



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
RESTRICTED

A/AC.25/IS.83
9 October 1953

ORIGINAL: ENGLISH

UNITED NATIONS CONCILIATION
COMMISSION FOR PALESTINE

Letter dated 9 October 1953 addressed to the
Chairman of the Conciliation Commission for Palestine
by the Permanent Representative of Israel to the
United Nations

Sir,

I have the honour to refer to your letter of 29 July 1953, received in reply to my communication of 7 July 1953, and to offer the following observations on the points raised by your Commission:

-
- (a) The disposal of property to which your letter refers has been authorized by my Government and effected in accordance with the provisions of the Absentees' Property Law, 5710-1950, copy of which is attached for reference.
 - (b) This property which, under the above law, became vested in the Custodian of Absentees' Property, has been transferred to the Development Authority which was set up under the terms of the Development Authority Law, 5710-1950.
 - (c) Funds realized in consideration for the property under reference are treated in accordance with the provisions of Section 4 (d) of the Absentees' Property Law. The countervalue is credited to the property for which it has been received since, in the circumstances under which the property has been abandoned, this has proved to be the only realistic way of dealing with this matter.

- (a) It is the policy of the Government of Israel to ensure the integration of those refugees who are legally authorized to enter Israel. On the other hand, the views of my Government with respect to the over-all solution of the refugee problem are sufficiently well known and have been presented to the Commission as well as in authorized statements by representatives of the Government of Israel in the United Nations and elsewhere.

Concerning discussions on the question of evaluation, as suggested in your letter, my Government is actually engaged in preparatory work in implementation of its declared policy to offer compensation for abandoned Arab lands in Israel. The work is expected to be completed fairly soon and my Government will then be prepared to state its views on the subject in concrete terms.

Please accept, Sir, the renewed assurances of my highest consideration.

/s/ Abba Eban

Permanent Representative of
Israel to the United Nations

The Chairman
Palestine Conciliation Commission
United Nations Headquarters

ABSENTEES' PROPERTY LAW, 5710-1950*

Interpretation.

1. In this Law -

- (a) "property" includes immovable and movable property, moneys, an immediate or contingent right in property, goodwill and any right in a body of persons or its management;
- (b) "absentee" means -
 - (1) a person who, at any time in the period between the 16th Kislev, 5708 (29th November, 1947) and the day on which a declaration is published, under section 9 (d) of the Law and Administration Ordinance, 5708-1948**, to the effect that the state of emergency declared by the Provisional Council of State on the 10th Iyar, 5708 (19th May, 1948)***, has ceased to exist, was or is the lawful owner of property situated in the area of Israel or enjoyed or enjoys the benefit of, or held, or holds such property, whether by himself or through another person, and who, at any time during the said period -
 - (i) was or is a national or citizen of the Lebanon, Egypt, Syria, Saudi-Arabia, Trans-Jordan, Iraq or the Yemen, or
 - (ii) was or is in any of those countries or in any part of Palestine outside the area of Israel, or
 - (iii) was or is a Palestinian citizen and left or leaves his ordinary place of residence in Palestine
 - (a) for a place outside Palestine before the 27th Av., (1st September, 1948); or
 - (b) for a place in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment;

* Passed by the Knesset on the 25th Adar, 5710, (14th March, 1950).

** O.G. No. 2 of 12th Iyar, 5708 (21.5.48), Suppl. I, p.1.

*** O.G. No. 2 of 12th Iyar, 5708 (21.5.48), Suppl. I, p.6.

- (2) a body of persons which, at any time during the period specified in paragraph (1), was or is the lawful owner of property situated in the area of Israel or enjoyed or enjoys the benefit of, or held or holds, such property, whether by itself or through another person, and all the members, partners, shareholders, directors or managers of which were or are absentees within the meaning of paragraph (1), or the management of the business of which was or is otherwise decisively controlled by such absentees, or all the capital of which was or is in the hands of such absentees;
- (c) "Palestinian citizen" means a person who, on the 16th Kislev, 5708 (29th November, 1947) or thereafter, was or is a Palestinian citizen according to the provisions of the Palestinian Citizenship Orders, 1925-1941, Consolidated* and includes a Palestinian resident who, on the said day or thereafter, had or has no citizenship or nationality or whose citizenship or nationality was or is undefined or unclear;
- (d) "body of persons" means a body constituted in or outside Palestine, incorporated or unincorporated, registered or not registered, and includes a company, partnership, cooperative society, society under the Law of Societies of the 29th Rajab, 1327 (3rd August, 1909) and any other legal person and any institution owning property;
- (e) "absentee property" means property the lawful owner of which, at any time during the period between the 16th Kislev, 5708 (29th November, 1947) and the day on which a declaration is published, under section 9 (d) of the Law and Administration Ordinance, 5708-1948**, to the effect that the state of emergency declared by the Provisional Council of State on the 10th Iyar, 5708 (19th May, 1948***) has ceased to exist, was or is an absentee, or which an absentee held or holds or the benefit of which an absentee enjoyed or enjoys, whether by himself or through another person; but it does not include movable property held by an absentee and exempt from attachment or seizure under section 3 of the Civil Procedure Ordinance, 1938****;

* Palestine Gazette No. 1351 of 10.8.44, Suppl. II, p. 755 (Engl. Ed.).

** O.G. No. 2 of 12th Iyar, 5708 (21.5.48), Suppl. I, p. 1.

*** O.G. No. 2 of 12th Iyar, 5708 (21.5.48), p. 6.

**** Palestine Gazette No. 781 of 7.5.38, Suppl. I, p. 25 (English Ed.).

- (f) "vested property" means property vested in the Custodian under this Law;
- (g) "held property" means vested property actually held by the Custodian, and includes property acquired in consideration of vested property;
- (h) "released property" means property released under section 28;
- (i) "area of Israel" means the area in which the law of the State of Israel applies;
- (j) "bill" means a bill of exchange, cheque, promissory note or any other negotiable instrument.

Custodian of
Absentee
Property.

- 2. (a) The Minister of Finance shall appoint, by order published in the State Records, a Custodianship Council for Absentee Property, and shall designate one of its members to be the chairman of the Council. The Chairman of the Council shall be called the Custodian.
- (b) The Custodian may bring an action and institute any other legal proceeding against any person and be a plaintiff, defendant or otherwise a party in any legal proceeding.
- (c) The Custodian is entitled to be represented in any legal proceeding by the Attorney-General of the Government of Israel or his representative.
- (d) When the Custodian ceases to hold office, his functions, powers, rights and duties shall automatically pass to the Minister of Finance; when any other person is appointed Custodian, the said functions, powers, rights and duties shall automatically pass to him, and so on from Custodian to Custodian.

Appointment
of inspectors,
agents and
employees.

- 3. (a) The Custodian may, with the approval in writing of the Minister of Finance, appoint inspectors of absentee property and delegate to any of them any of his powers, except the power to appoint inspectors. A notice of the appointment and scope of powers of every inspector shall be published by the Custodian in the State Records.
- (b) The Custodian may appoint agents for the management of held property on his behalf and fix and pay their remuneration.
- (c) The Custodian may appoint officials and other employees, whose status shall be the same as that of other State employees.

Vesting of 4. (a) Subject to the provisions of this Law -

Absentee

Property in

Custodian.

(1) All absentee property is hereby vested in the Custodian as from the day of publication of his appointment or the day on which it becomes absentee property, whichever is the later;

(2) Any right an absentee had in any property shall pass automatically to the Custodian at the time of the vesting of the property; the status of the Custodian shall be the same as was that of the owner of the property.

(b) The proceeds of vested property shall be dealt with like the vested property yielding the proceeds.

(c) Vested property -

(1) shall remain vested property so long as it does not become released property under section 28 or ceases to be absentee property under section 27;

(2) may be taken over by the Custodian wherever he may find it.

(d) If the Custodian acquires any property, not being absentee property at the time of the acquisition, in exchange for vested property, the acquired property shall become held property and be dealt with as was the property in exchange for which it was acquired.

Identity of
absentee
unknown.

5. The fact that the identity of an absentee is unknown shall not prevent his property from being absentee property, vested property, held property, or released property.

Handing over
property to
Custodian.

6. (a) A person having in his possession any absentee property is bound to hand it over to the Custodian.

(b) A person having a debt to, or any other obligation towards an absentee shall pay such debt or discharge such obligation to the Custodian.

Care of held
property,
expenses and
investment.

7. (a) The Custodian shall take care of held property, either by himself or through other persons having his consent.

(b) The Custodian may, either by himself or through other persons having his consent, incur any expenses and make any investment necessary for the care, maintenance, repair or development of held property or for other, similar purposes.

Absentees' business.

8. (a) The Custodian may carry on the management of a business on behalf of an absentee, whether or not he indicates that the business is managed by the Custodian, but he shall always have the right to sell or grant a lease of the whole or a part of the business, and -
- (1) if it is the business of an individual person - to wind it up;
 - (2) if it is the business of a partnership all the partners of which are absentees, or of a company all the directors or shareholders of which are absentees, or of a cooperative society all the members of which are absentees - to liquidate the partnership, company or cooperative society by order published in the State Records.
- (b) If the Custodian has published an order of liquidation under subsection (a) (2), the liquidation shall be conducted -
- (1) in the case of a partnership or company - as if the order of liquidation had been made by a competent court in accordance with part V of the Partnership Ordinance* or in accordance with part VI of the Companies Ordinance**, as the case may be;
 - (2) in the case of a cooperative society - as if the order of liquidation had been made by the Registrar of Cooperative Societies in accordance with section 47 of the Cooperative Societies Ordinance*** and in every case as if the Custodian had been appointed as a liquidator who shall not be replaced by another liquidator.

Payments to persons supported by absentees, and to absentees; payments for purposes of trust.

9. (a) If the Custodian is of the opinion that a particular person was supported by an absentee, he may grant allowances to that person out of the held property of that absentee, at such rates as in the opinion of the Custodian is necessary for the maintenance of that person, provided that those rates shall not exceed 50 pounds per month in respect of any such person.

* Laws of Palestine, Vol. II, cap. 103, p. 104 (English Edition).

** Laws of Palestine, Vol. I, cap. 22, p. 161 (English Edition).

*** Laws of Palestine, Vol. I, cap. 24, p. 360 (English Edition).

- (b) If several persons were supported by the same absentee, and there are, in the opinion of the Custodian, relations between them, the Custodian may pay the allowances to one of them for all of them.
 - (c) The Custodian may also grant an allowance as aforesaid to the absentee himself, if in the opinion of the Custodian such an allowance is necessary for the maintenance of the absentee.
 - (d) Income from vested property which is a trust may be expended by the Custodian, wholly or in part, for purposes for which the trust was established.
- Dispossession. 10.
- (a) If vested property of the category of immovable property is held by a person who, in the opinion of the Custodian, has no right to hold it, the Custodian may confirm this fact by a certificate, signed by him and describing the property. Such a certificate shall be dealt with like a judgement in favour of the Custodian for the dispossession of the holder of the vested property.
 - (b) (1) Upon the certificate being submitted to the Execution Office, the Execution Office shall serve a copy thereof on every holder of the property described therein, in the same manner in which a copy of a judgement is served on a judgement debtor, and shall proceed as it would in the execution of a judgement for dispossession. The dispossession shall be considered as an urgent matter within the meaning of section 38 of the Execution Law of the 11th May 1914, except that the time within which the holder of the property shall be required to relinquish it shall be seven days.
 - (2) If a person holding property as aforesaid contends that he has a right to hold it and proves to the satisfaction of the Chief Execution Officer that there is some substance in his contention, the Chief Execution Officer may stay the execution for such time as he may think fit, in order to enable the holder to apply to a competent court and establish his right.
 - (c) If a holder has applied to a competent court and proved his right to hold the property, the court shall cancel the certificate and the execution proceedings taken thereunder.

Demolition of 11. buildings and discontinuance of building operations.

- (a) If on any vested property, being of the category of immovable property, a building has been built, or is being built, without permission in writing from the Custodian, the Custodian may order that -
 - (1) any building operations on the property shall be discontinued within the time prescribed in the order;
 - (2) the building shall be demolished;
 - (3) the expenses involved in the enforcement of an order under paragraph (2) shall be paid to him by the persons responsible for the building operations or by the persons who carried them out.
- (b) An order under subsection (a) (1) shall be posted up in a conspicuous position on the property to which it relates, or as close to it as possible, and any person contravening the order shall be guilty of an offence and be dealt with as provided in section 35(a).
- (c) An order under subsection (a) (12) shall be submitted to the Execution Office, and the Execution Office shall serve a copy thereof on whomsoever it concerns, in the same manner in which a copy of a judgement is served on a judgement debtor, and shall proceed as it would in the execution of a demolition order.
- (d)
 - (1) Anyone aggrieved by an order under paragraph (1) or (2) of subsection (a) may appeal against it to the District Court in whose area of jurisdiction the property is situated, within seven days of the day on which the order comes to his knowledge.
 - (2) The appeal shall be lodged and determined by way of application by motion. The Custodian shall be respondent in the appeal.
 - (3) The lodging of an appeal shall not stay the enforcement of the order unless a judge of the District Court so orders.
 - (4) The District Court may confirm the order, with or without modifications, or cancel it.
 - (5) The decision of the District Court in an appeal under this section shall be final.
- (e) If the Custodian has ordered as specified in paragraph (2) of subsection (a), he may remove from the property, or retain under his control, any materials, tools and instruments found on the property, in order to clear the property or to secure reimbursement of his expenses in connexion with the enforcement of the order.

- Application of Rent Restrictions (Dwelling-Houses) Ordinance, 1940 and Rent Restrictions (Business Premises) Ordinance, 1941. 12.
- (f) "Building", in this section, has the same meaning as in section 2 of the Town Planning Ordinance, 1936*.
- (a) In the case of property to which the provisions of the Rent Restrictions (Dwelling-Houses) Ordinance, 1940** or the Rent Restrictions (Business Premises) Ordinance, 1941, are applicable, and which is vested in the Custodian, the person who held it immediately before the day of its vesting - whether under an agreement made before the owner of the property became an absentee or in virtue of the protection afforded by the provisions of one of those Ordinances - or his successor, shall be protected by those provisions even after the vesting of the property.
- (b) (1) If vested property, being a house or a part of a house, is let by the Custodian as a separate dwelling, within the meaning of section 3 of the Rent Restrictions (Dwelling Houses) Ordinance, 1940**, the provisions of that Ordinance shall apply to it subject to the provisions of subsections (c), (d) and (e) and with the following modifications and adaptations:
- (i) The rent fixed in the contract of lease, with such reduction (if any) as has been made under subsection (d), shall be deemed to be the basic rent;
- (ii) the words "rent at the agreed rate as modified by this Ordinance", appearing in section 8 (1) of that Ordinance, shall be deemed to refer to the rent fixed in the contract of lease, with such reduction (if any) as has been made under subsection (d) shall be deemed to be the maximum rent fixed under section 6 (1) of that Ordinance.
- (c) The Minister of Finance may, by regulations, prescribe rules to be followed in fixing the rent.
- (d) (1) A lessee aggrieved by the fixing of the rent in his contract of lease may appeal against it to the Magistrates' Court in whose area of jurisdiction the property is situated.

* Palestine Gazette No. 589 of 4.6.36, Suppl. I. p. 157 (English Edition)

Palestine Gazette No. 770 of 24.3.38, Suppl. I. p. 14 (English Edition)

** Palestine Gazette No. 1065 of 20.12.40, Suppl. 1, p. 289 (English Edition)

- (2) The appeal shall be lodged and determined by way of application by motion. The Custodian shall be respondent in the appeal.
- (3) The Magistrates' Court may confirm the rent fixed in the contract of lease, or reduce it, subject to such rules (if any) as have been prescribed under subsection (c) and having regard to all the circumstances of the case.
- (4) If vested property, being business premises within the meaning of the Rent Restrictions (Business Premises) Ordinance, 1941*, and situated in an area to which that Ordinance has been made applicable, is let by the Custodian, the provisions of that Ordinance shall apply to it subject to the provisions of subsections (c), (d) and (e), except that the rent fixed in the contract of lease, with such reduction (if any) as has been made under subsection (d), shall be deemed to be the maximum rent fixed under section 6 (1) of that Ordinance.
- (5) If the Magistrates' Court reduces the rent -
 - (i) it shall fix the date from which the reduction shall have effect, provided that this date shall not be earlier than the date of the lodging of the appeal;
 - (ii) it may order that any amount exceeding the rent so reduced which the lessee has paid in respect of a period subsequent to the date fixed under subparagraph (i), shall be refunded to the lessee.
- (6) The decision of the Magistrates' Court in an appeal under this subsection shall be final.
- (e) (1) If vested property is held by a person in virtue of the protection afforded by the provisions of the Rent Restrictions (Dwelling-Houses) Ordinance, 1940, or the Rent Restrictions (Business Premises) Ordinance, 1941, in accordance with subsection (b) and its vacation by the holder is, in the opinion of the Custodian, required for purposes of developing the place or area in which the property is situated, the Custodian may, after placing suitable alternative accommodation at the holder's

disposal, make an order of vacation in respect of the property. Such an order shall be dealt with like a judgement in favour of the Custodian for the dispossession of the holder of the vested property.

- (2) Upon the order being submitted to the Execution Office, the Execution Office shall serve a copy thereof on the holder of the property, in the same manner in which a copy of a judgement is served on a judgement debtor, and shall proceed as it would in the execution of a judgement for dispossession.
- (3)
 - (i) The holder of property in respect of which an order of vacation has been made under this subsection, may appeal against it to the District Court in whose area of jurisdiction the property is situated, within fourteen days of the day on which the order came to his knowledge, on the plea that no suitable alternative accommodation has been placed at his disposal.
 - (ii) The appeal shall be lodged and determined by way of application by motion. The Custodian shall be respondent in the appeal.
 - (iii) The lodging of an appeal shall stay any execution proceedings under paragraph (2).
 - (iv) The District Court may confirm the order, with or without modifications, or cancel it.
 - (v) The decision of the District Court in an appeal under this paragraph shall be final.

Cultivators
(Protection)
Ordinance not
to apply.

- 13. A person holding vested property, being a holding within the meaning of the Cultivators (Protection) Ordinance*, shall not be protected by the provisions of that Ordinance unless he held it, immediately before the vesting of the property in the Custodian, by virtue of the protection afforded by those provisions.

* Laws of Palestine, Vol. I, cap 40, p. 506 (English Edition)

- Cultivator's right to the produce. 14. If the vested property is a grove, vineyard or other plantation, or any other agricultural land, and the Custodian has handed it over to a person for the purpose of cultivation that person shall be entitled to enjoy the produce in accordance with the terms stipulated between him and the Custodian and his right shall have priority over any charge created in favour of another person theretofore, but any such charge shall extend also to the income due to the Custodian from that property.
- Charge on vested property and attachment. 15. (a) The fact that any property becomes absentee property or vested property shall not invalidate any mortgage, pledge or other charge, or any right of tenure or use, legally created on or in it theretofore.
- (b) No execution proceedings shall be taken, and no act under section 14 of the Land Transfer Ordinance* shall be done, in respect of vested property, and no recourse shall be had to sections 8, 9 or 10 of the Law on the Partition of Immovable Property of the 14th Muharram, 1332, in respect of vested property, except by permission in writing from the Custodian or, if such permission, having been applied for after the 13th Nisan, 5710 (31st March 1950), is not given within a year of the day on which it was applied for, at the expiration of the year.
- (c) An attachment imposed on absentee property, whether before or after it becomes vested property, shall not prevent the Custodian from divesting himself of the property under this Law; and if he has so divested himself, the attachment shall apply, instead of to the property, to the consideration which he has received for it.
- Amount of responsibility of Custodian and persons acting under his instructions. 16. If the Custodian or a person acting, directly or indirectly, under his instructions, has taken over any property, or done any act in respect of any property, in the honest and reasonable, but mistaken, belief that the property is absentee property, the Custodian or that person shall not bear any civil responsibility therefore beyond that which he would bear if the property had at the time been absentee property.

* Laws of Palestine, Vol. II, cap. 81, p. 881 (English Edition);
Palestine Gazette No. 782 of 12.5.38, Suppl. I, p. 28 (English Edition);
Palestine Gazette No. 938 of 22.9.39, Suppl. I, p. 107 (English Edition).

- Validity of transactions. 17. Any transaction made in good faith between the Custodian and another person in respect of any property which the Custodian considered at the time of the transaction to be vested property, shall not be invalidated and shall remain in force even if it is proved that the property was not at the time vested property.
- Return of property erroneously considered vested property. 18. (a) If a competent court decides that some property which the Custodian considered to be vested property is not vested property, the Custodian shall, subject to the provisions of section 17, hand over the property or the consideration which he has received for it, as the case may be, to such person as the court may in its decision direct or, if no such direction has been given by the court, to the person from whom the Custodian received the property; if that person is not known to him, the Custodian shall apply to a competent Court for directions.
- (b) If the Custodian ascertains that some property which he considered to be vested property is not vested property, he may, subject to the provisions of section 17, hand over the property or the consideration which he has received for it, as the case may be, to the person who in the opinion of the Custodian is entitled to hold the property of the consideration.
- Limitation of powers of Custodian. 19. (a) If the vested property is of the category of immovable property, the Custodian shall not -
- (1) sell or otherwise transfer the right of ownership thereof: Provided that if a Development Authority is established under a Law of the Knesset, it shall be lawful for the Custodian to sell the property to that Development Authority at a price not less than its official value;
- (2) grant a lease of the property for a term exceeding six years, except -
- (i) to the said Development Authority; and on leasing property to it, the Custodian shall stipulate in the contract of lease that the annual rent payable by it shall not be less than an amount equal to 8 per cent of the official value of the property; or
- (ii) to another lessee who undertakes in the contract of lease to cultivate or develop the property to the satisfaction of the Custodian.

- (b) A voluntary partition of immovable property held in musba' shall not be considered, for the purposes of subsection (a), as a transfer of the right of ownership of immovable property.
- (c) If the Custodian grants a lease of any property for a term exceeding three years, the provisions of the Land Transfer Ordinance* shall not apply to the lease; but the Custodian may apply for registration of the lease under that Ordinance.
- (d) "Official value", in this section, means -
- (1) in respect of property which was chargeable, in the financial year 1947-1948, with urban property tax under the Urban Property Tax Ordinance, 1940** - an amount $16\frac{2}{3}$ times the net annual value fixed for it, for the purposes of that Ordinance, in the last assessment before the 6th Iyar, 5708 (15th May 1948);
 - (2) in respect of property which was chargeable, in the financial year 1947-1948, with rural property tax under the Rural Property Tax Ordinance, 1942*** -
 - (i) If it is an industrial building within the meaning of that Ordinance - an amount $16\frac{2}{3}$ times the net annual value fixed for it, for the purposes of that Ordinance, in the last assessment before the 6th Iyar, 5708 (15th May 1948);
 - (ii) If it belongs to category 1 set out in the schedule to that Ordinance - 300 times the amount of the tax charged on it in respect of that financial year, and if it belongs to category 2, 3, 4, or 17 set out in the Schedule to that Ordinance - 300 times the amount of the tax which would have been charged on it in respect of that financial year, had it belonged to category 1

* Laws of Palestine Vol. II, cap. 81, p. 881 (English Edition)

** Palestine Gazette No. 1065 of 20.12.40, Suppl. I. p. 275 (English Edition)

*** Palestine Gazette No. 1182 of 10.3.42, Suppl. I. p. 11 (English Edition)

(iii) IF IT BELONGS TO ONE OF THE OTHER categories set out in the Schedule to that Ordinance - 75 times the amount of the tax which would have been charged on it in respect of that financial year;

(3) in respect of other property - an amount 16-2/3 times the net annual value which would have been fixed for it in the financial year 1947-1948 for the purposes of the Urban Property Tax Ordinance 1940* had it been chargeable, in respect of that financial year, to urban property tax under that Ordinance:

Provided that the Minister of Finance may reduce any of the rates specified in this subsection in respect of property the possibilities of using which are, in the opinion of the Minister of Finance, limited owing to damage or neglect or for any other similar reason.

(e) If the vested property is a voidable charge, the Custodian may only void it for some consideration or in accordance with the conditions of the charge; if it is a waivable right, the Custodian may only waive it for some consideration.

(f) Nothing in this Law shall derogate from the powers of the Minister of Agriculture under the Emergency Regulations (Cultivation of Waste Lands) 5708-1948**.

Debts of
absentee
and actions
in connexion
therewith.

20. (a) The Custodian shall not pay a debt due from an absentee or in connexion with any absentee property, or discharge any other obligation incurred by an absentee, except -
- (1) if it is a debt in respect of taxes, rates or other similar obligatory charges, or
 - (2) if the debt or obligation is proved to the full satisfaction of the Custodian, or
 - (3) under a judgement of a competent court, and to the extent that the held property of that absentee is sufficient for the purpose.

* Palestine Gazette No. 1065 of 20.12.40, Suppl. I, p. 215 (English Edition)

** O.G. No. 41 of the 6th Tevet, 5709 (7.1.49) Suppl. I, p. 94

- (b) A court hearing a claim for a debt due from an absentee or in connexion with any property of an absentee or a claim for the discharge of any other obligation incurred by an absentee may, notwithstanding anything contained in any other law -
- (1) postpone from time to time the hearing of the claim in order to make possible the submission of evidence as complete as possible;
 - (2) strike out or dismiss the claim if it is not proved beyond all reasonable doubt.
- (c) The Minister of Finance may, by regulations, determine categories of vested immovable property in respect of which the Custodian shall have the right to postpone the payment of all or any taxes, rates or other similar obligatory charges due on such immovable property, for such period and on such conditions as the Custodian, with the approval of the Minister of Finance, may determine in respect of each case.
21. (a) A person or body of persons holding, managing or enjoying the benefit of vested property, is bound to deliver to the Custodian a written notification stating the particulars of the vested property, within thirty days of the day of publication of the Custodian's appointment or, if the property comes to be held or managed or the benefit enjoyed by him or it - otherwise than with the consent of the Custodian - after the day of publication, within thirty days of the day on which it comes to be so held or managed or the benefit thereof enjoyed, or, if the property becomes vested property after the day of publication, - within thirty days of the day of its vesting.
- (b) A company registered in the area of Israel or having therein an office for the transfer of shares, or an office for the registration of shares, is bound to deliver to the Custodian, within thirty days of the day of publication of his appointment, a written notification stating full particulars of all securities (including shares, stocks, debenture stock and bonds) issued by the company and registered in the name of an absentee or to his credit, or held on his behalf or by him; if such securities relate as aforesaid to a person who becomes an absentee after the day of publication of the Custodian's appointment, the company is bound to deliver to the Custodian the said notification within thirty days of the day on which that person becomes an absentee.

Duty to
notify
absentee
property.

- (c) If a partnership has among its partners an absentee or absentees, the partnership and each of the partners are bound to deliver to the Custodian, within thirty days of the day of publication of his appointment, a written notification stating full particulars of the share of each absentee partner in the partnership and of his other rights in respect of it and in respect of the partners; if a partner becomes an absentee after the day of publication of the Custodian's appointment, the partnership and each of the partners are bound to deliver the said notification within thirty days of the day on which the partner becomes an absentee.
- (d) Anyone bound under this section to deliver to the Custodian a written notification is also bound to deliver to him from time to time returns, accounts or other documents or information, as the Custodian may from time to time demand, in connexion with the property in respect of which he is bound to deliver a notification..
- (e) If the Custodian demands of a person to deliver to him, within a time prescribed in the demand, any returns, accounts or other documents or information, as specified in sub-section (d), that person is bound to comply with everything contained in the demand.
- (f) Anyone who is bound under this section to deliver a notification before the 13th Nisan, 5710 (31st March, 1950) and does not discharge his obligation, may deliver the notification until the 13th Iyar, 5710 (30th April, 1950); if he so delivers it, he shall not be prosecuted for not discharging the obligation.

Prohibition : 22.
of Acts.

- (a) No person shall, without the written consent of the Custodian -
- (1) hold, manage or otherwise deal with, or relinquish or transfer, any vested property or hand over vested property to any person other than the Custodian;
 - (2) pay to any person other than the Custodian any debt, or discharge to any person other than the Custodian any other obligation, the right of action in respect of which is vested in the Custodian;

- (3) act under a power of attorney or other authorities of an absentee principal, whether the principal became an absentee before or after the grant of the power of attorney or other authorization; however, an advocate duly authorized in that behalf by an absentee who is at the time in the area of Israel may represent that absentee in any legal proceeding; if the absentee is not at the time in the area of Israel, his representation by an advocate in any legal proceeding is subject to the written consent of the Attorney-General of the Government of Israel.
- (b) Consent under this section may be given before or after the fact.
- (c) An act done in contravention of this section shall be null and void; if it is a transfer of a bill, then any subsequent transfer shall likewise be void, notwithstanding anything contained in any other law.
- (d) An act in respect of vested property may only be registered in the Land Register with the written permission of the Custodian, given before the registration, or under a judgment of a competent court. If a registration has been effected in contravention of this provision the Court shall, on the application of the Custodian, order that this and any subsequent registration shall be deleted.
- (e) If a person contends that an act was done in respect of some property before that property became vested property or in respect of some person before that person became an absentee or that an act was done with the consent or written permission of the Custodian, the onus of proving his contention shall rest upon him.
- Transfers to void. 23. (a) (1) A transfer or handing-over of property to an absentee or to another person in favour of an absentee, effected within the period between the 21st Adar Bet, 5708 (1st April, 1948) and the day of publication of the Custodian's appointment with intent to smuggle the whole or any part of the property, or the whole or any part of the consideration received therefore to a part of Palestine in which at the time of the transfer of handing-over was or is outside the area of Israel, or to the Lebanon, Egypt, Syria, Saudi-Arabia, Trans-Jordan, Iraq or the Yemen, shall be null and void.

- (2) A transfer or handing-over of property from the hands of an absentee to another person, effected within the period specified in paragraph (1) for a fictitious or inadequate consideration or without a consideration, or under duress, shall be null and void.
- (b) Property transferred or handed over as specified in sub-section (a) shall be considered as vested property, and any person who has transferred or handed over or received the property shall be answerable to the Custodian for the property or its value.
- (c) The Custodian may demand in writing from any person whom he considers answerable under sub-section (b) to hand over to him the property or its value, and that person shall comply with the demand, but he may appeal against it to the District Court of Jerusalem within thirty days of the day on which the demand is received.
- (d) The appeal shall be lodged and determined by way of application by motion. The Custodian shall be respondent in the appeal.
- (e) If the District Court finds that the demand of the Custodian is not justified in law or in fact, it shall annul the demand and declare its effects to be null and void.
- (f) Any party aggrieved by a decision of the District Court under this section may appeal against it to the Supreme Court sitting as a Court of Civil Appeal, and the provisions of the Civil Procedure Rules, 1938*, shall apply as if the decision of the District Court were a judgment of that court in a civil action in which the party appealing against the demand is the plaintiff and the Custodian the defendant.
- (g) If a person contends that the transfer or handing-over of property to an absentee or to another person in favour of an absentee, within the period specified in sub-section (a)(1), was not effected with intent to smuggle the whole or a part of a property, or the whole or a part of the consideration received therefore, as specified in that sub-section, or that the transfer or handing-over of property from the hands of an absentee to another person within the said period was effected for full consideration or not under duress, the onus of proving his contention shall rest upon him.

- Provisions applying 24. (a) If a notification concerning an absentee partner to partnership where one of the partners is an absentee.
- (b) After the Custodian has given notice as provided in sub-section (a) - but not before then - he may participate in the management of the business of the partnership in place of the absentee partner.
 - (c) From the day of the delivery of a notification to the Custodian under section 21 (c) until the receipt of a notice of the Custodian under sub-section (a), the partners who are not absentees may manage the business of the partnership in the usual way..
 - (d) If no notification has been delivered under section 21 (c) concerning an absentee partner, the Custodian may at any time, after giving notice to that effect to the other partners, participate in the management of the business of the partnership.
 - (e) As soon as the Custodian is entitled to participate in the management of the business of the partnership, he may - irrespective of the terms of the partnership contract - leave the partnership and receive the share of the absentee partner from the partners who are not absentees or, failing their consent, dissolve the partnership by giving notice to those partners; the notice shall be dealt with like notice given under section 39 (1)(c) of the Partnership Ordinance*.
 - (f) The Custodian shall in no case be liable for debts or obligations of the partnership, except to the extent of the value of the held property of the absentee partner.
- Management of joint property. 25. If a part of any property of the category of immovable property is vested in the Custodian, the Custodian shall be entitled to participate in the management of the whole of the property, together with the same rights as the absentee had.

* Laws of Palestine Vol. II, cap. 103, p. 1037 (English Edition).

Property of 26.
an absentee
which is a bill.

If the property of an absentee is a bill -

- (1) it shall be vested in the Custodian even if it is not delivered to him and does not come into his hands in any other manner;
- (2) the Custodian shall be exempt from presenting the bill for acceptance or payment, from giving notice to dishonour and from protesting against non-acceptance or non-payment;
- (3) non-presentation or non-notice or non-protest in pursuance of paragraph (2) shall not in itself release any party to the bill from any obligation thereunder.

Confirmation 27.
to non-absentee.

- (a) If the Custodian is of the opinion that a particular person who might be defined as an absentee under section 1(b)(4)(iii) left his place of residence -

- (1) for fear that the enemies of Israel might harm him, or
- (2) not in consequence of military operations or the fear thereof,

the Custodian shall give to that person, on his application, a written confirmation that he is not an absentee.

- (b) The Custodian may, at his sole discretion, but subject to the provisions of section 29, give a written confirmation that a particular person, being at the time lawfully in the area of Israel, is not an absentee, even though he might be defined as an absentee, if the Custodian is of the opinion that such person is capable of managing his property efficiently and that by so doing he will not be aiding the enemies of Israel.
- (c) A confirmation under this section shall have effect from the day on which it is given, unless it is stated therein that it shall have effect from an earlier or a later date.
- (d) From the day on which a confirmation under this section takes effect, the property of the person concerned shall cease to be absentee property, and if his property includes held property, the Custodian shall hand over the held property to the person who in his opinion is entitled to hold it.

Release of 28.
vested property.

- (a) The Custodian may, at his sole discretion, but subject to the provisions of section 29, release vested property by certificate signed by him and upon his having done so, that property shall cease to be absentee property, and any right a person had in it immediately before it was vested in the Custodian shall revert to that person or to his successor.
- (b) The Custodian may stipulate with a person requesting him to exercise his power under sub-section (a) that at the time of the giving of a certificate as aforesaid, some other property shall become held property. If that person agrees to the stipulation and the certificate has been given as aforesaid, the other property shall become held property.
- (c) If the Custodian sells vested property, the property sold shall become released property and pass into the ownership of the purchaser, and the consideration received by the Custodian shall become held property; if the vested property is a voidable charge and the Custodian voids it for some consideration, or if it is a waivable right and the Custodian waives it for some consideration, the consideration shall become held property at the time of the voiding or waiving, as the case may be.

Recommendations of
committee. 29.

The Custodian shall not exercise his powers under section 27 (b) or section 28 unless it is recommended, in respect of each case or a particular class of cases, by a special committee to be appointed by the Government. A notice of the appointment of such a committee shall be published in the State Records.

Rules of
evidence. 30.

- (a) If the Custodian certifies in writing that a person or body of persons is an absentee, that person or body of persons shall, so long as the contrary is not proved, be considered to be an absentee.
- (b) If the Custodian certifies in writing that certain property is absentee property, that property shall, so long as the contrary is not proved, be considered to be absentee property.
- (c) A certificate of the Minister of Defence that a place in Palestine was at a certain time held by forces which sought to prevent the establishment of the State of Israel or brought against it after its establishment, shall be conclusive evidence of the correctness of its contents.

- (d) A copy certified by the Custodian of an entry in his books or official files or of any other document in his possession, shall be accepted, in any action or other legal proceeding as prima facie evidence of the correctness of its contents.
- (e) A written confirmation by the Custodian concerning matters within the scope of his functions shall, unless the court otherwise directs, be accepted in any action or other legal proceeding as prima facie evidence of the facts stated in the confirmation.
- (f) The Custodian and his inspectors, agents and officials are not bound to produce in any action or other legal proceeding any book, file or other document the contents of which can be proved in accordance with this section and are not bound to testify on matters which can be proved through a confirmation of the Custodian as specified in this section, except if the court otherwise directs.
- (g) A certificate, confirmation, permit or any other document purporting to be signed, issued, given or delivered by the Minister of Defence, the Minister of Finance or the Custodian shall be considered, so long as the contrary is not proved, to be so signed, issued, given or delivered.
- (h) The plea that a particular person is not an absentee within the meaning of section 1(b)(1)(iii) by reason only that he had no control over the causes for which he left his place of residence as specified in that section, shall not be heard.

Plea that property is absentee property reserved to Custodian.

31.

A court shall not entertain, in any civil proceeding, the plea that some property, being the subject of litigation, is absentee property, except if the Custodian is a party to the proceeding. If this plea is made where the Custodian is not a party, and the court finds that there is some substance in it, the court shall invite the Custodian to join the case as a party. If the Custodian does so, the court shall consider the plea; if he does not, the court shall deem the plea to be invalid.

Remuneration of Custodian and Expenses.

32.

- (a) Upon the transfer of any property under this Law or the cessation of any property from being absentee property under section 27 or the release of any property under section 28, a remuneration of 4 per cent of the value of the property shall be due to the State from the Absentee; but the Minister of Finance may, in respect of a particular case or a particular class of cases, reduce or waive the remuneration.

Sold by
Custodian

- (b) For the purpose of fixing the remuneration, there shall be considered as the value of property of the category of immovable property the official value of that property within the meaning of section 19, and as the value of other property, the price which in the opinion of the Custodian it would have been possible to obtain for it if, at the time of fixing the remuneration, it had been sold on the free market by a willing seller to a willing buyer; if the property (whether it is of the category of immovable property or other property) the price at which it is actually sold shall be considered as its value.
- (c) Besides the remuneration, there shall be due to the State from the absentee or the owner of the property, as the case may be, any expenses (including travelling expenses, costs of legal proceedings, the remuneration of advocates, agents or other persons employed by the Custodian in connexion with the property) incurred by the Custodian or with his consent, or which he has undertaken to incur, for the purpose of safeguarding, maintaining, repairing or developing any property of an absentee, or property which the Custodian considers to be property of an absentee, or for other similar purposes, plus interest at the rate of 6 per cent per annum from the day on which the expenses were incurred.
- (d) The payments due under this section shall be a charge on all the property of the absentee or the owner of the property, as the case may be, which charge shall have priority over any other charge; if that property includes moneys, the Custodian may deduct therefrom the amount of the payments.
- (e) The Custodian may withhold the grant of a confirmation or certificate under section 27 or 28 from any person until all payments due from that person under this section have been discharged.

Fees

33.

The Minister of Finance may, by order published in the State Records, prescribe fees payable in respect of certificates, confirmations, permits or other documents, or any other acts, of the Custodian under this Law.

Dealing with 34.
absentees'
property before
appointment of
Custodian.

- (a) If the Minister of Finance is of the opinion that a person who dealt with absentees' property or with property which he had reason to consider as absentees' property, within the period between the 16th Kislev, 5708 (29 November, 1947) and the day of publication of the Custodian's appointment, did so to the best of his ability, in good faith, and with the intention of handing over the property dealt with by him, and that such person handed over to the Custodian, at or about the time of the publication of his appointment the property which was in his possession, the Minister of Finance may give confirmation to that effect by notice published in the State Records.

Dealing with
absentees'
property before
appointment of
Custodian.

- (b) The dealings of a person in respect of whom the Minister of Finance publishes a notice under sub-section (a), shall be considered lawful and justified in all respects; any act forming part of those dealings and done by that person, or by another person upon his instructions, shall not be a basis for a charge or ground for a claim against that person or the other person, unless it is proved, beyond all reasonable doubt, that the accused or defendant committed the act with malicious intent or through gross negligence.

Offences. 35.

- (a) A person who does one of the following:
- (1) contravenes one of the provisions of section 22 (a);
 - (2) contravenes an order under section 11;
 - (3) conceals absentee property from the Custodian or fails to hand over to him property which he is bound to hand over to him;
 - (4) Wilfully delivers to the Custodian or to one of his inspectors, agents or officials a declaration or any information which is false in a material particular, shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such penalties.
- (b) A person who does one of the following:
- (1) fails to deliver to the Custodian or to one of his inspectors, agents or officials a return, account, notice or other document, or any information, which he is bound to deliver under this Law;

- (2) negligently delivers to the Custodian or to one of his inspectors, agents or officials a declaration or any information which is false in a material particular;
 - (3) wilfully obstructs the Custodian or one of his inspectors, agents or officials in the exercise of any of his functions under this Law, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds or to both such penalties.
- (c) If a body of persons is guilty of an offence under this section, then any person who at the time of the commission of the offence was the head, or a secretary, trustee, director or manager, or the chief or sole accountant of that body, shall likewise be guilty thereof, unless he proves that it was committed without his knowledge or that he took all appropriate steps to prevent its commission.
- (d) An action in respect of an offence under this section may only be brought by the Attorney General of the Government of Israel or with his written consent.
- Notices, etc. 36. (a) Any notice, demand or direction which the Custodian is bound or authorized to give or make under this Law - except notices, demands or directions required to be published in the State Records - may be sent by registered post to the person to whom it is addressed; and if so sent, it shall be considered to have been delivered to the person at the expiration of 10 days from the day on which it was delivered to the Post Office for despatch, unless it is proved that it came to his hands before then.
- (b) The Custodian may deliver any notice, demand or direction permitted to be delivered in the manner provided in sub-section (a), by publishing it in the State Records, and he is not bound to indicate in the notice, demand or direction the name of the person to whom it is addressed.
- (c) Any notice, demand or direction under this Law published in the State Records shall be considered to have been delivered to all concerned on the day of publication.

- Replacement of Regulations. 37. The provisions of this Law shall replace the provisions of the Emergency Regulations (Property of Absentees 5709-1948*, from the 13th Nisan, 5710 (31st March) but this Law shall be read as one with those Regulations and for this purpose, those Regulations shall be deemed to be a Law amended by this Law.
- Validation of Acts. 38. An act done before the 13th Nisan, 5710 (31st March) which would have been validly done if, at the time it was done, the text of this Law as it stands on the 13th Nisan, 5710 (31st March, 1950), had been in force shall be deemed to have been validly done.
- Implementation. 39. The Minister of Finance is charged with the implementation of this Law and may make regulations as to any matter relating to its implementation.

DAVID BEN-GURION

ELIEZER KAPLAN

HEAD OF THE GOVERNMENT

MINISTER OF FINANCE

HAIM WEIZMANN

PRESIDENT OF THE STATE

* O.G. No. 37 of 10th Kislev, 5709 (12.12.48),
Suppl. II, p. 50.

EXTRACT - LAWS OF THE STATE OF ISRAEL

VOL. V LAWS, 5711-1950/51 PAGE 63

"No. 29

Amendment
of Law.

ABSENTEES' PROPERTY (AMENDMENT) LAW, 5711-1951*

1. The Absentees' Property Law, 5710-1950**, shall be amended as follows:

(a) in section 12 -

(1) sub-section (c) shall be replaced by the following sub-section:

"(c) (1) The Minister of Finance may prescribe by regulations, with the approval of the Finance Committee of the Knesset, rules to be followed in fixing the rent. Upon such rules being prescribed, the Custodian may change the rent fixed by any contract of lease so as to adapt it to those rules; provided that the change shall not become effective before the expiration of the period of lease or before the 24th Adar Beth, 5711 (1st April, 1951), whichever is the later date. For the purpose of this section, a change of rent as aforesaid shall be deemed to be the fixing of the rent by the contract of lease, and the rent so changed shall be deemed to be the rent fixed by the contract of lease.

(2) The rent fixed for any property under rules as aforesaid, as reduced under sub-section (d) (if so reduced), shall for all intents and purposes be treated as the standard rent of that property within the meaning of the Rent Restrictions (Dwelling-Houses) Ordinance, 1940***, or as the maximum rent of that property fixed under section 6 (1) of the Rent Restrictions (Business Premises) Ordinance, 1941****, as the case may be.";

* Passed by the Knesset on the 28th Adar Alef, 5711 (6th March, 1951) and published in Sefer He-Chukkim No. 70 of the 7th Adar Beth, 5711 (15th March, 1951), p. 70; The Bill and an Explanatory Note were published in Hatza'ot Chok No. 54 of the 2nd Cheshvan, 5711 (13th October, 1950) p.14.

** Sefer Ha-Chukkim No. 37 of the 2nd Nisan, 711 (20th March, 1950) p. 86.

*** P.G. No. 1065 of the 20th December 1940, Suppl. I, p. 289 (English Edition).

**** P.G. No. 1086 of the 31st March, 1941, Suppl. I, p. 19 (English Edition).

(b) The following section shall be added after section 28:

28 A. Notwithstanding anything contained in this Law, property which is not absentees' property on the day of coming into force of the Absentees' Property (Amendment) Law, 5711-1951, shall not become absentees' property by reason only that an absentee, being at the time lawfully in the area of Israel, becomes its legal owner, or enjoys its benefit, or holds it, after that day."

HAIM WEIZMANN

PRESIDENT OF THE STATE

DAVID BEN-GURION

PRIME MINISTER

ELIEZER KAPLAN

MINISTER OF FINANCE