unter Schaden im beruflichen und wirtschaftlichen Fortkommen fasst das BEG eine Reihe von verschiedenen Tatbestaenden zusammen. Nach Aufstellung eines allgemeinen Grundsatzes in § 25 behandelt es selbstaendige Berufe und private Dienstverhaeltnisse (§ 26 bis 36) und gibt der Bundesregierung im § 37 die Ermaechtigung eine Durchfuehrungsverordnung zu diesen Bestimmungen zu erlassen. Es regelt sodann die Entschaedigung fuer Beamte, Angestellte und Arbeiter des oeffentlichen Dienstes, die einen Anspruch auf Ruhegehalt haben (§ 38 bis 49). In § 50 trifft es Bestimmungen ueber die Entschaedigung derjenigen Arbeiter und Angestellten des oeffentlichen Dienstes, die keinen Anspruch auf Ruhegehalt haben. Das BEG regelt ausserdem Schaden in der Ausbildung (§ 51-55), Versicherungs- und Versorgungsschaden (§ 56 bis 65) und trifft am Schluss (§ 66) gemeinsame Bestimmungen ueber das Erbrecht.

Die DV bringt Erlaeterungen und Ergaenzungen zu den Bestimmungen des BEG ueber selbstaendige Berufe, private Dienstverhaeltnisse und Arbeiter und Angestellte des oeffentlichen Dienstes, die keinen Anspruch auf Ruhegehalt haben. Die nachstehenden Ausfuehrungen in denen die amtliche Begruendung beruecksichtigt ist, beschaerlen sich daher auf diese Berufsschaeden.

I. BESONDERE ANSPRUCHSVORAUSSETZUNGEN

1. GRUNDSATZ (§ 1 DV)

Das BEG stellt im § 25 Abs. 1 als Voraussetzung fuer die Wiedergutmachung folgenden Grundsatz auf:

„Der Verfolgte hat Anspruch auf Entschaedigung fuer Schaden im beruflichen und wirtschaftlichen Fortkommen, wenn er im Zuge einer im Reichsgebiet nach dem Stande vom 31.12.1937 oder im Falle des § 8 Abs. 1 Nr. 4 im Vertreibungsgebiet begonnenen Verfolgung in seinem beruflichen und wirtschaftlichen Fortkommen nicht nur geringfuegig benachteiligt wurde. Der Anspruch besteht insbesondere dann, wenn die Benachteiligung in Anwendung von Ausnahmegesetzen, die sich gegen Verfolgte richteten, erfolgt ist.“

Der zitierte § 8 Abs. 1 Nr. 4 bezieht sich nur auf diejenigen Verfolgten aus Vertreibungsgebieten, die ihren Wohnsitz im Gebiet der Bundesrepublik oder in West-Berlin genommen haben. Soweit diese Verfolgten im Ausland wohnen, finden auf sie lediglich die besonderen Bestimmungen des BEG fuer Verfolgte aus den Verfolgungsgebieten Anwendung; es ist zu hoffen, dass diese — sehr unguenstigen — Bestimmungen durch das in Vorbereitung befindliche Abaenderungsgesetz zum BEG geaendert werden. Es wird daher in den nachfolgenden Ausfuehrungen davon abgesehen, die Auswirkungen der DV auf Verfolgte aus den Vertreibungsgebieten zu eroertern.

Die DV erlaeutert in § 1 den oben zitierten Grundsatz des § 25 Abs. 1 BEG dahin, dass Berufsschaden nur vorliegt, „wenn der Verfolgte in der Nutzung seiner *Arbeitskraft* nicht nur geringfuegig geschaedigt worden ist.“ Hierdurch soll klargestellt werden, dass nur die Schaedigung in der Nutzung der Arbeitskraft, nicht schlechthin jeder Wirtschaftsschaden zu beruecksichtigen ist („Begrueundung“).

2. BEZIEHUNG ZU SCHADEN AN KOERPER UND GESUNDHEIT (§ 2-3 DV)

Wenn Berufsschaden und Schaden an Koerper und Gesundheit zusammentreffen, so bestehen Ansprueche wegen Schaden an Koerper und Gesundheit nur insoweit, als der Schaden nicht durch Entschaedigung nach den Bestimmungen ueber Berufsschaden ausgeglichen ist (§ 25 Abs. 2 BEG).

Die DV bestimmt hierzu, dass dem Verfolgten 25% der Entschaedigung fuer Koerper und Gesundheit neben der Entschaedigung fuer Berufsschaden verbleibt.

Andererseits bleibt bei Bemessung des Berufsschadens ausser Betracht, dass der Geschaedigte wegen des Schadens an Koerper und Gesundheit nicht voll leistungsfaeig war (§ 25 Abs. 2 BEG).

3. SELBSTAENDIGE ERWERBSTAETIGKEIT (§ 4-7 DV)

Nach § 26 BEG hat der Verfolgte Anspruch auf Entschaedigung, wenn er aus seiner selbstaendigen Erwerbstaetigkeit, einschliesslich land- und forstwirtschaftlicher oder gewerblicher Taetigkeit verdraengt oder in ihrer Ausuebung wesentlich beschaermt worden ist.

Die DV erlaeutert diese Bestimmung sehr eingehend:

a) Selbstaendige Erwerbstaetigkeit

Erwerbstaetigkeit ist jede berufsmaessig ausgeuebte auf Erzielung

von Einkuenften gerichtete Taetigkeit von nicht nur voruebergehender Dauer (§ 4 Abs. 1 DV). Selbstaendig ist die Erwerbstaetigkeit, wenn sie nicht auf Grund eines Dienst- oder Arbeitsverhaeltnisses ausgeuebt wurde (§ 4 Abs. 2 DV).

Die Unterscheidung ist also auf Grund rechtlicher Gesichtspunkte gemacht. Eine Ausnahme ist nur fuer die Geschaeftsfuehrung taetigen Teilhabers einer Kapitalgesellschaft des Handelsrecht vorgesehen, der mit mehr als 50% am Kapital einer der Gesellschaft beteiligt war. Seine Taetigkeit ist nach ausdruecklicher Bestimmung der DV als selbstaendige Taetigkeit anzusehen (§ 4 Abs. 3 DV).

b) Zusammentreffen von selbstaendiger und unselbstaendiger Taetigkeit

Es gibt Faelle, in denen ein Erwerbstaetiger zur gleichen Zeit selbstaendig und in einem Arbeitsverhaeltnis taetig war, z.B. ein Anwalt, der zugleich angestellter Syndikus eines Unternehmens war. Fuer diesen Fall trifft die DV die Regelung, dass diejenige Taetigkeit massgebend ist, aus der der Verfolgte nicht nur voruebergehend das hoehere Einkommen bezog. Ist das Einkommen annaeherd gleich, so kommen nur die — guenstigeren — Bestimmungen fuer einer selbstaendig Erwerbstaetigen in Frage.

c) Verdraengung aus selbstaendiger Taetigkeit

Hier ist die in § 6 Abs. 1 und 2 DV gegebene Auslegung von grosser Bedeutung. Sie lautet:

„(1) Eine Verdraengung aus selbstaendiger Erwerbstaetigkeit liegt vor, wenn dem Verfolgten die Fortsetzung dieser Taetigkeit durch nationalsozialistische Gewaltmassnahmen unmoeglich gemacht wurde. Die Ausuebung eines gegen den Verfolgten selbst gerichteten Zwangs ist nicht erforderlich.“

„(2) Einer Verdraengung aus selbstaendiger Erwerbstaetigkeit wird gleichgestellt, wenn der Verfolgte trotz abgeschlossener Berufsausbildung eine dieser Ausbildung entsprechende selbstaendige Taetigkeit nicht aufnehmen konnte.“

Zu § 6 Abs. 1 DV sagt die Begruendung:

„Die Bestimmung erlaeutert in Absatz 1 den Begriff der Verdraengung und stellt klar, dass es allein darauf ankommt, dass dem Verfolgten die weitere Ausuebung seiner Taetigkeit durch nationalsozialistische Gewaltmassnahmen unmoeglich gemacht wurde. Worin diese Gewaltmassnahmen bestanden, ist nicht entscheidend. Insbesondere kommt es nicht darauf an, ob sich der Zwang gegen den Verfolgten selbst oder nur gegen Dritte — z.B. den Kaeufer — richtete.“

Diese Regelung entzieht der Rechtsprechung einiger Gerichte die Grundlage, die auch bei juedischen Geschaedigten den Nachweis eines Zusammenhangs zwischen Verfolgung und Verdraengung verlangten. Gegen juedische Geschaedigte haben NS-Gewaltmassnahmen mit der Machtergreifung durch die Nationalsozialisten eingesetzt.

§ 6 Abs. 2 DV fuehlt eine Luecke des Gesetzes aus. Bei wortlicher Auslegung des Gesetzes fanden z.B. auf Gerichtsassessoren, die die Anwaltslaufbahn einschlagen wollten, keine der Bestimmungen des BEG Anwendung. Sie waren einerseits nicht mehr in der Ausbildung und hatten andererseits noch keinen Beruf ergriffen. Die DV stellt mit Recht der Verdraengung aus einer selbstaendigen Taetigkeit den Fall gleich, in dem der Verfolgte nach abgeschlossener Berufsausbildung eine dieser Ausbildung entsprechende selbstaendige Taetigkeit nicht aufnehmen konnte.

d) Wesentliche Beschaermtung der Erwerbstaetigkeit

Beschaermtung in der Ausuebung der selbstaendigen Erwerbstaetigkeit ist jede Behinderung dieser Taetigkeit nach Art und Umfang durch nationalsozialistische Gewaltmassnahmen. Die Ausuebung eines gegen den Verfolgten selbst gerichteten Zwangs ist hierbei nicht erforderlich (§ 7 DV).

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II. DIE GESETZLICHEN ANSPRUECHE

A. SELBSTAENDIGE BERUFE

Das BEG sieht folgende Ansprueche vor:

In § 27 BEG sind Erleichterungen fuer **Wiederaufnahme der fruerehen Taetigkeit** vorgesehen.

Dem Verfolgten sind nach § 28 und 29 BEG zinslose oder zinsverbilligte **Darlehen** zur Verfuegung zu stellen, soweit fuer die Wiederaufnahme seiner fruerehen oder die Aufnahme einer gleichwertigen selbstaendigen Taetigkeit Geldmittel benoetigt werden, die er sich nicht anderweitig beschaffen kann.

Dem in seiner selbstaendigen Erwerbstaetigkeit geschaedigten Verfolgten wird ferner fuer die Zeit der Verdraengung aus seiner beruflichen Taetigkeit oder der Beschraenkung in seiner beruflichen Taetigkeit eine **Entschaedigung** in Form einer Kapitalentschaedigung oder einer Rente gewaehrt (§ 30 Abs. 1 BEG). Die Hoechstgrenze der Kapitalentschaedigung betraegt 25.000 DM. Die Voraussetzungen der Kapitalentschaedigung und der Rente sind im Gesetz verschieden geregelt. Dies sind die fuer den im Ausland lebenden Verfolgten wichtigsten Bestimmungen:

KAPITALENTSCHAEDIGUNG

Die Regelung der Kapitalentschaedigung ist aeusserst kompliziert. Es soll daher, bevor auf die einzelnen Bestimmungen eingegangen wird, der Grundgedanke dargelegt werden.

Es haette nahegelegen, als Schaedigung den Verdienstausschlag anzusehen, den der Verfolgte durch die Verdraengung aus seinem Beruf erlitten hat. Das Gesetz hat aber diesen Weg einer individuellen Schadensberechnung nicht gewaehlt, sondern berechnet die Schaedigung auf dem Umweg ueber einen vergleichbaren Beamten.

Berechnungstabelle

Die DV teilt die Beamten in vier Gruppen ein und setzt, nach Lebensalter gestaffelt, das vergleichbare jaehrliche Dienstinkommen und die sich aus diesem Dienstinkommen ergebende jaehrliche Kapitalentschaedigung in einer der DV beigegebenen Tabelle fest. Die Tabelle sieht folgende Lebensalter-Stufen vor: bis zum 35. 45. 55. und ab 55. Lebensjahr. In der folgenden Aufstellung bringen aus der Tabelle nur die Zahlen fuer die Altersgruppen bis zum und vom 55. Lebensjahr ab, ohne die dazwischen liegenden Stufen im einzelnen wiederzugeben. Massgebend fuer die Einordnung in die einzelnen Altersgruppen ist das Lebensalter des Verfolgten im Zeitpunkt der Schaedigung. Hierin liegt eine besondere Haerte, da nicht beruecksichtigt wird, welchen Aufstieg die berufliche Laufbahn des Verfolgten ohne die Verfolgung genommen haette.

Einfacher Dienst:	Bis zum 35. Lebensjahr	Ab 55. Lebensjahr
Jaehrliches Dienstinkommen des vergleichbaren Beamten	2.700.- DM	3.450.- DM
Jaehrliche Kapitalentschaedigung	2.160.- DM	3.108.- DM
Mittlerer Dienst:		
Jaehrliches Dienstinkommen des vergleichbaren Beamten	3.400.- DM	4.900.- DM
Jaehrliche Kapitalentschaedigung	2.724.- DM	4.416.- DM
Gehobener Dienst:		
Jaehrliches Dienstinkommen des vergleichbaren Beamten	4.800.- DM	7.800.- DM
Jaehrliche Kapitalentschaedigung	3.840.- DM	7.020.- DM
Hoeherer Dienst:		
Jaehrliches Dienstinkommen des vergleichbaren Beamten	7.100.- DM	12.600.- DM
Jaehrliche Kapitalentschaedigung	5.688.- DM	11.340.- DM

Bezuglich der Kapitalentschaedigung ist zu bemerken, dass diese den Versorgungsbezuegen des vergleichbaren Beamten entspricht, mindestens aber zwei Drittel seiner letzten Dienstbezuuge betraegt. Hierzu tritt ein Zuschlag von 20%, der eine Beruecksichtigung der fehlenden Alters- und Hinterbliebenenversorgung darstellt (§ 31 Abs. 1 Satz 2 BEG und § 19 DV). Diese 20% sind in die in der Tabelle genannte Summe fuer Kapitalentschaedigung eingerechnet.

Einreihung in vergleichbare Beamtengruppe

Die DV trifft in § 18 eingehende Bestimmungen, auf welche Weise die Einreihung des Verfolgten in eine der vier Beamtengruppen zu erfolgen hat.

Massgebend sind die Berufsausbildung des Verfolgten und seine wirtschaftliche und soziale Stellung. Die wirtschaftliche Stellung bestimmt sich nach dem Durchschnittseinkommen des Verfolgten in den letzten drei Jahren vor dem Beginn der Verfolgung. Die soziale Stellung des Verfolgten bestimmt sich nach der auf seiner

Vorbildung, seinen Leistungen und seinen Faehigkeiten beruhenden Geltung im oeffentlichen Leben; es kommt hierbei auf die Geltung an, die der Verfolgte nach der Bewertung seiner Persoenlichkeit im oeffentlichen Leben hatte ("Begrueundung").

Fuer diejenigen, die die Berufsausbildung vollendet hatten, aber durch die Verfolgung gehindert wurden, einen Beruf zu ergreifen, bestimmt sich die Einreihung in eine vergleichbare Beamtengruppe nach ihrer Berufsausbildung, ihrem mutmasslichen Einkommen und ihrer voraussichtlichen sozialen Stellung.

Ist auf diese Weise, d.h. durch Einordnung in eine vergleichbare Beamtengruppe unter Beruecksichtigung des Lebensalters zum Zeitpunkt der Schaedigung, die jaehrliche Kapitalentschaedigung berechnet, so muss der Zeitraum festgestellt werden, fuer den die Kapitalentschaedigung zu zahlen ist.

Beginn der Schaedigung

Fuer den Beginn wird der Zeitpunkt massgebend sein, in dem sich die allgemeine Verfolgung auf den einzelnen Geschaedigten ausgewirkt hat. Bei einem Geschaedigten, der sein Geschaef aufgegeben hat, wird dies der Beginn der Schaedigung sein. In anderen Faellen kann der Zeitpunkt massgebend sein, an dem durch die Verfolgung eine Beschraenkung in der Geschaefstaetigkeit des Verfolgten eingetreten ist.

Ende der Schaedigung

Die Feststellung des Endes, des Zeitraums, fuer den die Kapitalentschaedigung gewaehrt wird, ist wie folgt geregelt:

1. Alter oder Arbeitsunfaehigkeit

Der Zeitraum endet spaetestens mit der Vollendung des 70. Lebensjahres des Verfolgten, oder im Zeitpunkt des Eintritts der Arbeitsunfaehigkeit, der eine Beeintraehtigung der Erwerbsfaehigkeit ummindestens 80% gleichzusetzen ist (§ 32 Abs. 2 BEG).

Die Entschaedigung wird jedoch nicht ueber den Zeitpunkt hinaus gewaehrt, in dem der Verfolgte seine fruerehe Taetigkeit in vollem Umfange wieder aufgenommen hat, oder in dem er sich einem anderen Berufe zugewandt hat, der ihm eine ausreichende Lebensgrundlage bietet (§ 30 Abs. 2 BEG).

2. Wiederaufnahme der fruerehen Taetigkeit

Zum Begriff der "Wiederaufnahme" sagt § 15 DV, dass sie dann als erfolgt gilt, "wenn der Verfolgte seine fruerehe Stellung im Erwerbsleben wiedererlangt und seine Erwerbstaetigkeit sich gegenueber seiner fruerehen Taetigkeit nach Art und Umfang nicht wesentlich geaendert hat. Dass der Verfolgte sein fruerehes Einkommen in vollem Umfange wiedererlangt hat, ist nicht erforderlich."

3. Andere Berufstaetigkeit mit ausreichender Lebensgrundlage

Zum Begriff der "ausreichenden Lebensgrundlage" bestimmt § 30 Abs. 3 BEG:

"Als ausreichend ist eine Lebensgrundlage anzusehen, die dem Verfolgten und seinen mit ihm in haeuslicher Gemeinschaft lebenden unterhaltsberechtigten Familienangehoerigen nachhaltig eine Lebensgrundlage ermoeoglicht, die Personen mit gleicher oder aehnlicher Berufsausbildung in der Regel haben."

Bei Auslegung dieser Bestimmung des BEG muss von folgendem ausgegangen werden: unter "nachhaltig" ist eine Lebenshaltung zu verstehen, die fuer die Dauer sichergestellt ist. Unter "Lebensgrundlage" kann nicht nur das Einkommen angesehen werden. Die Lebensgrundlage muss die gesamte wirtschaftliche und soziale Stellung umfassen. Die wirtschaftliche und soziale Stellung ist, wie wir gesehen haben, fuer Einstufung in eine Beamtengruppe, also fuer die Berechnung der Hoehe der Entschaedigung massgebend. Sinnemaess kann der Zeitraum, fuer den die Entschaedigung gezahlt wird, erst dann enden, wenn diese wirtschaftliche und soziale Stellung wieder erreicht ist. Hierzu gehoert auch, dass durch die neue Taetigkeit eine Versorgung fuer das Alter gewaehrleistet ist.

Errechnung der Entschaedigung

Die gesamte Kapitalentschaedigung ergibt sich aus der Summe der jaehrlichen Kapitalentschaedigungen vom Beginn bis zum Ende des Zeitraums der Schaedigung. Hierbei werden die Entschaedigungsbetraege vor der Waehrungsreform, d.h. vor dem 21. Juni 1948 in RM festgesetzt und im Verhaeltnis von 10 : 2 in DM umgerechnet.

Anrechnung von anderweitigem Arbeitseinkommen

Auf die nach den vorstehenden Grundsätzen errechneten Entschädigung wird unter den nachstehend ausgeführten Gesichtspunkten gemäss § 31 Abs. 2 BEG die Summe des durch anderweitige Verwertung der Arbeitskraft des Verfolgten erzielten Einkommens angerechnet.

Wie wir gesehen haben, wird die Kapitalentschädigung nicht getrennt nach den einzelnen Jahren, sondern in einer Summe fuer die Gesamtzeit festgesetzt, waehrend der der Verfolgte aus seiner Erwerbstaetigkeit ohne Unterbrechung verdraengt oder in ihrer Ausuebung wesentlich beschaenkt war. Das gleiche gilt fuer die Bewertung, Berechnung und Anrechnung des anderweitigen Arbeitseinkommens. Auch hier wird die gesamte Zeit der Verdraengung als ein einheitlicher Schadenstatbestand behandelt. Es werden also nicht die anderweitigen Arbeitsverdienste der einzelnen Jahre den jaehrlichen Entschädigungsbetraegen, sondern die Gesamtsumme der Entschädigungsbetraege der Gesamtsumme des anderweitigen Arbeitseinkommens gegenuebergestellt.

Es wird aber nicht das ganze anderweitige Arbeitseinkommen abgezogen. Vielmehr sind die durch anderweitige Verwertung der Arbeitskraft erzielten Einkuenfte nur insoweit abzuziehen als diese Einkuenfte zusammen mit den als Kapitalentschädigung zu zahlenden Versorgungsbezaegen die vollen Dienstbezaege des Vergleichsbeamten uebersteigen (§ 31 Abs. 2 BEG). Fuer die vollen Dienstbezaege im Sinne dieser Bestimmung ist das Lebensalter massgebend, das der Verfolgte am Ende des Zeitraums hat, fuer den die Kapitalentschädigung gewaehrt wird (§ 21 Abs. 2 DV).

Fuer im Ausland Lebende ergeben sich bei Umrechnung des in der auslaendischen Waehrung verdienten Einkommens in DM wegen der Verschiedenheit der Lebenshaltungskosten Haerten. Hierauf ist von den juedischen Organisationen immer wieder hingewiesen worden. Die DV traegt diesem Gedanken Rechnung und bestimmt in § 22 Abs. 3:

„Hat der Verfolgte durch anderweitige Verwertung seiner Arbeitskraft seinen Unterhalt im Ausland bestritten und macht er glaubhaft, dass eine Bewertung der im Ausland erzielten Einkuenfte unter Zugrundelegung der amtlichen Devisenkurse wegen der geringeren Kaufkraft zu einem fuer ihn unbilligen Ergebnis fuehren wuerde, so soll auch die Kaufkraft angemessen beruecksichtigt werden.“

Hier wird ein allgemeiner Grundsatz aufgestellt, der ueber die DV hinaus von Bedeutung ist. Er muss also bei allen Bestimmungen beruecksichtigt werden, in denen eine Anrechnung auslaendischen Einkommens in Frage kommt, z.B. auch bei den Anrechnungsbestimmungen fuer Schaden am Leben und Schaden an Koerper und Gesundheit.

Rente bei Fortdauer der Entschädigung

Ist zur Zeit der rechtskraeftigen Entscheidung ueber die Kapitalentschädigung der Zeitraum der Berufsschaedigung noch nicht beendet, so wird gemäss § 32 Abs. 2 BEG der der Entschädigung zu Grunde gelegte monatliche Entschädigungsbetrag als Rente so lange weiter gewaehrt, bis der Hoechstbetrag von 25.000 DM erreicht ist.

Einwirkung von anderen Wiedergutmachungsleistungen

Soweit in Entschädigungen, die der Verfolgte auf Grund anderer Wiedergutmachungsbestimmungen erhalten hat, bereits ein Ausgleich der durch die Verdraengung oder Beschaenkung eingetretenen Einkommensminderung enthalten ist, finden die Bestimmungen ueber Kapitalentschädigung und Rente keine Anwendung. An anderen Wiedergutmachungsbestimmungen kommen z.B. die Rueckerstattungsgesetze in Betracht. An Wiedergutmachungsbestimmungen des BEG kommen solche wegen Entschädigung fuer zerstoeerte, verunstaltete oder der Pluenderung preisgegebene Sachen (§ 18 und 20 BEG) und besonders schweren Vermoegensschaden in Frage. Es muss sich hier natuerlich um Schaeden handeln, die mit dem Berufsschaden im Zusammenhang stehen, wie Rueckgabe des Geschaefts oder Nachzahlung auf Grund der Rueckerstattungsgesetze. Einige Gerichte hatten diese Bestimmung entgegen dem Wortlaut des Gesetzes dahin ausgelegt, dass es genuege, wenn der Geschaedigte eine Wiedergutmachung haette erlangen koennen. Es ist daher zu begreussen, dass die DV ausdruuecklich klarstellt, dass fuer die Anwendung dieser Bestimmung nur dann Raum ist, wenn der Verfolgte entweder eine Leistung fuer die genannten Schaeden tatsaechlich erhalten hat oder wenn ihm eine solche Leistung durch Bescheid, gerichtliche Entscheidung oder Vergleich zuerkannt ist (§ 16 DV und Begrueundung hierzu).

RENTE

Der Anspruch auf Rente ist durch das BEG neu eingefuehrt worden. Er war in den Entschädigungsgesetzen der Laender der amerikanischen Zone und im Entschädigungsgesetz fuer das Land Berlin nicht enthalten.

Er besteht neben der Kapitalentschädigung und ist unabhængig davon, ob die Voraussetzungen einer Kapitalentschädigung gegeben sind. Dies folgt u.E. daraus, dass keine der Bestimmungen ueber Rente fuer Angehoerige der selbstaendigen Berufe auf die fuer die Kapitalentschädigung geltenden Bestimmungen Bezug nimmt, im Gegensatz zu den Bestimmungen ueber Rente fuer Angestellte und Arbeiter, die spaeter erlaeutert werden.

Der spaeteste Zeitpunkt, in dem die Rente gewaehrt werden kann, ist bei im Ausland Lebenden 6 Monate nach Zustellung der Entscheidung ueber die Kapitalentschädigung. Ist eine solche Wahl getroffen, so ist sie endgueltig.

Die DV trifft fuer die Faelle, in denen Kapitalentschädigung bereits vor Inkrafttreten des BEG, also zu einer Zeit festgesetzt war, als noch kein Anspruch auf Rente bestand, in § 27 folgende Regelung:

„Das Wahlrecht wird nicht dadurch ausgeschlossen, dass der Verfolgte auf Grund entschädigungsrechtlicher Vorschriften, nach denen ein solches Wahlrecht nicht gegeben war, eine Kapitalentschädigung fuer Schaden im beruflichen und wirtschaftlichen Fortkommen ganz oder teilweise erhalten hat. Macht der Verfolgte in diesem Fall von seinem Wahlrecht Gebrauch, so ist die Kapitalentschädigung fuer die zurueckliegende Zeit auf die Rente solange voll anzurechnen, bis der Betrag der Kapitalentschädigung erreicht ist.“

Da in dieser Bestimmung lediglich die Zahlung einer Entschädigung erwaehnt ist, so muss es ohne Bedeutung sein, ob diese Entschädigung auf Grund einer Entscheidung oder eines Vergleichs festgesetzt worden ist. Diese Regelung sollte auch in dem Fall in Anwendung kommen, in dem in einem Vergleich auf die Geltendmachung weiterer Ansprueche verzichtet ist, da zur Zeit des Abschlusses eines solchen Vergleichs ein Anspruch auf Rente ueberhaupt noch nicht bestand, und die Einfuehrung eines solchen durch spaetere Gesetzgebung nicht vor auszusehen war.

Voraussetzung der Rente

Die grundlegende Bestimmung des BEG (§ 33 Abs. 1) lautet:

„Der Verfolgte kann an Stelle einer Kapitalentschädigung eine seiner fruerehen Lebensstellung entsprechende angemessene Rente waehlen. Voraussetzung fuer dieses Wahlrecht ist, dass der Verfolgte im Zeitpunkt seiner Entschliessung seine fruerehe Taetigkeit nicht wieder in vollem Umfang aufnehmen konnte, oder dass ihm eine solche Aufnahme nicht zuzumuten war.“

Dass der Ausdruck „an Stelle der Kapitalentschädigung“ nicht bedeuten kann, dass die Voraussetzungen einer Kapitalentschädigung gegeben sein muessen, haben wir schon ausgefuehrt.

Die DV stellt in § 26 klar, dass es sich bei dieser Rente um eine Lebensrente handelt, die nicht wie der Zeitraum fuer die Kapitalentschädigung mit dem 70. Lebensjahr ein Ende findet.

Wie wir gesehen haben, konnte die Kapitalentschädigung nicht ueber den Zeitpunkt hinaus gewaehrt werden, in dem der Verfolgte

- 1) entweder seine fruerehe Taetigkeit in vollem Umfang wieder aufgenommen hat oder
- 2) sich einem anderen Beruf zugewandt hat, der ihm eine ausreichende Lebensgrundlage bietet.

Der Tatbestand zu 2 ist in dem oben zitierten § 33 BEG, der die Voraussetzungen fuer die Rentenzahlung regelt, nicht enthalten.

Die DV bestimmt in § 28, dass nach dem ganzen Sinn des Gesetzes die Unmoeglichkeit der Aufnahme eines anderen Berufs der Unmoeglichkeit, den fruerehen Beruf wieder aufzunehmen, gleichzusetzen ist.

Die DV erkluert dann in § 29 den Begriff der Zumutbarkeit und sagt:

„Dem Verfolgten ist die Aufnahme seiner fruerehen Taetigkeit oder eines anderen Berufes nicht zuzumuten, wenn besondere Umstaende ein solches Verlangen unbillig erscheinen lassen. Solche Umstaende koennen in lang andauernder Berufsentfremdung, vorgeruecktem Alter, geschwaechtem Gesundheitszustand oder in anderen persoerlichen Verhaeltnissen liegen.“

Hoehe der Rente

Als Rente erhaelt der Geschaedigte 2/3 der Versorgungsbezaege eines vergleichbaren Beamten, hoechstens aber 500 DM monatlich. Die Rente wird vom 1.11.1953 ab gezahlt. Fuer die zurueckliegende Zeit erhaelt der Verfolgte eine Entschädigung in Hoehe der Rentenbezaege eines Jahres (§ 33 BEG).

Fuer die Berechnung der Rente sind besondere Tabellen aufgestellt. Die Einreihung erfolgt nach den gleichen Grundsätzen wie bei der Berechnung der Hoehe der Kapitalentschädigung. Auch hier sind die Tabellen nach Altersstufen gestaffelt und zwar bis zum 35., ab 35., 45., 55. und ab 55. Lebensjahr. Massgebend ist

hier aber, im Gegensatz zur Kapitalentschaedigung, das Alter am 1.10.1953, dem Inkrafttreten des BEG. Es sind nachstehend die Anfangs- und Endzahlen der Jahresrente wiedergegeben:

Einfacher Dienst	...	Rente	DM 1080 bis DM 2280
Mittlerer Dienst	...	Rente	DM 1356 bis DM 3240
Gehobener Dienst	...	Rente	DM 1908 bis DM 5148
Hoeherer Dienst	...	Rente	DM 2196 bis DM 6000

Anrechnung

Bei etwaiger Anrechnung bereits gewahrter Wiedergutmachungsleistungen gemass § 4 BEG soll dem Verfolgten mindestens die Haelfte der Rente verbleiben. Nur die bereits gewahrte Kapitalentschaedigung wird voll angerechnet (§ 34 DV).

B. PRIVATE DIENSTVERHAELTNISSE

1. VORAUSSETZUNG

Dienst- oder Arbeitsverhaeltnis

Ein Dienst- oder Arbeitsverhaeltnis im Sinne der vorstehenden Bestimmung ist jedes Rechtsverhaeltnis, kraft dessen der Verfolgte in abhaengiger Arbeit gegen Entgelt beschaeftigt war (§ 35 DV).

Entlassung und vorzeitiges Ausscheiden

Die DV gibt in § 36 eine eingehende Erlaeuterung dieser beiden Begriffe:

"(1) Eine Entlassung liegt auch dann vor, wenn dem Verfolgten vom Arbeitgeber unter Beachtung der gesetzlichen, vertraglichen oder tariflichen Bestimmungen gekuendigt worden ist, sofern nach der Verkehrssitte oder den Umstaenden des Einzelfalles das Dienst- oder Arbeitsverhaeltnis fortgesetzt worden waere, wenn ein Verfolgungsgrund (§ 1 BEG) nicht vorgelegen haette.

(2) Dem entlassenen Verfolgten ist der Verfolgte gleichzustellen

a) dessen befristeter Dienst- oder Arbeitsvertrag nicht erneuert wurde, sofern die Erneuerung nach der Verkehrssitte oder den Umstaenden des Einzelfalles zu erwarten gewesen waere, wenn ein Verfolgungsgrund (§ 1 BEG) nicht vorgelegen haette.

b) der als Arbeitsloser aus den Verfolgungsruenden des § 1 BEG der Freiheit beraubt oder zur Auswanderung gezwungen wurde oder von der Vermittlung in Arbeit ausgeschlossen blieb."

Vorzeitiges Ausscheiden

Hierzu bestimmt § 37 DV:

"Vorzeitiges Ausscheiden liegt insbesondere vor, wenn der Verfolgte seinen Arbeitsplatz durch Freiheitsentziehung (§ 16 BEG), durch Berufsverbot oder infolge verfolgungsbedingter Ausweisung oder Auswanderung, Flucht oder Deportation eingebuesst hat."

Diese die EntschaeDIGungsorgane verpflichtende Auslegung ist von grosser Bedeutung. Einige Gerichte hatten juedischen Angestellten, die ihren Arbeitsplatz verloren hatten, weil der Betrieb, in dem sie beschaeftigt waren, durch Verfolgungsmassnahmen gezwungen war, zu schliessen, keine EntschaeDIGung zugebilligt, weil die Verfolgungsmassnahme nicht gegen den Angestellten sondern gegen den Arbeitgeber gerichtet war. Eine solche Auslegung des Gesetzes ist in Zukunft nicht mehr moeglich.

Versetzung in eine erheblich geringer entlohnte Beschaeftigung

Nach § 38 DV liegt eine Versetzung in eine erheblich geringer entlohnte Beschaeftigung liegt dann vor, wenn die Versetzung in der Gesamtheit der Schaedigung zu einem Einkommensverlust von mehr als 25% gefuehrt hat.

2. WIEDEREINSTELLUNG

Dieser Anspruch ist fuer im Ausland lebende Geschaedigte ohne Bedeutung. Er richtet sich lediglich gegen den fruheren Arbeitgeber oder seinen Rechtsnachfolger.

3. KAPITALENTSCHAEDIGUNG

Auf die Berechnung der Kapitalentschaedigung finden gemass § 36 BEG die schon erlaeuterten Vorschriften fuer selbstaendige Berufe entsprechende Anwendung.

Fuer die Einreihung in die Tabellen ist die Berufsausbildung des Verfolgten und seine wirtschaftliche und soziale Stellung vor dem Beginn der Verfolgung massgebend. Die wirtschaftliche Stellung bestimmt sich nach dem Durchschnittseinkommen in den letzten drei Kalenderjahren vor Beginn der Verfolgung. War der Verfolgte mit Ruecksicht auf seine verwandschaftlichen Beziehungen zum Unternehmer nicht gegen Entgelt oder gegen ein unverhaeltnismassig geringes Entgelt taetig, so ist die tarifliche oder sonst uebliche Verguetung zugrunde zu legen. Die soziale Stellung bestimmt sich nach der auf seiner Vorbildung, seinen Leistungen und seinen Faehigkeiten beruhenden Geltung im oeffentlichen Leben (§ 40 DV).

Fuer Zeitraeume, innerhalb deren der Verfolgte ohne hinreichenden Grund den Abschluss eines zumutbaren Arbeitsvertrages oder die Aufnahme einer zumutbaren Taetigkeit unterlassen hat oder unterlaesst, wird eine EntschaeDIGung nicht gewahrt (§ 36 Abs. 4 DV). Dem Verfolgten war oder ist eine Arbeit oder eine Taetigkeit dann nicht zuzumuten, wenn besondere Umstaende ein solches

§ 34 BEG bestimmt:

"Der Verfolgte, der in seinem privaten Dienst- oder Arbeitsverhaeltnis durch Entlassung, vorzeitiges Ausscheiden oder durch Versetzung in eine erheblich geringer entlohnte Beschaeftigung geschaedigt worden ist, hat Anspruch auf:

1. Einraeumung seines fruheren oder eines gleichwertigen Arbeitsplatzes, es sei denn, dass er das 65. Lebensjahr vollendet hat oder arbeitsunfaehig ist.

2. Eine EntschaeDIGung fuer den Schaden, der ihm durch Entlassung, vorzeitiges Ausscheiden oder durch Versetzung in eine erheblich geringer entlohnte Beschaeftigung entstanden ist."

Die EntschaeDIGung wird durch Kapitalentschaedigung oder als Rente gewahrt (§ 36 Abs. 1 BEG).

Verlangen unbillig erscheinen lassen. Solche Umstaende koennen in lang andauernder Berufsentfremdung, vorgeruecktem Alter, schlechtem Gesundheitszustand oder in anderen persoenlichen Verhaeltnissen liegen (§ 42 DV).

Anrechnung

Ausser dem durch anderweitige Verwertung der Arbeitskraft erzielten Einkommen sind Leistungen anzurechnen, die aus Mitteln der Arbeitslosenversicherung oder Arbeitslosenfuehrsorge gewahrt werden. Ferner sind Kapitalabfindungen, Zuwendungen, Unterhaltsbeträge oder aehnliche Leistungen, die der Verfolgte von einem fruheren Arbeitgeber oder dessen Rechtsnachfolger erhalten hat, anzurechnen (§ 36 Abs. 3 BEG).

4. RENTE

Die Bestimmungen ueber Rente unterscheiden sich wesentlich von der fuer selbstaendige Berufe erfolgten Regelung und zwar so unguenstig, dass von allen juedischen Organisationen eine Aenderung dieser Bestimmungen beantragt ist. Es ist zu hoffen, dass diesen Antraegen bei der in Vorbereitung befindlichen Aenderung des Gesetzes Rechnung getragen wird.

Die Bestimmungen des BEG und der DV sollen daher nur in ihren Grundzuegen dargelegt werden.

Im Gegensatz zu den selbstaendigen Berufen ist die Hoehe der Rente von der Hoehe der Kapitalentschaedigung und dem Lebensalter des Verfolgten abhaengig. Ferner kann der Verfolgte eine Rente nur waehlen, wenn er zur Zeit seiner Entschliessung das 65. (bei Frauen das 60.) Lebensjahr vollendet hat oder erwerbsunfaehig ist.

Da das Lebensalter massgebend ist, ist bei der Anwendung der Tabellen die voraussichtliche Lebensdauer zu beruecksichtigen. Massgebend ist das Lebensalter zum Zeitpunkt des Inkrafttretens des Gesetzes, d.h. der 1.10.1953.

Da sich bei dieser Berechnung sehr niedrige Renten ergeben koennen, ist bestimmt, dass die Mindestrente 100 DM monatlich betraegt. Dieser Mindestsatz gilt aber dann nicht, wenn die errechnete Rente zusammen mit sonstigen Versorgungsbezuegen und wiederkehrenden Leistungen aus oeffentlichen Mitteln den Betrag von 200 DM monatlich uebersteigt. Dieser Betrag erhoehrt sich bei verheirateten Verfolgten mit unterhaltsberechtigten Kindern.

5. ANGESTELLTE UND ARBEITER IN OEFFENTLICHEN BETRIEBEN

Fuer Angestellte und Arbeiter in oeffentlichen Betrieben, die keinen Anspruch auf Ruhegehalt haben, gelten die Bestimmungen fuer Angestellte in der Privatwirtschaft entsprechend mit der Massgabe, dass der Zeitraum, fuer den die Kapitalentschaedigung zu leisten ist, spaetestens mit dem 31. Maerz 1950 endet.

Diesen Angestellten steht auf Grund des Auslandsbeamtengesetzes zur Wiedergutmachung nationalsozialistischen Unrechts fuer Angehoerige des oeffentlichen Dienstes lediglich ein Anspruch auf Wiedereinstellung zu. Da die im Ausland lebenden Verfolgten von diesem Recht keinen Gebrauch machen koennen, so ist es ungerecht, sie anders zu behandeln als die Angestellten in der Privatwirtschaft. Bei der Neufassung des BEG sollte dieser Gesichtspunkt beruecksichtigt werden.

6. VERERBLICHKEIT

Der Anspruch auf zukuenftige Rente ist weder uebertragbar noch vererblich.

Die rueckstaendigen Renten und die Kapitalentschaedigung gehen, wenn der Verfolgte nach dem 1.10.1953 gestorben ist, unbeschraenkt auf die Erben ueber.

Wenn der Verfolgte vor diesem Zeitpunkt gestorben ist, so geht dieser Anspruch nur auf den Ehegatten, die Abkoemmlinge, Geschwister und Eltern insoweit ueber, als diese einen Schaden in Bezug auf Unterhalt, Versorgung oder Ausstattung erlitten haben (§ 66 BEG).