

MIRIAM ROTHSCHILD

SIR JOHN FOSTER AND THE JEWS

Isaiah Berlin both privately and publicly explained why he felt the necessity for a Jewish state. No matter where they lived in the world, no matter whether they were rich or poor, a success or a failure, Jews of the Diaspora inevitably felt 'different'; only in Israel did they lose this uncomfortable selfconscious characteristic.

John Foster's own great friendship and liking for Jewish people may have sprung from the fact that his lonely, confused and homeless childhood also resulted in a subtle sense of 'difference', a subconscious affiliation with a persecuted minority. As a boy, John's justifiable disapproval of his ruthless mother may have attracted him to anybody or anything, which he knew she openly disliked. Mrs Foster was outspokenly anti-semitic: in an apocryphal tale the Bishop of Oxford, pushing John in his pram along the High Street, stopped her. 'Oh my dear lady', he exclaimed, 'what a wonderfully beautiful child! He looks like a Renaissance picture of the Infant Jesus'. 'Don't insult my son', cried Mrs Foster, 'by suggesting he looks like a Jew!'

Be that as it may, John was genuinely and positively drawn to Jewish people. He sought out individuals who manifested an international, classless outlook, vitality and intelligence. He admired those with drive and multiple interests and, especially amongst Jews, the humour and jokes born of the trials and tribulations of an oppressed minority. He also liked people who maintained an informal, easy-going lifestyle, lacking in conventional snobbish good manners and official behaviour.

John appreciated Jewish ritual and attended Seder evenings in any country where he happened to be at the appropriate time, frequently noting errors in the Hebrew service which he knew better than most of his Jewish hosts. We were told a story about him, aged 16, concerning a distinguished Rabbi about to deliver an important address in the presence of the British Ambassador. Shaking hands politely, John brushed against the lapel of his coat and exclaimed, 'Oh Rabbi! I see you are wearing schatnes!' The poor man was horribly embarrassed. As a schoolboy, Foster had already read the Talmud, and could not resist a little mischievous exhibitionism.

Conscious of his sense of affinity with Jewish people, John searched in vain for a trace of Semitic ancestry in his family history but, regretfully, found none. A rumour that he was in some way related to the Rothschilds was always cropping up but was without foundation.

John had dealt with the trauma and wounds of his unhappy childhood by totally eliminating memory of the past - his father's death, his mother's desertion and his homelessness - and any possible emotive perturbations in the present. This led Isaiah Berlin to describe him as the 'strangest man I ever encountered', but such an unusual quality also emphasized his unique gift of augmenting and gilding the actual moment.. This prompted both Berlin and myself independently to describe John as the greatest life enhancer we had ever met.

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In 1939 Foster was in Washington when the Second World War was declared. He was immediately snapped up by the British Embassy and as First Secretary successfully negotiated the lend/lease of the Liberty Ships from the neutral United States to England.

Earlier that summer we had discussed the probability of an invasion of the British Isles by Germany and it was assumed that should their army obtain even a temporary foothold in this country, the Jewish civilians would be massacred. Three of my friends had most courageously offered to hide me: Theresa Clay provided a false birth certificate and passport, Mrs E.W. Sexton, a gifted marine biologist, suggested that I worked as her assistant from her flat in Plymouth on the genetics of *Gammarus*, and John offered me a roof and employment as a domestic servant. 'Remember', he remarked cheerfully, 'I'm not very brave.'

After D-Day, following his spell at the British Embassy, Foster became legal adviser to General Eisenhower and, at the end of the war, returned from occupied Germany with the rank of Brigadier. Asked by a newspaper reporter how it happened that he had left the U.K. as a private citizen and returned at the end of the hostilities as a Brigadier in the British Army, Foster replied amiably 'One must start somewhere!'

In 1947 he started to rebuild his practice at the Bar - astonished and immensely touched by the fact that one of his Jewish acquaintances immediately offered to provide him with the necessary capital and sent a cheque without waiting for a reply. Foster shortly afterwards became a Q.C. and head of chambers at 2 Hare Court (the two previous incumbents had been Donald Somerville, Attorney General, and Hubert Parker, at that time Lord Chief Justice). Eventually he had two Jewish pupils, Mark Littman (presently a distinguished Q.C.) and Peter Benenson (founder of Amnesty), but he also arranged room in his chambers for a displaced Palestine lawyer, who subsequently became Chief Justice of Jordan. This was characteristic of John who was deeply benevolent, fundamentally egalitarian, uncritical and almost over-objective. Mark Littman described him as 'a very glamorous figure, a tall handsome man, a Fellow of All Souls, M.P. for Northwich and Recorder of Oxford... ..At work he was extremely innovative and imaginative'. Foster also had a great sense of public values - international public values and was a dedicated upholder of human and civil rights. The only contemporaries he actively disliked were people who were cruel or cynical or liable to cause pain in any way to others. In his opinion blackmail was a terrible crime. Above all he loathed injustice.

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The end of hostilities did not terminate the misery and desolation of the few central European Jews who had miraculously survived the Nazi holocaust or brutal forced labour. There were two categories of misfortune in which John Foster took special interest:

Firstly, in the case of Jews still living in Germany, frequently the sole survivor of their family, homeless, without financial support and generally in poor health, who wanted to leave Germany and find a home elsewhere. These included the wretched ill-treated Jewish survivors, in so-called displaced persons camps in Germany, Hungary and Rumania.

Secondly, the pitiful fate of the survivors of the concentration camps after their liberation by well-meaning conquering allied troops.

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In 1946 arrangements drawn up by the Paris Agreement and subsequently the accounting rules prepared by the Inter Allied Reparations Agency (I.A. RA.) came into force and allowed victims of oppression and persecution to claim their assets in the custody of the U.K. and the Allies generally. Certain conditions had to be satisfied. Thus applicants had to prove:

1. They had suffered deprivation of liberty under discriminatory legislation.
2. They had not enjoyed full rights of German citizenship since 1st September 1939.
3. They emigrated or proposed to emigrate from Germany.
4. They did not act against the Allied cause during the war.
5. Their case merited favourable consideration.

John Foster believed that these rules were harshly and unjustly interpreted by the Custodian of Enemy Property in the U.K. and that many genuine victims of persecution were thus deprived of their assets here, and hence their means of beginning a new life. He submitted a Memorandum (see Appendix) to the department concerned and to various individuals, such as the Archbishop of Canterbury. In this he wrote, '... that the practice followed by the Department gives no effect to the letter, much less to the spirit, of the Resolution'. He placed particular stress on the unfair interpretation of the words, 'deprivation of liberty'. Foster pointed out to go underground to avoid arrest, which would have been followed inevitably by death in a camp such as Auschwitz, should also be accepted as deprivation of liberty. We agreed that I would send copies of his Memorandum, with an explanatory note, to friends asking for their support, especially if the subject was eventually raised in the House of Commons or the Lords.

I approached the following: Sir William Aitken^{*}, Viscount Bracken*, Rt Hon. Clement Davies*, Lord Drogheda, Lord Hinchingsbrooke*, Lord Hore-Belisha, Lord Jowitt, Viscount Margesson, Lord Harmar-Nicholls*, the Marquess of Reading, Lord Renton*, the Earl of Rosebery, the Marquess of Salisbury, Lord Shawcross, Lord Sheffield, Lord Thornycroft*, Lord Walker*, Lord Winterbottom*.

When John returned from his interview with Sir Henry Gregory (the Custodian of Enemy Property), with whom he had discussed the contents of the Memorandum, he was deeply troubled. 'We will get nowhere', he said, 'Gregory is himself a purposeful anti-semitic.'

After Foster died in 1982 I had hoped to be able to write a short paper to describe his efforts to help the unfortunate and unfairly treated survivors of the Hitler regime, but I was refused access to his papers by the various departments concerned. When I pointed out that I thought the thirty-year period of constraint had elapsed, I was told that they had the right to withhold certain papers without explanation. Some years later permission was granted. One of the first files requested was that dealing with the mindboggling case of the Shanghai Ghetto (see Appendix, section 2b). On opening this file, it was found to be empty, with a note reporting that the contents had been destroyed by the Public Record Office (PRO). One hoped that the late Sir Henry Gregory may have experienced some moments of shame and even perhaps remorse, and a guilty conscience accounted for the mysterious destruction of these records. A note by him referring to Foster's Memorandum merely commented that Foster appeared to be a friend of the Jews.

One point stressed by John was that the I.A.R.A. Rules had been more generously interpreted by the U.S. than by the U.K., particularly with regards to the meaning of the

* All these at the time were Members of Parliament.

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words 'deprivation of liberty'. Reading through Sir Henry Gregory's in the files at the PRO, one is appalled at his attempts to destroy Foster's arguments - by scoring points, like winning or losing a game! Thus he ordered a search for the interpretation of the I.A.R.A. Rules by the other Allied countries and it was discovered, to Sir Henry's obvious satisfaction, that France and Belgium had interpreted them even more harshly than Britain. Fine! The U.K. came midway between them and the more generous United States and we could therefore stand as we were....Gregory was trying hard to see that Foster's 'friends' would not get their savings and the melancholy fact is that he succeeded all too well. Thus, for example, Baron Ullmann, a Hungarian banker who had been hidden for eight months by his Christian barber in a windowless cupboard in an attic, had forfeited his savings - £4,000 in the U.K. - since he had 'not been deprived of personal liberty', for in order to escape deportation to a death camp he had 'voluntarily' gone into hiding in his barber's attic. Baron Ullmann was on his way to the U.S. to meet his son who had also escaped the Holocaust, and he had hoped to find the money for his ticket in his savings deposit at a bank in the U.K. We were standing the hall of Claridge's Hotel waiting for a taxi, when an unknown visitor stepped forward and held out an envelope. 'I heard your story', he said, 'while you were having tea with your friend. I heard you describe what it was like to see the sky after eight months in the dark cupboard. I am bitterly ashamed of the way this country is behaving, but here is a cheque for the amount you mentioned and your ticket for the States', and he turned on his heel and walked out through the swing doors.

This gesture was by no means an isolated indication of sympathy among the people among the people in the U.K. The attitude of the man-in-the-street was often in sharp contrast to that in Government departments. Under the Baldwin Scheme a number Jewish children were received and cared for in England before war was declared. Today - 1998 - at long last, in response to Lord Lester's initiative and determination, the Government has decided to set aside an initial sum of £2 million to compensate Nazi victims who may still be alive, or their heirs, for their savings unjustly confiscated at the termination of the war.

Lord Lester, in his impressive and apposite speech, pointed out that almost 50 years ago Sir John Foster gave examples of 'manifest absurdity, harshness and unfairness in the treatment of these cases and made concrete proposals to ensure that no real injustice would occur in any particular case. His representations fell on deaf ears.' How highly delighted John would have been that a man from his Chambers had at long last been heard to such good effect, and had after half a century 'opened the ears of men'.

Baron Ullmann was one of Foster's so-called failures, for he could not recover his assets, but two of his successes, curiously enough, concerned members of my mother's family. My aunt Johanna de Wertheimstein, an Austrian woman 65 years old, was arrested by the police in Budapest in 1944 and together with a number of other Jewish women was imprisoned in a so-called 'Jewish house', to await deportation to a death camp. They were forced to wear a yellow star but allowed to walk outside each day for an hour's exercise, but not after 5pm. My aunt was able to get a message to the Dutch Embassy. She staged a suicide by leaving some of her clothes and the yellow star, with a note, on the bank of the Danube and was picked up by a car from the Dutch Embassy. She was then concealed in the cellar of a house 'somewhere in the country'. The only furniture provided was a single wooden chair on which she had to sleep at night. She was liberated by the Russian army about eight months later, and was then temporarily housed with other refugees - not all Jewish - in an empty barn, fortunately with straw on the floor. My aunt had no family left in Hungary except perhaps a brother-in-law whom she heard had been arrested. Her father and younger brother had both died in a concentration camp. While she and her fellow refugees were living in the barn a small band of drunken Russian

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soldiers arrived decided to kill the inmates. Men and women were lined up against the wall and shot one by one. A soldier, speaking quite good Hungarian, said to my aunt, 'Your turn next, old Granny'. At that moment a Russian officer arrived with a small troop and stopped the carnage. He held a court martial on the spot and the drunken soldiers were arrested and sent to banishment in Siberia.

My aunt was completely penniless and homeless, but it was not until 1957 that Foster, together with his solicitor, Philip Frere, after years of negotiation, was able to cut through cocoon of red tape and send her some money via the Hungarian Bank, of which Ullmann had once been Chairman. That year I was able to meet her in Zurich and offer her a home in England with us. Her only worldly possessions when she arrived were her wedding ring and the potential share of a small settlement made by my mother in favour of her brothers and sisters. This, however, had been confiscated by the Custodian of Enemy Property on the grounds that Madame de Wertheimstein had never been deprived of her personal liberty - incarceration in a Jewish house awaiting deportation did not qualify as a prison or concentration camp.

In 1956 the President of the Board of Trade informed me that the so-called Ghetto cases had been reviewed. John Foster then made exhaustive enquires about the exact construction of the so-called Jewish house in Budapest which, in the meantime, had been totally destroyed by bombing. He eventually discovered it had been surrounded by a wall - it therefore now qualified according to the Board of Trade as a ghetto. My aunt confessed she did not clearly remember the wall, but fortunately John found two independent witnesses who did. It was consequently conceded that my aunt had, after all, been deprived of her liberty and could now claim a share of my mother's Settlement.

Meanwhile my mother's sole surviving brother, (now an elderly skeletal man over six foot tall, weighing only five stone and with a serious heart condition), had been liberated, by the Russians, from a concentration camp in Hungary. He was also a potential beneficiary under the same Settlement. In this case there could be no question of his deprivation of liberty but the Custodian found other grounds for confiscating his share of the Settlement. In the I.A.R.A. Rules agreed by the Allies, it was stipulated that no national who remained in enemy territory during the hostilities could claim, after the War ended, his property deposited in the United Kingdom. Since the concentration camp in which my uncle was forcibly incarcerated was located in Hungary, he had no option but to remain there. But that did not matter according to the Custodian's interpretation of the Rules. Once again John Foster, Philip Frere and I (as one of the Trustees of the Settlement in question) began a long drawn out battle with the Custodian which Foster ultimately won. By then my uncle was also living with us in my home near Oxford with a Visitor's Twelve Month Visa! Pressed by Foster and the Rothschild bank, the Custodian eventually agreed to surrender £6,000 of interest in addition to my uncle's share of the capital.

During these negotiations it became known that one of the beneficiaries of the Settlement, my mother's eldest sister, had been deported to Germany from Hungary. She was over 80 years old and blind. On arrival at Auschwitz she was dragged from the train and beaten to death on the railway line by guards wielding meat hooks. To my amazement a cheque for £2,000 was suddenly sent to me as her heir, which the Custodian for some reason had failed to confiscate. Possibly the fact that her death had occurred outside Hungary absolved her from the sin of remaining - however unwillingly - in an enemy country during hostilities.

Today it is difficult to imagine the practical difficulties, which beset us in trying to assist the survivors of the persecution and the Holocaust. First of all when the War ended there

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was great confusion in Europe generally, and in the U.K. everyone had their own serious problems to contend with - not least of all in the various Government departments. Communication with Hungary, for example, involved enormous delays since the bombing of cities had resulted in the loss of official papers on a massive scale. Thus the proof of nationality, birth, occupation, affiliations, imprisonment, etc., now demanded from refugees were impossible to find, especially by penniless, homeless people, usually in extreme poor health, who knew nothing about the regulations. A single case often entailed files of correspondence, even at our end. Nor did the work diminish in 1949 when the assets of German Jewish refugees were finally distributed to those British subjects who had lost their assets in Germany during the hostilities. Foster was chairing an all-party meeting at the House of Commons as late as 10th July 1956 to consider the question of the assets of Hungarian and Rumanian Nazi victims. The assets of Austrian victims had to be considered separately.

Unfortunately, when John Foster died in 1982, all his bulky papers dealing with the refugee problems were considered by his executor of no possible interest and were destroyed. This was inexcusable since the case of the Shanghai Ghetto and the papers on the liberation of the death camps of Auschwitz and Dachau were of great historical interest.

An example of the post-war difficulties, which Foster had to contend with, is well illustrated by his successful 'rescue' of the mother of the Editor of *Paris Match*. This French lady, who had been hiding in Germany for months, was most anxious to leave enemy territory to conform to the I.A.R.A. Rules and join her son in France where she also had some savings of her own. Both the English and French authorities decided that after the 31st December 1949 no German nationals would be recognised as refugees under I.A.R.A. Rules if they had not left the country by that date, and consequently no claim for their property or money would be recognised. However this lady had been refused an exit visa from Germany - for no apparent reason. It was one of the serious problems - a Catch 22 situation - bedevilling a number of refugees whom John was attempting to help. Fortunately in this case he was successful and Madam Mathias left Germany only half an hour before the deadline. The Editor of *Paris Match* came over to England to tell us how profoundly grateful he was. I was glad he did so because, for obvious dreary reasons, such negotiations were generally thankless tasks and Foster worked tirelessly and without reward to redress what he believed was the phenomenal injustice of his countrymen, and an injustice moreover against the spirit of the I.A.R.A. Rules.

Fifty years later it may seem incredible to us - almost surreal even - that the German authorities in 1949 were maliciously refusing exit visas to Jews who wished to leave Germany. But an extraordinary stroke of fate threw a little light on this for me. A Jewish boy, born in Frankfurt, was one of the refugee children I had looked after in my home at Ashton before the War. As a young man he had joined the American Army and was selected for the Secret Service owing to his linguistic talent and high I. Q. He rose to the rank of Colonel and was put in charge of the aeroplane carrying the German High Command to prison in Spandau. On the flight Goring asked him where he had learned such excellent German. He ignored the question. The Colonel told me he had returned with the invading army to the street in Frankfurt where he was born. 'Unfortunately', he said 'the whole of Germany is still run by indoctrinated Nazis. You cannot blame the Allies. Ignorance of the situation is of course still rife, but the country has got to be run by Germans who know the job and they are all Nazis now, as they were then. Believe me, it is a depressing situation, but inevitable.' In due course the Colonel was demobilized and I

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visited him in Chicago where he had become Professor of German literature in the University. His family had eventually emigrated to Israel.

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The situation which developed when the conquering American Forces swept across Germany, was a macabre and tragic one. The death camps such as Auschwitz and Dachau were liberated by the Army; the gates were thrown open and those inmates who were still alive were freed. However, word came to us that, starving and destitute, these doomed souls soon died after liberation.

We decided that the only hopeful course would be to take food, clothing and medical care to the camps immediately, under the supervision of the Red Cross, and delay the liberation of the survivors.

Of the various people to whom I wrote explaining that this unexpected and desperate situation had arisen, two Labour members of Parliament, Richard Crossman and Patrick Gordon Walker, offered advice and concrete help. We soon realised that the situation was too difficult and too complicated for us to tackle effectively. A direct appeal to Churchill was the only hope. John Foster agreed to pursue this line: as Legal Adviser to General Eisenhower in occupied Germany, he was able to have several meetings and discussions with Churchill.

Foster had many unusual characteristics and one of them was a genuine lack of interest in his own successes. Once a job was done, he appeared to forget it. For all I know he may well of discussed legal cases in detail with other lawyers, but as far as I was concerned he would remark casually, 'I won my case', then change the subject. (He was Counsel in more than 160 post-war cases in the House of Lords.) All he said about the direct approach to Churchill was that, fortunately, it had been a success and random freeing of concentration camps by a sympathetic Army was now over, thanks to Churchill's intervention. I accepted this without further questioning, and merely said, 'Well, you have saved a great many lives'.

It is now fifty years since this conversation took place and I may only remember the good news and have forgotten the rest, but I do recall that, unlike John, I was terribly, terribly tired and emotionally drained, and I experienced an unworthy surge of relief that I need do nothing more about this particular and unexpected horror. Foster was apparently never tired and found three hours' sleep per night quite sufficient. I asked him how he remembered all the details about the number of refugees he was trying to assist. 'I don't *remember* conversations', he explained. 'I merely store them - anything I've heard - but I can fish them out if the facts are needed.'

Isaiah Berlin recalled that during the War in Washington, Foster invited at least a dozen acquaintances to dinner every night. The meal was always identical: asparagus, chicken and ice cream. If asked who was coming that evening, Foster would shake his head and reply, 'I will remember when they come'. Berlin said that in Washington he was 'very, very popular and never had less than two or three hundred friends.' He added, 'He was exceedingly kind to me at a difficult period of my life.'

This was Berlin's 'strange', enigmatical, but 'exhilarating' character who, unquestionably, was the Jews' best protagonist of our time.

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[APPENDIX]

Memorandum on the practice in regard to *ex gratia* releases of property in the U.K. of victims of discriminatory laws in enemy territories.

1. The Administration of Enemy Property Department in a circular letter dated 18th May 1949 has laid down certain rules under which claims for the release of the property in the United Kingdom of victims of racial oppression will be recognised. These rules correspond on the whole to the terms of the Resolution taken by the General Assembly of the Inter-Allied Reparation Agency on the 21st November 1947.

It is submitted that the practice followed by the Department gives no effect to the letter, much less to the spirit, of the Resolution of the General Assembly, and the general impression gained from a great number of cases is that the practice of the Department whittles down the purpose of the Resolution so that very many claimants lose the benefit of the Inter-Allied Agreement.

2. The most important criticism to be made is directed against the interpretation of the words 'deprivation of liberty' constantly applied by the Department. Although the Department has so far refrained from issuing an official ruling as to the meaning of these words and even refusing in individual cases to specify the reasons for its decisions, a practice which is contrary to the principles of natural justice, it has become abundantly clear by the practice of the Department that the Department will accept nothing less than evidence of actual and lengthy incarceration in a prison or concentration camp for what the Department considers a 'substantial' period. Under this practice all those who were incarcerated in a concentration camp have survived.

It is submitted that the construction employed by the Department is not only incompatible with the obvious spirit of the Inter-Allied agreement, but also with the strict interpretation of the words 'deprivation of liberty' according to their meaning in English law. The narrowest possible construction of the words would be that applied to false imprisonment. The same authority expressly states that there need not even be actual incarceration. The following cases selected from a considerable number may illustrate the way in which the Department interprets the words 'deprivation of liberty'.

a. A was arrested and detained in a prison cell for three days in order to make him sign away certain property rights. After suffering grave injuries he was released on giving his signature in accordance with the wishes of his gaolers. The Department holds that the period of three days detention is too short to constitute a 'deprivation of liberty'.

b. At Shanghai the Japanese created a ghetto, where the Jews were compelled to live under appalling conditions for a period of no less than two years, i.e. from 15th May 1943 to the liberation in 1945. The camp was under the command of two Japanese officers who were acting in co-operation with and under the instructions of the Gestapo. B was compelled to live in this ghetto from 1943 to 1945. This, according to the Department was not a 'deprivation of liberty'.

c. C, a Roumanian Jew, fled from the State Police which tried to arrest him, in order to bring him into a concentration camp. He sought and found refuge in the house of the consul of a foreign power where he stayed for a number of months, being unable to leave the house. This too is according to the Department not a 'deprivation of liberty'.

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d. In numerous cases the Department has stated that mere detention in a labour camp, even though this was solely intended for Jews, political opponents of the regime etc., was not sufficient to constitute a deprivation of liberty, if the conditions in the camp were not known to have been extremely bad.

It is not unfair to sum up the interpretation of the term 'deprivation of liberty' by the Department as restricting the application of the ex gratia release to the few persons hardy enough to survive lengthy confinement in an actual death camp.

3. The department has, however, further reduced the number of those whose property is being released by the stringency with which it considers evidence on the question whether the deprivation was due to discriminatory reasons. Where Jews were arrested, whether by the police, the army authorities, the Iron Guards or their equivalents, they were not as a rule supplied with a statement - written or oral - of the reasons for their arrests. If in exceptional cases reasons were stated, they were often faked. Offences of all kinds, such as non-payment of fictitious debts to the revenue, failure to report to the labour service, etc. were intended to justify imprisonment. The Administration has seen fit to demand that the applicants should prove that these faked reasons were in fact non-existent, thus throwing upon the applicant the burden of proving what the motives of his arrest were. It is small wonder that in all too many cases this constitutes a *probatio diabolica*.

4. Notwithstanding the fact that the circular letter does not contain any stipulation as to the time when the deprivation must have taken place, the Administration now requires evidence that it took place during the period which the applicant's country was at war with this country. This is done although in a number of cases as e.g. in that of Roumania, the restrictions under the Trading with the Enemy Act 1939 existed in respect of the applicant's country already several months before the outbreak of the war. Thus where an applicant had been interned and well nigh beaten to death in a concentration camp, his application was rejected on the ground that he had been released from the internment camp shortly before the entry of his country into the war. The fact that his health had been permanently undermined and that this was the ground for the release was ignored

5. The circular letter requires that the applicant should have left the enemy country. This is interpreted to mean that he must have taken up permanent residence in a non-enemy country. This interpretation is in clear contradiction to the wording and the spirit of the circular letter, where it is stated that the mere intention to leave the applicant's country is sufficient to justify the application. The Department has indicated that a Roumanian who has left Roumania and had settled in Austria was not entitled to apply and the same applied to a Roumanian now settled in Paris, as long as the Paris authorities had not granted to him the right of permanently residing in Paris.

6. The term 'property of living enemy nationals or estates' is interpreted by the Department to mean that only property directly owned by the applicant and his heirs may be released. Thus applications for the release of the property of a partnership have been rejected although all its partners complied with all the requirements of the circular letter. Property of companies whose shares are entirely owned by victims complying with all the requirements is treated in the same way. Where a partnership account existed in this country in addition to private accounts by the partners, the Department has gone so far as to demand evidence that the money on the private accounts of the partners did not in fact constitute money of the partnership or was not devoted to partnership purposes.

7. In many cases victims invested their money in the name of other persons. Thus Jewish Bulgarians invested their money in the name of a Roumanian non-Jewish friend or

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residents of Hungary invested their money in the name of persons of were at the time convinced that they would immigrate earlier than they themselves. In such cases the Administration now demands that evidence on the beneficial ownership should be contemporaneous with the investment. Affidavits by all persons concerned, if not made at the time of the investment, are declared to be insufficient.

Contemporaneous evidence is, of course, never available. It was of the very nature of the investment that it should appear to be that of the person in whose name it was made and not that of the victim residing in enemy territory. The demand for this evidence can therefore never be met and is equivalent to rejecting the claim. Among the persons whose last savings are thus forfeited are parents, incapable of escaping from enemy territory, who invested money in this country in order to secure the future of their children, who have succeeded to escape.

8. In respect of the estate of deceased persons the circular letter contains a most curious rule, which is not contained in the Resolution of the Inter-Allied Reparation Agency. According to this rule release may be granted only if the death occurred before the end of active hostilities in the enemy country of residence. Thus an application was rejected where the deceased was in a concentration camp at the time of the liberation and died a few days afterwards. It would have been granted, had he died a few days earlier. Similarly release is refused where the deceased succeeded to escape into a non-enemy country and died there, even if the death took place before the end of the hostilities. It is not understood why the Department has included this incomprehensible rule in its circular letter.

9. In its administration of the rules contained in the circular letter, the Department has admittedly been largely motivated by considerations which are incompatible with a judicial interpretation of its terms. Thus responsible officials have pointed out in conference that the Department must not interpret the terms of the letter so widely that the majority of the funds of Jews from occupied territories have to be released. It would appear to be most desirable indeed that the Department should cease to be judges in their own cause and that the jurisdiction in cases of this type, many of which involve difficult legal problems, should be transferred to an independent administrative tribunal, presided over by a qualified lawyer.

10. The policy of the Department in cases of this type compares most unfavourably with the attitude of the authorities of the United States of America, which is more generous. There are numerous cases where the applications for the release from custodian control have been granted by the U.S.A. authorities to the same person who has met with a rejection in this country. The comparison has naturally led to a particular bitter feeling amongst those concerned.

11. The period within which applications had to be made was originally to end on 30th June. As it appeared that many more cases were gradually coming to light, it was extended to 1st October, 1949. This extension is quite insufficient. Correspondence with people living behind the iron curtain is so difficult and slow that many cases have not yet become known. There are numerous cases where the enforced delay of emigration from iron curtain countries renders it impossible for victims to make their applications in time. Part of the extension period coincided with the vacation period of the legal advisors of the applicants.

A complete revision of the ungenerous attitude of the Department to a group of persons which has suffered from Nazism and its allied ideologies more than any other group would

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appear to be highly desirable. May it not be forgotten that these persons invested their property in this country in confidence on the British sense of justice and fairness.