5. REPLY SUBMITTED BY THE GOVERNMENT OF THE PRINCIPALITY OF LIECHTENSTEIN

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REPLY TO COUNTER-MEMORIAL OF GUATEMALA

The Government of Liechtenstein, in pursuance of the Order of the Court dated 8 May 1954, submits the following Reply to the Countermemorial of the Government of Guatemala.

Part I. *Introduction*

1. Before proceeding to reply in detail, the Government of Liechtenstein desires to make certain general observations. In the first place, the Court will perceive that the basic facts of which Liechtenstein complains in this case are not in dispute. The Government of Guatemala does not in its Counter-memorial deny the arrest, detention and expulsion of Mr. Nottebohm ; the refusal of the Guatemalan authorities to re-admit him to the country ; and the sequestration and later expropriation of the properties of the firm of Nottebohm Brothers and of Mr. Nottebohm. But Guatemala pleads that none of these acts or measures constituted breaches of international law so as to engage the international responsibility of Guatemala ; and further contests the quantification of damages by Liechtenstein and the valuation of Mr. Nottebohm's property which underlies it. Guatemala therefore largely admits the treatment of Mr. Nottebohm and his property, of which Liechtenstein complains, though it pleads in defence that this treatment was justifiable and not unlawful and that the damages claimed are in any event exaggerated.

2. In the second place, the Court cannot fail to be struck by the fact that, while the ground for this admitted treatment of Mr. Nottebohm and his property was the fear that his associations or intent might be hostile or dangerous to Guatemala in her war with Germany, the Guatemalan authorities acted solely upon suspicion and without proof. At no time, either when the steps against Mr. Nottebohm and his property were being taken or in its exchanges upon the matter with the Government of Liechtenstein or in its Countermemorial, has the Government of Guatemala adduced any evidence that Mr. Nottebohm was in fact hostile to Guatemala or that in his associations or the conduct of his business he endangered wilfully or unwittingly the national security or interests of Guatemala. It is indeed remarkable that Guatemala should visit upon an individual the most extreme penalties upon a bare suspicion and should still further persist in this course long after any ground for this suspicion has been removed.

3. But, while admitting the basic facts underlying Liechtenstein's claim, Guatemala contests this claim in law and further raises a number of issues which go to its admissibility before the Court, and to these issues the Government of Liechtenstein will now turn.

Part II. *Previous Negotiations*

General Observations

4. Guatemala contends that Liechtenstein's claim in respect of Mr. Nottebohm is not admissible before the Court on three grounds : the alleged lack of prior diplomatic negotiations over the claim ; the alleged absence of any genuine tie of nationality between Mr. Nottebohm and Liechtenstein ; and the alleged non-exhaustion by Mr. Nottebohm of remedies available to him in Guatemala. The first and last grounds appear to be in some degree alternative to the second ; for if Guatemala were to establish the second ground to the satisfaction of the Court the claim would be inadmissible *in limine* and the other grounds would be irrelevant. It is for this reason that Guatemala might have been expected to invoke the second ground by way of a preliminary objection at the same time as she raised her objection to the jurisdiction of the Court, which it dismissed on 18 November 1953.

5. Further, the first and second grounds have this in common that they put in issue the *locus standi* of Liechtenstein before the Court, for they raise questions both of the status of Liechtenstein in international relations and of her right to make an international claim in respect of Mr. Nottebohm before this Court.

6. It will therefore be convenient to begin by clarifying Liechtenstein's status in international relations. Liechtenstein is an independent sovereign State ; and while it is not contested that the diplomatic and consular protection of Liechtenstein nationals is in practice entrusted to the representatives of Switzerland, it is a misconception in paragraph 7 of the Counter-memorial to suppose that any diplomatic or consular intervention by Switzerland on behalf of Liechtenstein must be conducted in the name of Switzerland and not of Liechtenstein itself. Further, it cannot be disputed that in the absence of diplomatic representatives, this right of protection or intervention is exercised by consular officials (see also Guatemalan Law concerning Aliens of 25th January 1926, s. 83 ; Counter-memorial, Annex 17). Hence there was no necessity or requirement as suggested in paragraph 8 of the Counter-memorial for communications between Liechtenstein and Guatemala to be channelled through Paris. Indeed the facts that the Guatemalan Minister to France in Paris was also the accredited representative of Guatemala in Switzerland and that Switzerland was not represented in Guatemala by a diplomatic mission but only by a consular officer are

irrelevant ; though, as will be seen, the Swiss Government in fact made repeated interventions both through the consular officer in Guatemala and through its diplomatic mission in Paris.

Further, Liechtenstein as an independent State has precisely the same right and power to confer its nationality upon aliens by naturalization as every other sovereign State.

The Facts

7. Now, as to the first ground of the alleged non-admissibility of the claim, it will be convenient to set out first the facts and then the rules which are in the opinion of the Government of Liechtenstein applicable.

As early as December 20th, 1944, the Ministry of Foreign Affairs of Guatemala was engaged in an exchange of notes with the Swiss Government acting, *inter alia*, on behalf of Mr. Nottebohm, through its consul in Guatemala (Annex 1). In these exchanges the Government of Guatemala refused to recognize the validity, in international law, of Mr. Nottebohm's naturalization in Liechtenstein (Annex 2). This exchange of notes took place upon the initiative of the Swiss Political Department (Annex 1). In addition, the Swiss Legation in Paris, using precisely those channels which in the opinion of the Government of Guatemala should have been employed (Counter-memorial para. 8), intervened with the Guatemalan Minister in Paris on behalf of Mr. Nottebohm and asked for the release of his property in Guatemala on the ground that he had validly acquired Liechtenstein nationality before Guatemala had declared war against Germany and was therefore entitled to be treated as a neutral (Annex 3).

Further, the Government of Liechtenstein addressed a note to the Government of Guatemala dated 6th July 1951 (Application, Annex 1), which was delivered to the Guatemalan Ministry of Foreign Affairs by the Swiss Consul of Guatemala. The receipt of this note was acknowledged by the Guatemalan Ministry of Foreign Affairs. A second note dated 24 October 1951 was delivered to the Government of Guatemala by the same channels (Application, Annex 3).

8. The Swiss and Liechtenstein authorities, in the course of their intervention on behalf of Mr. Nottebohm, never left any doubt that he was a national of Liechtenstein ; that an international claim was being made in respect of him by Liechtenstein ; and that a settlement or an offer of serious negotiation for a settlement were being sought from Guatemala.

The Government of Liechtenstein has always been ready and willing to enter into such negotiations. The delay in the prosecution of the present proceedings is due solely to its desire to meet the professed wishes of the Government of Guatemala to discuss a settlement. However, despite its protestations, the Government of

Guatemala has failed to pursue the course of negotiated settlement which was always open to it. On the contrary, it has persistently rejected the representations made between December 1944 and April 1951 by the Government of Liechtenstein through Swiss diplomatic and consular channels, and has ignored the notes presented in July 1951 and October 1951, despite the warning which they contained that Liechtenstein would be compelled to bring the matter before this Court [1].

The Law

9. In the submission of the Government of Liechtenstein, these facts do not give any ground in law for holding that Liechtenstein's present claim is inadmissible before the Court.

While the reasoning of Section 1 of the Counter-memorial is not wholly clear the Guatemalan Government appears to be saying either that there is in the absence of prior diplomatic negotiations no dispute between Guatemala and Liechtenstein within the meaning of Article 36 (2) of the Statute of the Court, or that prior diplomatic negotiations are a condition precedent to the reference of a dispute to this Court, and that this condition has not been satisfied in this case. Neither position is tenable.

10. The Permanent Court has said :

".... a difference of opinion does exist as soon as one of the Governments concerned points out that the attitude adopted by the other conflicts with its own views. Even if .... the existence of a definite dispute were necessary, *this condition could at any time be fulfilled by means of unilateral action on the part of the applicant party*. And the Court cannot allow itself to be hampered by a mere defect of form, the removal of which depends solely on the Party concerned" (*German Interests in Polish Upper Silesia*, P.C.I.J., Ser. A, No. 6, p. 14). Again the Court has said : "The mere denial of the existence of a dispute does not prove its non-existence" (*Peace Treaties (First Phase), Advisory Opinion*, I.C.J. Reports 1950, p. 74).

In the present case there is no political dispute between the parties ; there is indeed no substantial dispute as to the basic facts of which Liechtenstein complains ; but there is a dispute as to the legal character and consequences of those basic facts, and because these facts are largely admitted, the legal dispute is clearly defined. Since 1944 there has been a difference of opinion, manifested in the diplomatic exchanges between Liechtenstein and Guatemala,

[1] Subsequently, by letter of 9 September 1952, the Minister of Foreign Affairs of Guatemala indicated that he was prepared to begin negotiations. This invitation was accepted by the Government of Liechtenstein. From October 1952 onwards the representative of the Government of Liechtenstein met the representatives of the Government of Guatemala on several occasions and there was an increasing hope of a reasonable solution. The last occasion was on 6 August 1953 ; since that time nothing further was heard from the Government of Guatemala.

as to Mr. Nottebohm's entitlement to the release of his property from sequestration and expropriation, and as to Guatemala's right to expel him and to refuse later to re-admit him. There could hardly be a clearer case of a legal dispute between two States. Indeed, the fact that the Guatemalan Government chose to ignore the two notes presented by the Government of Liechtenstein in July and October 1951 would alone create a dispute between the parties within the meaning of the unqualified language of Article 36 (2) of the Statute of the Court.

11. Further, the practice of the Permanent Court of International Justice shows that it is not a pre-condition that the parties must have concluded negotiations and that these negotiations must have failed, for the jurisdiction of the Court to be invoked (cf. Hudson, *The Permanent Court of International Justice*, 1919-42 (1943), pp. 413, 414). Proof of a specific manifestation of disagreement and of previous diplomatic negotiations is required only in those special circumstances where the instrument by which the jurisdiction of the Court is invoked lays down this condition ; as for example in Article 26 of the Palestine Mandate considered in *Mavrommatis Concessions* Case (1924), P.C.I.J. Ser. A, No. 2, pp. 15, 62, and see *Sofia Electricity Company* Case (1939), P.C.I.J. Ser. A/B, No. 77, pp. 83, 132. The reliance by Guatemala on the passage from p. 15 of the *Mavrommatis Concessions* Case cited in paragraph 7 of its Counter-memorial is wholly misconceived, for the Permanent Court was there concerned with the interpretation of Article 26 of the Mandate.

12. On the other hand, where the provision conferring jurisdiction upon the Court does not call for the conduct of prior diplomatic negotiations, the Court has been unwilling to insist on this requirement. Thus, as regards article 23 of the Geneva Convention of 1922, the Court said :

"Article 23, differing in this respect from many compromissory clauses .... does not stipulate that diplomatic negotiations must first of all be tried...." (*German Interests in Polish Upper Silesia*, P.C.I.J. Ser. A, No. 6, p. 14). The Court concluded :

".... recourse may be had to the Court as soon as one of the parties considers that a difference of opinion arising out of the construction and application of Articles 6 to 22 [of the Geneva Convention] exists" (*loc. cit.*, p. 14).

13. In the present case, there was, to put it at its lowest, an exchange of views, a discussion, between the Governments of Guatemala and Liechtenstein ; it came to an end in circumstances which disclosed a clear difference of opinion on more than one legal issue. It is plain then that, even if prior negotiations were a pre-condition of the admissibility of this dispute, what happened

in the present case would satisfy the test laid down by the Permanent Court :

"Negotiations do not of necessity always presuppose a more or less lengthy series of notes and despatches ; it may suffice that a discussion should have been commenced, and this discussion may have been very short ; this will be the case if a deadlock is reached or if finally a point is reached at which one of the Parties definitely declares himself unable, or refuses, to give way, and there can therefore be no doubt that the dispute cannot be settled by diplomatic negotiations" (*Mavrommatis Concessions Case (Jurisdiction), ibid.*, p. 13).

Conclusions

14. In the submission of the Government of Liechtenstein therefore :

(i) there has been since 1944 a legal dispute subsisting between Guatemala and Liechtenstein as to the treatment of Mr. Nottebohm ;

(ii) Article 36 (2) of the Statute of the Court and Guatemala's Declaration accepting the jurisdiction of the Court do not in law make it a condition of the admissibility of Liechtenstein's claim that it should have been subject to prior negotiations for its settlement ;

(iii) even if prior negotiations for settlement had been a necessary condition in law, this condition was in fact satisfied by the exchanges between the Governments from 1944 to 1951 ; alternatively, negotiations were rendered abortive by Guatemala's attitude which itself created a dispute referable to the Court.

Part III. *The Nationality of Mr. Nottebohm*

15. The Government of Liechtenstein will now turn to the second ground on which Guatemala bases her plea of inadmissibility of the claim : the alleged absence of any genuine tie of nationality between Mr. Nottebohm and Liechtenstein.

The issue of Mr. Nottebohm's nationality goes both to the admissibility of Liechtenstein's claim before this Court and to the merits of that claim. As to admissibility, the question is whether the Court can recognize Mr. Nottebohm as a national of Liechtenstein ; as to the merits, the question is whether Guatemala was bound to recognize him as a national of Liechtenstein and to treat him as a neutral subject. At this stage of the Reply, only the first question must be considered.

The Evidence—Limits of Scrutiny

16. Now Liechtenstein has laid before the Court the certificate of Mr. Nottebohm's naturalization in Liechtenstein, dated October 20, 1939 (Memorial, Annex 2), and the further certificate issued by the Government of Liechtenstein on May 6, 1946 (Memorial, Annex 6, paras. 18, 20). The authenticity of these documents and their *bona fide* issue by the Government of Liechtenstein are not disputed. The certificate of naturalization is therefore *prima facie* evidence of nationality, *Medina* Case (Moore, *International Arbitrations*, III, p. 2587) ; it establishes a presumption that Mr. Nottebohm is a Liechtenstein national, which, upon the principle *omnia præsumuntur rite acta esse : Salem* Case (1932) 2 R.I.A.A., at p. 1186 ; *Chazen* Case (Mexico-U.S.A.) (1930), 3 Opinion Commissioners p. 32, the Court should accept as conclusive, unless Guatemala is able to displace the presumption by contrary evidence.

17. The question then arises, what evidence can displace the presumption or, to put it another way, what limits are there set to the scrutiny by the Court of the Liechtenstein certificate of naturalization ? In the submission of the Government of Liechtenstein, the Court, sitting as an international tribunal, may scrutinize a certificate of naturalization, the validity of which is challenged, to see whether it was either contrary to the rules of international law relating to nationality, or obtained by fraud.

Nationality and International Law

18. Since nationality is a matter within the domestic jurisdiction of each State : *Tunis and Morocco Nationality Decrees* [1923], P.C.I.J. Ser. B, No. 4, pp. 23-4, there are no rules of international law restricting the grant of nationality as such.

The Report of the Codification Commission appointed by the League of Nations confirms this, when it states :

".... les questions concernant la nationalité sont à envisager comme des problèmes appartenant exclusivement à la législation intérieure des États particuliers.... Il n'existe point une norme coutumière ou écrite du droit international qui puisse être regardée comme statuant une restriction ou même une exemption de la compétence susmentionnée" (P. 196, M. 70, p. 9).

But naturalization may in a particular case transgress the general principle that a State may not, save in certain cases with which this Reply is not concerned, assert jurisdiction outside its territory without the consent of the States or individuals concerned. Nationality cannot be imposed upon any individual outside a State's jurisdiction without that individual's request or consent, unless there is a clear connection between the individual and that State justifying such a step. Thus Hall (*International Law* (8th ed., 1924), s. 66) says :

"Hitherto .... [International Law] has refrained, except on one point, from laying down any principles, and still more from sanctioning specific usages in the matter. It declares that *the quality* of a subject *must not be imposed* upon certain persons with regard to whose position as members of another sovereign community it is considered that there is no room for the existence of doubt .... but where a difference of legal theory can exist international law made no choice, and it is left open to States to act as they like" (see also Politis, *Hague Recueil*, 6 (1925) I, at pp. 55-56).

It is a further condition of any breach of international law that there must be an actual grant of naturalization in a form compatible with the rule just described. The bare enactment of nationality legislation which, if applied to particular individuals, might give rise to a breach of international law, is not in itself contrary to international law.

19. The Guatemalan Government, in paragraphs 17 and 18 of its Counter-memorial, acknowledges the absence of specific restrictions in international law upon grants of nationality, but alleges that the provisions in the Liechtenstein law of Nationality of 4 January 1934 constitute an abuse of rights since they permit the Liechtenstein authorities to dispense in particular cases with the requirement of residence and of divestment of the previous nationality for the grant of naturalization. As will be seen, the Liechtenstein Government did not dispense in Mr. Nottebohm's case with the second requirement and, since the bare claim of right to dispense with it cannot be contrary to international law (nor in fact would its exercise be), that particular objection by the Guatemalan Government fails.

Residence as a Condition for Naturalization

20. As to the alleged requirement of residence in the naturalizing State, both principle and State practice demonstrate that there is no such rule of international law.

The practice of International Tribunals provides no answer whether any, and if so what, period of residence is required before naturalization can be granted, but an examination of the nationality legislation of States shows that in a variety of circumstances —and not only in the case of exceptional services rendered to the country where the naturalization takes place—a great number of countries confer their nationality by way of naturalization, although the person to be naturalized did not reside within the territory of the naturalizing State (Annex 4).

21. In view of this fact writers dealing with the subject have asserted that residence for a specific period is not a binding requirement of international law (Maury, *Répertoire de Droit International*, vol. 9 (1930), p. 281, No. 73; Rundstein, *Zeit-*

schrift für Völkerrecht, 16 (1932), p. 30). The requirement is purely facultative, as the Committee of Experts appointed by the League of Nations declared (Basis of Discussion, No. 6, cited by Maury, *loc. cit.*) : ".... La législation d'un État peut subordonner cette perte de la nationalité à certaines conditions légales concernant .... le lieu de résidence."

22. Of course the State of which the naturalized person is a national and where he still resides is free to disregard the acquisition of another nationality abroad, where the person concerned does not reside (Maury, *loc. cit.*, p. 281, No. 73). But it is significant that those States which have embodied an express provision to this effect (Maury, *loc. cit.*) in their Nationality Laws did so clearly on the understanding that a naturalization abroad in these conditions is not void and that a special provision excluding its effect in the State of residence is required, while other States recognize such naturalizations without demur (Maury, *loc. cit.*).

23. In so far as third States are concerned, the rule regarding the nationality of claims protects them against changes of nationality by resident aliens for the purpose of pressing complaints arising from acts prior to naturalization.

Abuse of Rights

24. The Government of Guatemala does not strengthen its case by contending that the naturalization of a non-resident alien constitutes an abuse of rights and thus a violation of international law (Countermemorial, paras. 16, 17). Abuse of rights is said to occur when a State avails itself of its right in an arbitrary manner in such a way as to inflict upon another State an injury which cannot be justified by a legitimate consideration of its own advantage (Oppenheim, *International Law* (7th ed., 1948), p. 313). It would seem that abuse of rights may manifest itself in a conflict of legally recognized rights resulting in the defeat of the weaker, or in the lawful exercise of legal rights for improper motives (Politis, *Hague Recueil*, 6 (1925) I, p. 36). In either case, an injury must have been inflicted upon another State. In fact the Guatemalan Government is misapplying the concept of abuse of rights, for what it is really alleging is that Liechtenstein has acted in excess of State jurisdiction in naturalizing an alien who had not been a resident of Liechtenstein "for a number of years". The vagueness of this alleged requirement and its obvious incompatibility with general State practice show the absurdity of the Guatemalan contention.

25. Liechtenstein nationality was not imposed on Mr. Nottebohm ; he requested the grant of naturalization and submitted himself willingly and deliberately to the necessary process required by Liechtenstein law. If the grant was irregular it could, on the

Guatemalan Government's argument in paragraphs 16-18, only be so by reason of failure to comply with the alleged requirement of residence. That there is no such requirement under international law has already been demonstrated. The grant of naturalization to Mr. Nottebohm was therefore not "an irregular exercise of competence" nor an abuse of rights, for even the Guatemalan Government does not plead or attempt to prove any injury or intended injury to either Germany or Guatemala, the only other States which might consider themselves interested in Mr. Nottebohm's naturalization in Liechtenstein.

Fraud

26. But the core of the argument of the Guatemalan Government on the issue of nationality lies in its allegation of fraud. Yet it is not easy to trace the line of Guatemala's support for this grave allegation. She commences with the citation of authorities on fraudulent naturalization (paragraph 14 of the Countermemorial) ; makes a passing suggestion that the Liechtenstein nationality law "does not provide the guarantees of seriousness and stability which are to be found in the various laws of other countries, and it encourages ephemeral changes of nationality for reasons of mere convenience" (para. 18) ; expatiates on the alleged close links between Mr. Nottebohm and Germany (para. 23) and says that by "an express or tacit agreement on the part of the German authorities that he should acquire this new nationality" Germany became a "party to the fraud" (paras. 24 and 25) ; and finally insinuates that Liechtenstein "could have had no doubt as to the reasons behind the application for naturalization which had been submitted to it" by Mr. Nottebohm (para. 28). Further the Guatemalan Government say that his naturalization in Liechtenstein was "irregular and factitious" (paras. 11, 34) ; "nothing but a manœuvre" (para. 25) ; and "far too artificial for the International Court of Justice to have regard to it" (para. 21).

27. Liechtenstein's reply is simple : first, Guatemala has adduced not facts but bare speculation, which falls far short of the standard of proof necessary to maintain a charge of fraud ; second, she misconceives what is cognizable by an international tribunal as fraud.

Scrutiny of Foreign Acts of Naturalization

28. It is submitted that the modern practice in this field is accurately summed up by Borchard, *Diplomatic Protection of Citizens Abroad* (1915), pp. 522-23 in these words :

"... international tribunals have often asserted and exercised the right to determine for themselves the citizenship of claimants from all the facts presented. These international tribunals, with practically unbroken uniformity, have held that they were *not*

conclusively bound by a certificate of naturalization, but on the *allegation of fraud* could go behind the certificate to examine the antecedent facts on which it was granted. Such a certificate has been held to be *prima facie* evidence of citizenship ; it has been accepted as conclusive evidence of its own validity."

Now fraud has been defined as an *intentional and dishonest misrepresentation or suppression* of material facts, practised by the party (Moore, *International Arbitrations*, III, p. 2621). So, too, the Supreme Court of the United States has declared in no uncertain terms that "Fraud connotes perjury, fabrication, concealment, misrepresentation" : *Knauer* v. *United States* (1946) 308 U.S. 654. The standard of proof is correspondingly rigorous, and has been so recognized in international and national jurisdictions : *Salem* Case [1932] 2 R.I.A.A., p. 1187 ; *In re Findan* [1933] 4 F. Supp. 189 (*Annual Digest*, 1933-1934, Case No. 106).

As will be shown in greater detail below, the Guatemalan Government seeks by speculation of motives and uncertain inference to convict Liechtenstein and its national of fraud.

Subsequent Facts as Elements of Fraud

29. The question whether an act of naturalization is to be disregarded by an international tribunal as void for reason of fraud if subsequent events show that the naturalized person did not avail himself of the privileges of his new nationality, but has returned immediately to his country of origin or has resumed his original nationality, has been considered by international tribunals only infrequently (Borchard, *op. cit.*, p. 533). It is significant that Makarov observes :

"l'emploi de cette notion du changement frauduleux de nationalité devient de plus en plus rare" (*Hague Recueil*, 74 (1949) I, pp. 331-34).

30. This notion, which was employed in *Taamy* v. *Taamy* (Counter-memorial, para. 14), is limited to the practice of municipal courts administering rules of private international law (Counter-memorial, paras. 85, 86). The reason is that, with few exceptions, municipal courts have declared themselves incompetent to scrutinize the validity of foreign naturalizations (see the cases cited by Makarov, *Allgemeine Lehren des Staatsangehörigkeitsrechts*, p. 326). Instead, when called upon by their rules of private international law to apply the *lex patriæ* of a person in matters of status or succession, they have refused to do so, if that person was formerly a national of their own who had obtained naturalization abroad in circumstances which showed that he had no serious desire to change his allegiance *(Taamy* v. *Taamy)* and that the naturalization was "un vain simulacre et une apparence mensongère" (*Ménabréa* v. *Ménabréa*, decided on 18 June 1896, Clunet 1896, pp. 842, 844). They have, however, held otherwise if it was an "acte sérieux

et définitif [qui] entraîne pour le demandeur des conséquences les plus réelles" *(Ménabréa* v. *Ménabréa, loc.cit.; Taamy* v. *Taamy, loc. cit.)* without regard to the motives which led to this step.

Naturalization of F. Nottebohm

Validity, Fraud

31. The certificate of naturalization of Mr. Nottebohm is *prima facie* evidence of the validity of the naturalization in Liechtenstein. Nevertheless, it is now proposed to examine whether the act of naturalization did in fact conform with the Nationality Act of Liechtenstein (Memorial, Annex 1; Countermemorial, Annex 1). The Government of Liechtenstein does not admit that the Government of Guatemala, or indeed the Court, is entitled to question the validity of the certificate of naturalization on the ground that its grant was not in conformity with Liechtenstein law, as already stated (paras. 28-30). However, since the Government of Guatemala have alleged that the grant of naturalization to Mr. Nottebohm did not in fact conform with the requirements of Liechtenstein law, the Government of Liechtenstein feels bound, simply from regard for the truth to refute these allegations. The question will also be examined whether the act was tainted by fraud within the normal meaning (above, para. 28), that is to say whether it was obtained by an intentional and dishonest misrepresentation or suppression of material facts practised by Mr. Nottebohm. The question whether there is or can be any fraud within the second meaning, that is to say, that Mr. Nottebohm has not availed himself of the privileges of his new nationality, thus showing no serious intention to change his nationality, will be discussed subsequently (paras. 36-41).

Liechtenstein Law—Conditions

32. The requirements for, and the procedure of naturalization in Liechtenstein according to the Nationality Law of 4 January 1934, paras. 6 and 7, are set out in the Countermemorial, para. 19 and in Annex 1. The conditions under which naturalization may be granted were:

(i) the applicant must show that, in the event of his acquiring Liechtenstein nationality, he will be admitted to membership of a Liechtenstein commune (para. 6 *(b)*).—Mr. Nottebohm was admitted to membership of the commune of Mauren on 15 October 1939 (Annex 6);

(ii) the applicant must show that, in the event of his acquiring Liechtenstein nationality he will lose his former nationality or he must have obtained dispensation from this provision (para. 6 *(c)*).—No such dispensation was applied for (Annex 7). No certified copy of paragraph 25 of the German Nationality Act of 22 July 1913 (text in Memorial, para. 29) was submit-

ted, but it was common knowledge among the competent authorities in Liechtenstein that in virtue of a naturalization abroad German nationality is lost. Nor in fact could a certificate of release from German nationality be obtained before the naturalization in Liechtenstein had taken place, a familiar deadlock in nationality laws ;

(iii) the applicant must show that he has habitually resided in the territory of the Principality of Liechtenstein for at least three years (para. 6 *(d)*),

or,

in exceptional cases, show circumstances deserving particular consideration (para. 6 *(d)*).—Mr. Nottebohm did not reside in Liechtenstein for three years prior to his naturalization. The question whether circumstances deserving particular consideration were present is a matter of discretion to be exercised by the competent authorities, i.e. the Government, the Diet and the Prince. It may be pointed out, however, that the Nottebohm family was well known in the Principality. Mr. Nottebohm's brother Hermann was a prominent and respected citizen. The brothers were devoted to each other and, as events have proved, intended to spend their old age in each other's company, in Vaduz.

No special evidence was required to prove the negative fact that no consent had been given by the German Government for his divestment of German nationality. Only in the converse case (para. 6 *(c)* of the Nationality Law of Liechtenstein) would evidence have had to be submitted to the effect that German nationality had been retained. Mr. Nottebohm was aware of these conditions, and wished to divest himself of German nationality (Annex 7). Investigations which were subsequently initiated by the Government of Liechtenstein have shown that no such application is on the files of the competent German authorities (Annex 19). No fraud was thus committed.

The question whether Mr. Nottebohm must nevertheless be regarded as a German national will be discussed below (paras. 41-44).

Liechtenstein Law—Procedure

33. The procedure of naturalization, as distinct from the conditions for naturalization included, *inter alia*,

(i) the production of a certificate of good conduct issued by the competent authorities of the place of residence (para. 7 *(e)*).—No such certificate was produced. Instead Mr. Nottebohm signed a statutory declaration on 9 October 1939 (Annex 9) that he had no previous convictions. This procedure was adopted since he had no previous residence in Liechtenstein,

and as a result, there was no competent authority in Liechtenstein to issue such a certificate. A certificate from the Guatemalan authorities was neither necessary nor sufficient for the purposes of paragraph 7 *(e)*, seeing that the reference to the competent authorities in para. 7 *(e)* must be read in the light of the preceding para. 7 *(d)* which refers to the applicant's habitual residence in Liechtenstein. The purpose of the procedure envisaged in para. 7 *(e)* was thus satisfied, which was to inform the naturalizing authorities of any previous convictions in Liechtenstein. The Government of Guatemala does not suggest that Mr. Nottebohm had any previous convictions or that he fraudulently misled the authorities in Liechtenstein ;

(ii) proof that he has concluded an arrangement with the revenue authorities, after they had consulted the Taxation Commission of the commune to which he is presumed to belong, regarding his liability to taxation (para. 7 *(g)*).—Such an agreement had been reached, subject to formal contract after naturalization, when Mr. Nottebohm made his application for naturalization, dated 9 October 1939 (Annex 5, Annexes 11, 12). His tax was assessed to 1000 Swiss francs a year, secured by the deposit of bonds (Annex 13) ;

(iii) Payment to the Treasury of the Principality of Liechtenstein of the naturalization fees (para. 10).—This was done (Annex 13) ;

(iv) Approval of the Diet (para. 12).—This was given on 14 October 1939 (Annex 14) ;

(v) Grant of Nationality by the Prince.—This was done (Annex 15 ; 5) ;

(vi) Administration of the Oath of Allegiance (para. 14).—This was done on 20 October 1939 (Annex 16).

34. The Government of Guatemala expresses surprise at the speedy conclusion of the formal naturalization proceedings (Counter-memorial, para. 20). In point of fact they did not take 4 days, but at least 11 days, that is to say from 9 October 1939 until 20 October 1939. However, administrative delays are not a hallmark of legality and speedy proceedings do not carry a presumption of abuse of competence. Liechtenstein is a small country ; its administration is well organized, and not overburdened with affairs of State. Moreover, the case of Mr. Nottebohm had already been the subject of previous negotiations and the Diet was in session.

Conclusion

35. The Government of Liechtenstein concludes that the act of naturalization of Mr. Nottebohm complied with all material provisions of the Nationality Law of Liechtenstein. No intentional or dishonest misrepresentation or suppression of material facts was

practised by the applicant Nottebohm. No fraud tainted the validity of the act of naturalization in Liechtenstein.

Subsequent Conduct

36. The Government of Guatemala contends that even if the naturalization in Liechtenstein were valid, it must be regarded as tainted with fraud in the second meaning discussed above (paras. 29-30) on the ground that Mr. Nottebohm has not availed himself of the privileges of his new nationality and has thereby shown no serious intention to change his nationality. For this purpose the Government of Guatemala relies on a number of unconnected inferences drawn from his life and business activities in Guatemala (Countermemorial, para. 22), his alleged visits to Germany (*ibid.*, para. 22), and his trade with that country (*ibid.*, para. 23), from his failure to divest himself earlier of his German nationality and to liquidate his affairs in Guatemala (*ibid.*, para. 24) and from certain German documents (*ibid.*, paras. 25-27).

Life and Activities in Guatemala

37. The fact that he lived and traded in Guatemala (Countermemorial, paras. 23, 24) for 34 years without acquiring Guatemalan nationality permits the inference that Mr. Nottebohm had at no time the intention of becoming a Guatemalan. It does not permit the inference that he had no serious intention, especially after the coming to power of Hitler in 1933, of spending his old age in Liechtenstein and of settling there. The fact that in the course of his operations as a banker he accepted large deposits from German sources is of no significance. Depositors place their monies with bankers upon considerations of commercial reputation and not of the nationality or political convictions of the banker. Bankers, being businessmen, accept deposits regardless of nationality, race or creed.

38. It is difficult to see what inference is to be drawn from the alleged intimate connection between the firm of Nottebohm and certain German enterprises of considerable commercial standing (Countermemorial, para. 23). By the same token his commercial relations, as an export and import merchant, with commercial houses in the United States would permit the presumption of pro-American leanings. The fact that as a result of allegations of trading with these firms between 1939 and the date when Guatemala entered the war, the firm and Mr. Nottebohm were placed on the British Black List and in July 1941 on the United States Black List, is equally irrelevant. Neutrals are entitled to trade with both belligerents, subject to the right of the latter to stop such trade, and nothing can be inferred from such conduct as to their loyalties. The matter would have a different complexion if Guatemala, while remaining neutral, had prohibited trade with the Axis Powers.

Absence of earlier Break with Germany

39. The Government of Guatemala contends that Mr. Nottebohm frequently visited Germany, that he supported all aggressive actions of Germany against Austria and Czechoslovakia and that his first break with Germany occurred upon the outbreak of the war in September 1939. In fact he only visited Germany twice after Hitler came to power ; the suggestion is fanciful that he supported German aggression : on the contrary, he took the opportunity of his second visit to Europe to divest himself of his German nationality when he visited the country where he intended to settle finally.

Failure to liquidate his Affairs in Guatemala

40. The Government of Guatemala contends that the failure of Mr. Nottebohm to liquidate his interests in Guatemala with a view to returning to settle in Liechtenstein is an indication that he had no serious intention of availing himself of the privileges of his new nationality and that the naturalization was therefore tainted by fraud. Such an inference is wholly unwarranted here. The American-Egyptian Tribunal stated in the *Salem* Case :

"It is in no way exceptional or unusual that he who acquires a new nationality should keep up to a certain degree the domestic and business interests which connect him with his previous home" (Hackworth, [1932] 2 R.I.A.A., p. 1165 at p. 1186).

In the present case, the liquidation of Mr. Nottebohm's business interests in Guatemala was a complicated matter. Moreover, the difficulties which affected the business in consequence of the outbreak of war and thus the value of Mr. Nottebohm's interests, would have made an immediate and precipitated disposal of his interests therein a very unprofitable proposition. Instead his presence as the experienced senior partner was imperative. Nor could he have reached Liechtenstein, except by crossing Axis-occupied territory. Finally, within little more than three years, he was interned. To-day he has no intention of returning to Guatemala. The applications made on his behalf in 1946 were motivated by the justified desire to bring some order into the chaos which the measures of the Guatemalan Government had created in the administration of his property and to take such measures of protection as might have been available to a person on the spot.

Attitude of the German Government

41. The Government of Guatemala contends, further, that Mr. Nottebohm's naturalization in Liechtenstein was tainted by fraud on the ground that he had obtained a previous assurance from the German Government guaranteeing his re-admission to German nationality after the end of hostilities. In the absence of any evidence in support, the Government of Guatemala relies on a circular letter of the German Foreign Office, dated 4 July 1939

(Countermemorial, Annex 2), outlining the new policy, a copy of which, as the Government of Guatemala alleges, was found in Colombia, and upon a list, without names, of German nationals who applied through the German diplomatic representative in Uruguay to the naturalization authorities of their last residence in Germany for an assurance of privileged re-admission at a later date (Countermemorial, Annex 3). Moreover, Mr. Nottebohm was unaware of the existence of the circular letter and of the lists alleged to have been prepared by the German Legation in Uruguay. These allegations were first brought to his knowledge by the Countermemorial. In any case, the German policy here declared was to consider favourably—not to promise—re-admission to German nationality of individuals who were naturalized in their country of residence. There is no indication at all that the German authorities could have given any favourable consideration to naturalization in another country.

42. The Government of Guatemala has not attempted to prove its allegations on this point by submitting evidence that Mr. Nottebohm made such an application ; but the Government of Liechtenstein has thought it right to make enquiries with the competent authorities in Germany. These show that no such application was received in Germany and that no consent was given by the German Government (Annex 19).

Retention of German Nationality

43. The circumstance that Mr. Nottebohm might have made an application, if he had so been inclined, but did not in fact do so, is no reason for treating him as a potential German, as the Government of Guatemala appears to contend (Countermemorial, paras. 25-27, 32). Such an assertion would introduce, in an enlarged manner, the concept of a nationality "à titre virtuel".

The notion of a permanent nationality "à titre virtuel" in such a case as the present has never been put forward in international law. It would create a status of permanent nationality and would thus contradict the principle that a person may expatriate himself.

44. The Government of Guatemala contends that, even if Mr. Nottebohm's naturalization were valid, he remained a German in virtue of para. 25 of the German Nationality Law of 22 July 1913 which provides that

"German nationality is not lost by a person who before acquiring foreign citizenship has secured on application the written consent of the competent authority of his home State to retain his citizenship...."

The question whether Mr. Nottebohm made an application to this effect was discussed above (para. 42) where it was shown that no evidence whatsoever exists that he ever did so. Instead, upon

his arrival in Guatemala, he had his name erased from the register of German nationals kept by the German legation.

Attitude of other States

45. Finally, it is interesting to note that on 24 July 1946 the Swiss Clearing authorities, as the official organ of the Swiss Government and of the Allies for carrying out the Washington Convention, recognized that Mr. Nottebohm is exclusively a national of Liechtenstein (Annex 18) and that on 21 December 1950 the Department of Justice of the Government of the United States acknowledged his non-enemy character as well as that of Nottebohm Hermanos (Memorial, Annex 3).

Estoppel

46. In view of the facts and considerations set out above, the Government of Liechtenstein attaches but secondary importance to the question of the principle of estoppel. It must point out, however, that the right, embodied in Article 50 of the Guatemalan Aliens Law (Countermemorial, Annex 17), of the authorities and of private persons to challenge the documents which form the basis for the inscription in the register of Aliens (Countermemorial, para. 37), is subject to the provisions of Article 49 of the same law. This states that the inscription in the register of aliens creates a legal presumption that the alien possesses the nationality which has been recorded. Evidence to the contrary is admitted, the implication of the rule plainly being that only clear and positive evidence can displace the presumption. The Guatemalan Government can hardly expect the Court to be satisfied with lower standards of proof than it requires under its own laws.

47. In the case of Mr. Nottebohm the Government of Guatemala merely contested the validity of his naturalization with the result that his former nationality was alleged to have adhered to him. No evidence was adduced. Instead Mr. Nottebohm was given the status of a statutory German in virtue of Article 7 *(a)* of the Legislative Decree No. 630 (Countermemorial, Annex 39).

Conclusions

48. It follows that Mr. Nottebohm has regularly acquired the nationality of Liechtenstein according to the law of Liechtenstein, that his naturalization was not tainted by fraud in the sense that he *either* intentionally and dishonestly misled the competent authorities in Liechtenstein *or* that he had no serious intention to assume the rights and duties of his new nationality, and that he lost his German nationality irrevocably.

49. In these circumstances the Government of Liechtenstein concludes :

that the naturalization of Mr. Nottebohm in virtue of the Nationality Law of Liechtenstein does not violate international law ;

that in the absence of any evidence to the contrary produced by the Government of Guatemala Mr. Nottebohm has validly acquired the nationality of Liechtenstein ;

that in the absence of any evidence to the contrary, Mr. Nottebohm has validly divested himself of German nationality ;

that for these reasons, the claim presented by the Government of Liechtenstein is admissible.

Part IV. *Exhaustion of Local Remedies*

A. *General Observations*

50. The Government of Guatemala asserts finally that the claim is inadmissible on the ground that Mr. Nottebohm has not exhausted local remedies available to him. In support of this contention it cites by way of a general enumeration a formidable array of procedural measures (Countermemorial, paras. 46-53). Yet the Government of Guatemala does not essay to explain by whom, against what decisions and at what time these remedies should have been employed. Faced with the fact that the Government of Guatemala has not discharged its *onus probandi*, the Government of Liechtenstein has to rely at this stage of the proceedings only on the evidence which they have obtained from the authorities in Guatemala and which is to be found in the Proceedings 46 and 109 (Memorial, Annex 5 ; Reply, Annex 22).

The Subject-matter of the Claim

51. But it is not disputed that the measures which form the subject of the present claim are :

(i) the sequestration of the coffee, the coffee plantations and other farms, and of other property ;

(ii) the expropriation of the coffee plantations, farms, townhouses, bank deposits, mortgages and shares ;

(iii) the arrest, detention and internment of Mr. Nottebohm ;

(iv) the refusal to re-admit him to Guatemala after the release from internment.

The Liechtenstein Government will therefore reply to the rather imprecise contentions of the Countermemorial by submitting answers to these questions : Is the non-exhaustion of local remedies a possible ground of inadmissibility at all in the present case ? What were the Guatemalan measures against which Mr. Nottebohm is said to have remedies available ? What were these remedies and why were they not effective ?

Distinction between Claims based upon initial Breach of International Law and upon Failure of Municipal Courts

52. In the *Finnish Ships* Case [1934] 3 R.I.A.A., p. 1484 at pp. 1500, 1502 ; *Annual Digest*, 1933-34, Case No. 91, a distinction was taken between

claims based upon an *initial breach of international law*, that is to say, a wrong constituting in itself a breach of international law, and

claims based upon a *failure of municipal courts of law* to correct a wrong not in itself an initial breach of international law.

The arbitrator held that, where the *claim* is *based* upon an *initial breach* of international law, "compliance with the local remedy rule must be ascertained solely with reference to the allegations advanced by the claimant's State in espousing its claims and no other possible contention can be laid hold of by the respondent State to show that there were adequate remedies still left at the disposal of the aggrieved individuals", Freeman, *Denial of Justice*, p. 432.

53. In the present case, the claim of the Government of Liechtenstein is predicated on the ground of an initial breach of international law. It is broadly that a national of Liechtenstein, a neutral State, was deprived of his property and his liberty as a war measure by the Government of Guatemala, who refused to acknowledge and to respect his status as a neutral. For the purpose of ascertaining whether the local remedies have been exhausted or whether no remedies existed which promised effective redress, it is therefore sufficient to establish, on the basis of the legislation in force in Guatemala, that no reasonable expectation could be entertained by Mr. Nottebohm of obtaining exemption or relief from the measures taken against him on the ground that he was a national of a neutral State.

54. It is in these circumstances doubtful whether the alleged non-exhaustion of local remedies by Mr. Nottebohm can be a ground of inadmissibility at all. For where the applicant State rests its case, not upon allegations of the failure of the judicial or administrative authorities of the respondent State to correct the wrong complained of, but upon a wrong which, if proved, is initially a breach of international law, the plea of non-exhaustion of local remedies becomes a matter of defence for the respondent State. It goes not to admissibility, but to the merits. For in the first case—the allegation of failure of the judicial or administrative power in the State to correct the wrong—the breach of international law is not complete until the highest authority has had a reasonable opportunity to act. But in the second case the breach is complete when the wrong is done and, if proved, the international claim in respect of it is established, unless the respondent State can show that local remedies were not exhausted, that is to say in effect, that it was given no opportunity to

correct the wrong in its own way and through its own municipal agents. Therefore, in such a case, which is also the present case, the plea of the non-exhaustion of the local remedies goes to the merits and not to the admissibility.

There is a further consideration. The present case is referred to the Court under Article 36 (2) of the Statute, and neither this nor the Guatemalan and Liechtenstein declarations accepting the jurisdiction of the Court contain any reservation of the exhaustion of local remedies. For the case where the Court's jurisdiction is accepted unconditionally "the Court's compulsory jurisdiction, if all the remedies afforded by the national courts have not been exhausted, constitutes a prorogation of jurisdiction ; the Court is competent even before exhaustion of local remedies" : *Panevezys-Saldutiskis Railway* Case [1939] P.C.I.J. Ser. A/B, No. 76, at pp. 38, 39 per Judge Eysinga dissenting. It is suggested that the real ground of difference between Judge Eysinga and the Permanent Court lay in the question whether the alleged breach of international law by Lithuania was complete, regard being had to the property and contractual rights which fell in the view of the Court "more particularly within the jurisdiction of municipal tribunals". In other words, the Court would not have disagreed with Judge Eysinga's dictum just cited but have said that it did not apply in the case before them because the breach was not complete so as to found an international claim at all.

Nature of the Remedies

55. It may also be asked whether the procedures, which the Guatemalan Government says were available to Mr. Nottebohm to obtain relief from the measures taken against him, did not by their number and complexity make them ineffective as remedies and render the rule as to exhaustion of local remedies inapplicable here.

Indeed, so uncertain is the Government of Guatemala of the precise scope and applicability of these remedies that it charges Mr. Nottebohm with having failed to have had recourse to legal remedies in the main proceedings (henceforth called Proceedings 46) touching the great bulk of his property (Proceedings 46 ; Memorial Annex 5, para. 7 ff.). Yet, until to-day, no decision has been given upon the opposition filed on 3 July 1946 (Countermemorial, para. 56) and no appeal can be lodged.

The Government of Liechtenstein will give a further short illustration of this uncertainty. The proceedings regarding the estates of Morazán and Guatalón (Memorial Annex 5, paras. 46, 48, 49 ; Annex 22 of the present Reply) were conducted twice in circumstances which cannot but surprise the Court. These two properties were expropriated by an order of 20 August 1945 (Annex 22, p. 471). In 1950 the Guatemalan authorities discovered that the order of expropriation had been wrongly made against Nottebohm Brothers, for in fact the properties called Morazán and Guatalón

were owned by Mr. F. Nottebohm and Mr. K. H. Nottebohm in common. Therefore new expropriation proceedings (henceforth called Proceedings 109) were begun on 26 May 1950 (Annex 22, pp. 477, 492 and 493), this time against the real registered owners. Meanwhile, an "opposition" had been filed on 3 July 1946 in the main Proceedings 46 (Memorial Annex 5, para. 7) against the expropriation of these two properties. Owing to the initiation of new expropriation proceedings certified copies of the relevant documents in the main Proceedings 46 were made and submitted in the new proceedings. One of these copies concerned the power of attorney which Mr. Friedrich Nottebohm had given to Mr. K. H. Nottebohm (Memorial Annex 5, para. 16). A certified copy of this power of attorney was on the file of the main proceedings. In the end a decision was rendered on 18 or 20 December 1951 (Annex 22, pp. 502-504) which dismissed Mr. Nottebohm's opposition partly on the merits and partly on the ground that the certified copy of the power of attorney in the new Proceedings 109 was inadmissible. The reason given was that it was a certified copy of a certified copy. While the latter was admissible in the main Proceedings 46, it was not admissible in the new Proceedings 109.

Thus the Government of Guatemala could re-open proceedings in disregard of a previous decision ; and, by starting new proceedings and by opening a new file it could hope to rid itself on a technicality of an awkward opponent who could not plead his case in person, not having been re-admitted to the country.

B. *The Position before 1946*

Date of Measures complained of

56. The Government of Guatemala contends that the local remedies were not exhausted, but fails to state *at what date, by whom what remedies should have been employed.* In the first place, it is necessary for the aggrieved party to have had knowledge of the form and date of the measure against which he is required to seek relief. As will be shown, Mr. Nottebohm and the holder of his power of attorney were interned in the United States during the greater part of the period when the measures of expropriation were being taken. In these circumstances the Government of Liechtenstein as well as Mr. Nottebohm have laboured under considerable difficulties in trying to ascertain the character and date of the relevant measures. The Government of Guatemala has made a small contribution (Countermemorial, para. 75), but it has not discharged the burden incumbent upon it to show that *at the material times* Mr. Nottebohm could have employed any of the remedies to which it refers. In view of the absence from the country of Mr. Nottebohm and of his legal representative, the failure of the Government of Guatemala to specify either the dates when the measures were taken or the remedies which

should in its view have been exhausted, constitutes a failure to substantiate the allegation that the available remedies were not exhausted. In order to be exhausted a remedy must not only be available *in abstracto*. It must have been effectively available to the aggrieved person at the time when the measure complained of was taken (see Moore, *International Arbitrations*, III, pp. 3157 (*John W. Carmalt* Case), 3158 (*M. J. Perry* Case)).

Date of Sequestration

57. As far as can be ascertained the *sequestration* of the coffee production and its proceeds took place between 9 October 1941 and 8 November 1941. The land itself came under sequestration between June 1942 and August 1942. No dates are available as regards the sequestration of the urban properties, except that the Casa Grande in Quetzaltenango was apparently placed under sequester as late as 13 March 1946 (Annex 20, col. 5).

Date of Expropriation

58. The expropriation of Mr. Nottebohm's immovable property was carried out largely between August 1944 and December 1945 (Annex 20, col. 6). It may be that the plantations Mediodía and Los Brillantes were expropriated after that date, i.e. in February 1948 and February 1947 respectively (Countermemorial, para. 75), although there is some evidence that an "opposition" was lodged, in the case of Los Brillantes as early as 3 July 1946 (Memorial, Annex 5, para. 7) and in the case of Mediodía on 28 November 1946 (*ibid.*, Annex 5, para. 40). It would appear that Los Brillantes was expropriated on 19 February 1947, or, at any rate, after 4 September 1945. The plantation Carmen Metzabal may have been expropriated on 4 March 1947. The Casa Grande in Quetzaltenango was expropriated on 9 June 1946, and some of the urban properties on 9 June 1945.

As mentioned before (55), the plantations Guatalón and Morazán were twice subject to expropriation orders, first in 1945 and again in 1950 (Proceedings 109).

In so far as it is possible to ascertain, the shares held by Mr. Nottebohm were expropriated in June 1945. The dates are not available of the expropriation of his deposit-account. Certain blocked deposits appear to have been expropriated on 21 June 1950, but it is not certain whether they included the income from the sequestered estates which was expropriated in virtue of Legislative Decree 258 of 28 June 1945.

Time for opposing measures of:

(i) *Sequestration*

59. No complaint was made and no appeal was lodged by Mr. Nottebohm against the measures of sequestration in 1941

and 1942. Any claims which are made in the present proceedings arise indirectly, in that the Government of Liechtenstein contends that the Government of Guatemala failed to administer the estates according to good husbandry, and has failed to maintain the income therefrom or to account for it.

This income was to be paid into a blocked account with the Bank of Guatemala. It included—

(i) the proceeds of the sale of coffee (Governmental Decree No. 2601, art. 2 ; Countermemorial, Annex 22) ;

(ii) the bank deposit accounts (Legislative Decree No. 2655, art. 18 ; Countermemorial, Annex 25), including those representing payments made by debtors of Mr. Nottebohm and of his firm (Governmental Decree No. 2702, art. 1 ; Countermemorial, Annex 26) ;

(iii) the income from the land sequestered in virtue of Governmental Decrees Nos. 2789 and 2791 (Countermemorial, Annex 27).

The Government of Liechtenstein bases its claim to compensation on the fact that the income from these sequestered estates was expropriated in virtue of Legislative Decree No. 258 (Countermemorial, Annex 36, see below para. 66). Thus the fact of sequestration and the charge of maladministration are only material to the measure and quantum of the damages which are claimed on the ground of the subsequent expropriation. The question whether local remedies were exhausted is limited to these and other acts of expropriation.

(ii) *Expropriation*

60. As shown above (58), the expropriation of the plantations in which Mr. Nottebohm had an interest was carried out for the most part between August 1944 and December 1945. Mr. Nottebohm was interned on 19 November 1943 and immediately deported to the United States. Mr. Karl Heinz Nottebohm, who held his power of attorney dated 17 March 1939 (Memorial, Annex 5, para. 16 ; Annex 6, para. 17), had been interned and deported previously. In these circumstances, Mr. Nottebohm was physically prevented from appearing in any proceedings (see Proceedings 109 ; Annex 22, p. 475), lodging any appeals and from exhausting the local remedies, if any (see below paras. 68-111). Nor until he and Mr. Karl Heinz Nottebohm were released, early in 1946, could the question arise whether any remedies were still available. Consequently, the question is irrelevant whether and if so what remedies should have been exhausted before 1946 in the expropriation proceedings affecting Mr. F. Nottebohm's assets. The existence of an unexhausted remedy signifies nothing if there was no person who under the local law was capable of pursuing that remedy (above para. 56).

61. The Government of Guatemala refers to an additional power of attorney, granted on 19 February 1942, to the Licenciado Carlos Salazar Gatica by Mr. Nottebohm (Countermemorial, Annex 45). It will be noted, however, that this power of attorney concerns the representation of the firm of Nottebohm Brothers and not of Mr. Nottebohm in his private matters. Thus Mr. Nottebohm remained unrepresented, quite apart from the fact that subsequently Mr. Salazar Gatica became *persona non grata* with the Government of Guatemala and was forced to leave the country.

Conclusion

62. The Government of Liechtenstein submits that, in respect of measures of expropriation carried out between 1944 and 1946, the plea that the local remedies have not been exhausted must fail. Owing to the policy of arrest and deportation practised by the Government of Guatemala there was no person who under the local law was capable of pursuing any remedy on behalf of Mr. Nottebohm.

Exhaustion of Local Remedies upon the return of Mr. K. H. Nottebohm to Guatemala

63. On 3 July 1946 (Memorial, Annex 5, para. 7), upon the return of Mr. Karl Heinz Nottebohm to Guatemala, the latter, as the legal representative of Mr. F. Nottebohm, lodged "opposition" against all the known acts of expropriation which had occurred during Mr. F. Nottebohm's absence.

64. The "oppositions" against the various acts of expropriation were united in one proceeding, now known as Proceeding 46 (Memorial, Annex 5). These proceedings included the estates known as Guatalón and Morazán (Memorial, Annex 5, para. 7). Subsequently, upon the motion of the Government of Guatemala, new expropriation proceedings, now known as Proceedings 109, were begun in 1950 (Annex 22, pp. 477 and 478) in regard to these two estates for the reasons set out above (para. 55). In these proceedings, opposition was lodged on 22 August 1950 (Annex 22, p. 478; Memorial, Annex 5, para. 46).

Decisions given

65. In the main Proceedings 46 no decision was given. The last step appears to have been taken on 25 August 1950 (Memorial, Annex 5, para. 47). In Proceedings 109 against Guatalón and Morazán a negative decision, partly on procedural grounds (above 55), was given on 18 or 20 December 1951 (Annex 22, pp. 502 ff.). The opposition proceedings touching a blocked account of Q.8,264.11, in which a negative decision was reached on procedural grounds (Memorial, Annex 5, para. 47), are irrelevant here. These proceedings were brought by Miss Erika Nottebohm. In her

opposition she purported to act on behalf of Mr. F. Nottebohm, but since she held no power of attorney from him, this decision is not binding, in so far as Mr. F. Nottebohm is concerned.

The question for the Court is, therefore, simply whether the legal remedies were exhausted in the main Proceedings 46, where no decision has yet been given, and in the Proceedings 109 affecting Guatalón and Morazán, where a decision was given in December 1951.

C. *The Position after July 1946*

The Law relating to Expropriation

66. In 1946, the law relating to expropriation was governed by the following decrees :

(i) The basic regulations are to be found in the Governmental Decree No. 3134 of 14 August 1944 (Countermemorial, Annex 30) which was approved, with certain modifications, by the Legislative Decree No. 2811 of 23 August 1944 (Countermemorial, Annex 33). Further modifications were introduced by Art. 1 of the Legislative Decree No. 114 of 16 May 1945.

(ii) The Legislative Decree No. 258 of 25 June 1945 (Countermemorial, Annex 36) added to the list of expropriated assets the income from the estates which had been sequestered under Governmental Decrees Nos. 2655 and 2702 (above 59) and all future income from these estates.

The Procedure relating to Expropriation

67. In 1946 the procedure relating to expropriation was governed by the following decrees :

(i) The basic regulation was the Governmental Decree No. 3138 of 23 August 1944 (Countermemorial, Annex 32) which was approved, with slight modifications, by the Legislative Decree No. 2812 of 5 September 1944 (Countermemorial, Annex 34). A number of modifications were introduced by Articles 2-13 of the Legislative Decree No. 114 of 16 May 1945 (Countermemorial, Annex 5).

(ii) Detailed rules of procedure were provided by the Governmental Decree of 2 July 1946 (unnumbered—Countermemorial, Annex 38).

These laws were in force when Mr. F. Nottebohm was released and when his legal representative returned to Guatemala after having been interned in the United States.

Available Remedies

68. Under the 1944 decrees the proceedings were concentrated in the hands of the Civil Governor of the regional Department

(Governmental Decree 3138, Art. 2 ; Countermemorial, Annex 32) and included a hearing before the latter in case an "opposition" was lodged (Governmental Decree No. 3138, Art. 10 ; Countermemorial, Annex 32). *In 1945, by virtue of Arts. 2 and 10 of the* Legislative Decree No. 114 of 16 May 1945 (Countermemorial, Annex 35), all pending proceedings (Art. 2) were transferred to the Procurator-General of the Nation. Art. 10 of this Decree provided the criteria by which he was to be guided in reaching a decision in case an "opposition" was lodged in virtue of Art. 6. According to Art. 11 he was allowed to re-open a case *ex officio*.

Finally, Art. 6 enjoined the Procurator-General to terminate within 20 days all contentious proceedings.

On 2 July 1946 a Governmental Decree (Countermemorial, Annex 38) provided the machinery for carrying out the Legislative Decree 114 of 16 May 1945. Art. 2 of this Decree laid down the procedure in cases where an "opposition" was lodged. This was the procedure under which the "opposition" was filed on 3 July 1946 on Mr. Nottebohm's behalf in respect of all measures of expropriation directed against him (Memorial, Annex 5, para. 7).

Procedure under Governmental Decree of 2 July 1946

69. Under the Governmental Decree of 2 July 1946 (Countermemorial, Annex 38), the Procurator-General was to ask for the transmission of all current files within three days (Art. 2). In cases where a notice of opposition had been filed evidence was to be submitted within ten days (Art. 3). Thereupon three days were to be set aside for an oral hearing, during which the applicant was to be allowed to put forward his case (Art. 5). After this the file was to be sent to the Ministry of Finances and Public Credit, which was to give a definite decision in agreement with the Ministry of Foreign Affairs. *Yet no decision had been given* when, *on 13 July 1949*, the Legislative Decree No. 630 placed the law and procedure of expropriation on a new footing.

Procedure under Legislative Decree 630 of 13 July 1949

70. The Legislative Decree No. 630 of 13 July 1949 was a measure of consolidation and codification. It abrogated all previous legislation in the same field and dealt with a great variety of matters arising out of the liquidation of war measures (Countermemorial, Annex 39).

Among its most important innovations was an enumeration of the conditions in which expropriation on grounds of their owner's enemy status was to be permissible (Arts. 7, 10). It also provided for a number of stated exceptions (Art. 17).

71. The procedure was regulated in Articles 39-48. The Procurator-General was to continue (Art. 40) to exercise the powers conferred upon him by the Governmental Decree 3138 and the Legislative Decree 114 (above 69). All applicants in pending pro-

ceedings—as distinct from completed proceedings (Arts. 11, 45)—who wished to avail themselves of the exceptions provided in Art. 17 were to submit a new application for exemption from expropriation (Art. 42). This application was to be made within fifteen days after the Legislative Decree had come into force (Art. 42). Thereupon the evidence was to be taken within 15 days (Art. 42). A similar procedure applied in the case of measures of expropriation initiated after the entry into force of Decree 630. After a hearing lasting three days, a decision was to be given (Art. 47). Appeal in two stages: first to the Administrative Tribunal, and then to the Supreme Court of Cassation, was provided (Art. 47). However, before a second appeal to the Court of Cassation was to be admissible, the appellant was to deposit a security varying from 200 to 2,000 Quetzales according to the discretion of the Court of Cassation (Art. 47). If the appellant lost his appeal, this sum was to be forfeited (Art. 47).

Decision under Legislative Decree 630 of 13 July 1949:

Proceedings 46

72. In accordance with Article 42 of the Legislative Decree 630, Mr. Karl Heinz Nottebohm, as the legal representative of Mr. F. Nottebohm, renewed on 10 August 1949 his "opposition" under Proceedings 46, which took the form of an application for exemption by virtue of Article 17 of Decree 630 (Memorial, Annex 5, para. 43). No decision under Decree 630 of 13 July 1949 has to date been given in Proceedings 46, which concern the bulk of the expropriated assets of Mr. Nottebohm.

Proceedings 109

73. On the other hand in the proceedings concerning the plantations Guatalón and Morazán, which the Government of Guatemala had introduced a second time (above para. 55), a negative decision was given partly on material and partly on formal grounds, namely that the certified copy of the power of attorney given by Mr. Nottebohm was inadmissible.

74. This decision was given either on 18 December 1951 or on 20 December 1951 (Annex 22, p. 502). It may be a mere coincidence that on 17 December 1951, by an application dated 10 December 1951, the Government of Liechtenstein had instituted proceedings in the International Court of Justice, of which fact the Government of Guatemala was informed by cable. In fact, the Government of Liechtenstein, in a note dated 24 October 1951, had informed the Guatemalan Government of its intention of bringing the case before the Court, in the absence of any reply to their previous note of 6 July 1951. On 8 and 30 November 1951 urgent communications passed between the Guatemalan departments concerned pressing for an early decision (Annex 22, p. 501). As a result a decision

was handed down which eluded any clear determination of the merits of the case and relied partly on a point of procedure, the nature of which was characterized above (55).

75. The purpose of these tactics of the Guatemalan Government is clear. In giving a decision, it intended to place upon Mr. Nottebohm the onus of exhausting the legal remedies set out above (para. 71). On the other hand, by withholding any decision which was not exclusively based on the merits, it sought to preclude the Government of Liechtenstein as long as possible from any lawful complaint against the application of the expropriation legislation to the property of Mr. Nottebohm.

76. However, the decision in Proceedings 109 cannot assist the Government of Guatemala. The plea that the local remedies have not been exhausted cannot lie in respect of decisions which are rendered after an application has been filed in the International Court of Justice.

Conclusions

77. The Government of Liechtenstein submits therefore that the plea that the local remedies were not exhausted must fail in face of Proceedings 46 and 109 on the ground:

(i) that in Proceedings 46 no decision was rendered which Mr. Nottebohm could or was obliged to impugn by means of the remedies available to him at law (above para. 71);

(ii) that in Proceedings 109 the decision was rendered after the application had been filed by the Government of Liechtenstein in this Court.

D. *Other Remedies alleged to have been available*

78. The Government of Guatemala contends that, as regards the measures of expropriation and sequestration, a number of remedies not so far considered were available to Mr. Nottebohm and that these remedies were not exhausted (Countermemorial, paras. 46-52). The alleged remedies are:

(i) the procedure of "opposition", followed by an appeal to the Administrative Tribunal and then to the Supreme Court, prescribed by the Legislative Decree 114 of 22 May 1945, in conjunction with the Governmental Decree 3138 of 23 August 1945 and, subsequently, by Legislative Decree 630 of 13 July 1949, Art. 47 (Countermemorial, paras. 49-51);

(ii) the general procedure of administrative appeals available in Guatemala by virtue of the Law of Administrative Jurisdiction of 28 September 1936 (Countermemorial, para. 46);

(iii) the special procedure of review on the ground that the Constitution of Guatemala has been violated, laid down

by the Legislative Decree No. 1539 of 18 May 1928 (The Law of Protection) (Countermemorial, para. 47; Annex 21 of this Reply).

Why then did Mr. Nottebohm not avail himself of this plethora of modes of judicial relief? Here again, the Government of Liechtenstein labours under certain difficulties, since the Government of Guatemala has failed to indicate by whom, at what time and against which measures these remedies should have been employed.

The procedure of opposition under Governmental Decree 3138 and Legislative Decrees 114 and 630

79. Governmental Decree 3138 and the Legislative Decrees 114 and 630 regulated the special procedure which was applicable in cases of expropriation affecting enemies and persons on the Black List. This procedure was examined above (paras. 67-72). In so far as the main Proceedings 46 are concerned, notice of opposition was lodged in accordance with Articles 36, 43, 44 and 47 of the Legislative Decree 630, but no decision was given at any time. Therefore no opportunity ever arose to appeal either to the Administrative Tribunal or to lodge a further appeal to the Supreme Court of Cassation.

In Proceedings 109, touching Guatalón and Morazán, on the other hand, a decision was given either on 18 or 20 December 1951. As shown above (para. 76) this decision may be disregarded on the ground that it was reached after the present application had been lodged with the International Court of Justice. However, apart from this formal or procedural objection, the Government of Liechtenstein contends that there are two reasons why Mr. Nottebohm could not be expected or required to have lodged further appeals in this matter. These reasons must now be examined.

Limits of Local Remedies Rule

80. Now it is a fundamental principle of International Law that local remedies need not be exhausted where there is no effective remedy (*Finnish Ships* Case, 2 R.I.A.A., p. 1484 at p. 1495; *Annual Digest*, 1933-34, Case No. 91, at p. 235; Freeman, *International Responsibility of States for Denial of Justice* (1938), pp. 423, 427, 431; Borchard (1934) 28 *A.J.I.L.* 732). There is no effective remedy "when the decision complained of has been given in pursuance of an unambiguous municipal enactment with the result that there is no likelihood of a higher tribunal reversing the decision or awarding compensation" (Oppenheim, *International Law*, I (7th ed., 1948), p. 327, para. 162a; Freeman, *Denial of Justice*, pp. 403-55).

Expropriation Legislation

81. Now when Proceedings 109 were concluded in December 1951, the expropriation of so-called enemy property was governed by the Legislative Decree 630 (Countermemorial, Annex 39) as

amended by Legislative Decrees No. 689 (Countermemorial, Annex 40), No. 763 (Countermemorial, Annex 41) and No. 811 (Countermemorial, Annex 42).

In order to understand the meaning and purport of these decrees, it is necessary to review briefly the conditions and mode of application of the measures of expropriation from the time of their introduction in 1944.

82. The first legislative measure of expropriation is to be found in Governmental Decree 3115 of 22 June 1944 (Countermemorial, Annex 28). This applied to all persons of German nationality who, owing to their financial influence constituted a latent danger for the Republic or for the security of the western hemisphere (Art. 1). The Governmental Decree No. 3134 of 14 August 1944, Article 1 (Countermemorial, Annex 30), extended expropriation to the property of persons on the Black List and of all enemy nationals within the meaning of Governmental Decree No. 2655 of 23 December 1941, Art. 40 (Countermemorial, Annex 25). This included all nationals of countries at war with Guatemala or those who were linked by legal or political ties with the institutions or official agencies of enemy countries. All these decrees were enacted during the absence of Mr. F. Nottebohm and of his legal representative in the U.S.A.

The Legislative Decree No. 114 of 16 May 1945, Art. 9 (Countermemorial, Annex 35), restricted the right to lodge "oppositions". Only persons who were not on the Black List at the time of the Decree or were not nationals of any of the countries at war with the United Nations, were to enjoy the right to lodge an "opposition", provided, *inter alia*, that they had never dealt with persons or legal entities on the Black List and could prove that they had never been suspected of any activities detrimental to the democracies. All these measures were consolidated by the Legislative Decree No. 630 of 13 July 1949 (Countermemorial, Annex 39), which is the Decree directly in issue here, seeing that the decision in Proceedings 109 was given in December 1951.

Legislative Decree No. 630

83. According to Art. 7 *(a)* and *(c)* of this Decree, as amended by the Legislative Decree No. 689, Art. 3 (Countermemorial, Annex 40), enemy property included all property owned *inter alia* by :

(i) persons or entities who, on 7 October 1938, were nationals of a country with which Guatemala had been at war, notwithstanding that such persons claimed that they had acquired another nationality after 7 October 1938 (Art. 7 *(a)*) ;

(ii) persons or legal entities on the Guatemalan Black List (art. 7 *(c)*).

Included among Germans, for this purpose, were all persons who, after 7 October 1938, had used a German passport or had

described themselves as Germans in an official document (Legislative Decree 689, Art. 3 amending Art. 10 of the Decree No. 630). The Government of Guatemala therefore regarded a German passport as conclusive evidence of German nationality while the same Government objects to a Liechtenstein passport as evidence of Liechtenstein nationality.

84. Exemption from the operation of this Decree could be granted under Article 17 to those who could show that, although they fell within the groups defined in Article 7 *(a)* and *(c)*, *inter alia*, they had been permanently domiciled in Guatemala since 1933 and were still so domiciled at the time of the Decree (i.e. on 13 July 1949) and had not been absent from Guatemala continually for more than two years [1].

85. Mr. Nottebohm had been a German national on 7 October 1938; his name figured on the Black List and he was no longer domiciled in Guatemala on 13 July 1949, but in Liechtenstein. These facts were uncontroversial. Thus he fell within the ambit of Article 7 *(a)* and *(c)* and, by reason of his inclusion within the class defined in 7 *(c)*, he could not claim the privileges of exemption under Article 17 of the Decree 630. Nor could any doubts arise whether the Decree 630 was applicable in the particular circumstances of his case. The Decree is unambiguous. In the face of uncontroversial facts, which attracted unquestionably the application of Decree 630, no appeal to the Administrative Court or to the Supreme Court on the ground that he was a national of Liechtenstein, a neutral State, could have succeeded.

86. The Government of Guatemala acknowledges this fact when it states:

"La régularité des expropriations faites ne paraît pas pouvoir faire de doute" (Countermemorial, paras. 76, 77, 72).

87. It is precisely in these circumstances that the rule recalled above (para. 80) applies. In face of an enactment in unambiguous terms of the Articles 7 and 10 of the Legislative Decree 630, no higher court could reverse the decision given in Proceedings 109. Consequently, Mr. Nottebohm could not be required to exhaust the remedy of further appeals prescribed by Article 47 of the same decree.

The substance of the complaint lodged by the Government of Liechtenstein is, therefore, not that Articles 7 and 10 of the Decree 630 were wrongly applied, but that provisions of this kind were enacted at all by the Government of Guatemala. For by including in the statutory definition of an enemy, for the

[1] The Government of Guatemala, having expelled Mr. Nottebohm and refused to re-admit him now treats the fact that he was not admitted and therefore condemned to enforced absence from Guatemala for more than two years as a statutory basis for withholding from him the possible benefits of Article 17.

purposes of expropriation, persons who possessed the nationality of Liechtenstein, a neutral country, Guatemala violated international law.

Relevance of Precedents

88. Vainly does the Government of Guatemala attempt to show, by citing and reproducing the decisions of the Administrative Court and of the Supreme Court in the matter of Carmen Nottebohm Stoltz (Countermemorial, Annexes 50 and 51), that an appeal might have met with a substantial measure of success. For Carmen Nottebohm Stoltz was a national of Guatemala and was not a national of any neutral or enemy country at any relevant time. Nor did she come within the ambit of any other provision of Article 7 of Decree No. 630. Having regard to these facts, the Legislative Decree No. 630 was clearly inapplicable to her.

89. But even if the wording of Articles 7 and 10 of the Legislative Decree 630 had permitted the conclusion that an appeal could have been lodged with a reasonable expectation of success, a further obstacle presented itself. Article 47 of the Legislative Decree 630 required the deposit varying from 200 to 2,000 Quetzales, according to the discretionary order of the Court, before an appeal to the Supreme Court of Cassation could be admitted. This sum was to be forfeited if the appeal failed. This penal provision must be regarded as a potential, but none the less effective, bar to the filing of appeals. This sum is all the more prohibitive where the proceedings involve objects of small value. Proceedings 109, which are the only proceedings in which this appeal could have been lodged, concerned only the plantations Guatalón and Morazán, the combined value of which amounted to 18,000 Quetzales.

Plea of Violation of the Constitution

90. In view of these considerations, the requirement that all local remedies must have been exhausted could not ordinarily be insisted upon. The rule of international law waiving this requirement (above para. 80) where the decision complained of has been given in pursuance of an unambiguous municipal enactment with the result that there is no likelihood of a higher tribunal reversing the decision, applies without doubt. However, in the present case the matter does not rest here.

Legal Basis

91. Article 170 of the Constitution of 1945 provides (Countermemorial, Annex 15) :

"The Courts are competent to give judgments and to order levy of execution of their judgments and to watch over the application of the laws in all spheres which fall within their jurisdiction. The ordinary courts and the administrative court may, in individual

cases, pronounce by way of judgments of first and second instance, and of cassation that any law or measure of the organs exercising the other functions of government is inapplicable on the ground that it violates the Constitution."

See also Article 85 of the Constitution of 1879 (Countermemorial, Annex 14).

Limits of Re-examination

92. It is self-evident that the enactment of a provision such as that to be found in Article 170 of the Constitution of 1945 cannot oust the rule of international law that the local remedies need not be exhausted if the statute is unambiguous and was correctly applied to the facts. Nor does Article 170 of the Constitution eliminate the rule (above paras. 52, 53) that, where the claim is predicated on the ground of an initial breach of international law, the question whether the local remedies have been exhausted must be ascertained solely with reference to the allegations advanced by the claimant's State. In short, the formal existence of a remedy cannot avail the respondent State if the facts of the case and the tenor of the enactment which was applied exclude any reasonable expectation that the decision complained of can be reversed on the ground that Mr. Nottebohm was a national of Liechtenstein, a neutral State.

93. This principle is as valid where the appeal is based on the ground that the Constitution has been violated as it is valid when in normal circumstances the appeal alleges that the law has been misconstrued, or has been wrongly applied to the facts (above, paras. 52, 53). In short, an appeal on the ground that the Constitution has been violated must be attended by a reasonable expectation that the decision complained of can be reversed on the ground of the particular allegations advanced by the claimant's State. Conversely, the existence of a clear rule of the Constitution sanctioning a measure of the kind which is *prima facie* applicable, or the absence of a rule prohibiting it, must rule out the need to appeal on the ground that the Constitution is violated.

Relevant Provisions of the Constitution

94. It follows from the foregoing that in the present case the problem whether the legislation concerning the expropriation of enemy property is compatible with the Constitution can only arise in connection with two questions :

(i) whether the Constitution of Guatemala permits or prohibits the expropriation, in time of war, of the property of neutral nationals, on the ground that they are enemies according to Guatemalan law ;

(ii) does the Constitution of Guatemala establish the primacy of international law (like, for instance, Article 25 of the German

Constitution of 1949) ? If it did, it would follow that the legislation expropriating neutral nationals in time of war on the ground that they are enemy aliens according to Guatemalan law, would be invalid on the ground that it is contrary to international law.

Neutral Nationals as Enemies

95. The relevant provision of the Constitution of 1945 is Article 92 (Countermemorial, Annex 15), which superseded Article 28 of the Constitution of 1879 (Countermemorial, Annex 14).

After providing that private property may only be expropriated against previous payment of an indemnity for public purposes (Art. 92 of the new Constitution ; 28 of the old Constitution) or for social purposes proved according to law (Art. 92 of the new Constitution), both Constitutions deal with expropriation in time of war.

96. The Constitution of 1879 merely stated that in time of war no previous indemnity need be paid. While retaining this rule as a general principle, the Constitution of 1945 added, in Article 92 :

"In case of war, enemy property may be sequestered and, if expropriated, payment of an indemnity may be postponed until the date when the war is ended. The procedure of expropriation shall be determined by a law."

97. The problem is, therefore, whether Articles 7 *(a)* and *(c)*, 10 and 17 of the Legislative Decree 630 of 13 July 1949, which provided the legal basis of the decision in Proceedings 109, violate Article 92 of the Constitution of 1945. Articles 4 and 11 of the Legislative Decree 630 sanctioned the payment of an indemnity in accordance with Article 92 of the Constitution ; the only question to be examined is, therefore, whether Articles 7 *(a)* and *(c)*, 10 and 17 of the Legislative Decree 630, which define as enemies persons on the Black List and persons who were enemy nationals on 7 October 1938, violate Article 92 of the Constitution.

Definition of Enemies

98. Article 92 of the Constitution does not itself determine the criteria for the purpose of ascertaining who is an enemy national and thus leaves it to the legislature and the executive to adopt their own. It cannot be said, either, that, for the purposes of municipal law generally, a uniform standard of enemy character has been developed and that this standard is implicit in the word enemy as employed in Article 92 of the Constitution of 1945. This standard may vary from enactment to enactment, according to the purpose of the individual legislative measure. Thus it has been stated :

"Any definition of an alien enemy .... should state clearly the point of view from which the matter is approached" (McNair, *Legal Effects of War* (3rd ed., 1948), p. 38).

This practice can be traced in the legislation of many countries. For instance, in the United States

"a decision declaring that an arrested person is an alien enemy within the meaning of the Alien Enemy Act *per se* may have no bearing upon the legal status of that alien enemy and of his property in this country and upon questions arising thereunder under the Trading with the Enemy Act" (Domke, *Trading with the Enemy in World War II* (1943), p. 74).

Tests of Enemy Character

99. Ordinarily, the tests for determining enemy character are nationality, residence (McNair, *loc. cit.*), personal or business associations as evidence of loyalty (Domke, *op. cit.*, p. 52) or inclusion in the Black List (British Trading with the Enemy Act, 1939, s. (2)). Thus the selection, by the Guatemalan Legislative Decree No. 630, of the circumstance that a person was on the Allied Black List as a criterion of enemy character could not be regarded as a violation of Article 92 of the Guatemalan Constitution, since it is not inconsistent either with the express forms of that Article nor with the generally recognized principles of law in this field. It is significant that the Government of Guatemala has not been able to cite a single case in which a person of neutral or Guatemalan nationality who figured on the Black List, has been able to obtain the release of his property on the ground that Article 7 *(c)* of the Legislative Decree 630 is unconstitutional. This is all the more significant since inclusion in the Black List was made the criterion of enemy character not only in one, but in several Guatemalan decrees. The criterion was in fact an objective one which left the authorities no discretion which could be impugned by way of appeal ; Governmental Decree No. 3138, Art. 10, 3 *(b)* (Countermemorial, Annex 39) ; see also Legislative Decree No. 114, Art. 9 (Countermemorial, Annex 35) ; see also Governmental Decree No. 2601, Art. 1 (Countermemorial, Annex 22) ; Governmental Decree No. 2702, Art. 1 (Countermemorial, Annex 26) ; Governmental Decree No. 2789, Art. 1 (Countermemorial, Annex 27). The clear wording of Article 92 of the Constitution precludes any possibility of a complaint on the ground that a person on the Black List is not an enemy.

In fact, the complaint of the Government of Liechtenstein does not arise on the ground that Mr. Nottebohm was regarded as an enemy for certain purposes following his inclusion in the Black List. Instead, it arises from the circumstances that, being treated as an enemy, his property was expropriated, as the Constitution permits.

Primacy of International Law

100. The Government of Liechtenstein contends that even if Mr. Nottebohm was an enemy according to Guatemalan law with the result that his property became liable to expropriation, the

expropriation of his property constitutes a breach of international law.

Mr. Nottebohm may have been a statutory enemy in Guatemala for certain purposes of supervision. Nevertheless he was a national of a neutral State and, in so far as international law is concerned, was entitled to the respect and protection of his property. This respect and protection was denied to him by the Legislative Decree No. 630.

The substance of the complaint of the Government of Liechtenstein is therefore that the Legislative Decree No. 630, in its operation upon Mr. Nottebohm, violated international law. Any appeal on the ground that the Constitution was violated in consequence of the expropriation, as enemy, of the property of a neutral national, would have had a reasonable expectation of success only if the Constitution of Guatemala had contained a provision to the effect that Guatemalan legislation violating international law is void. However, no such provision is to be found in the Constitution, and any appeal on this ground was doomed to fail at the beginning.

Relevance of Precedent

101. In support of its contention that an appeal could have been lodged with a reasonable expectation of success, the Government of Guatemala cites the Judgment of the Supreme Court, dated 16 October 1951, in the Case of *Euling* (Countermemorial, Annex 52). However, the ground of appeal on which the plaintiff there succeeded was that he had been denied a *locus standi* in his character of heir to his father, whose property was the object of expropriation proceedings. The question whether the enemy expropriation legislation was compatible with the Constitution was thus not in issue at all. The fact that expropriation proceedings gave rise to the particular complaint of Mr. Euling is purely incidental.

Conclusion

102. The Government of Liechtenstein concludes that in the face of an enactment such as Article 92 of the Constitution of 1945 no higher court could reverse the decision in Proceedings 109. Consequently, Mr. Nottebohm could not and cannot now be required to exhaust the remedy of further appeals prescribed in Article 47 of the Legislative Decree No. 630 in conjunction with Article 170 of the Constitution of 1945.

General Procedure of Administrative Appeals

103. But the Government of Guatemala also contends that the general procedure of administrative appeals provided for in the Law of Administrative Jurisdiction of 28 September 1936 (Countermemorial, para. 46, and Annex 18) was open to Mr. Nottebohm. However, the Government of Guatemala again fails to state by

whom, against what administrative decision and at what time the appeal provided for in this law should have been lodged.

The Government of Guatemala has failed, moreover, to explain whether, and if so to what extent, the general procedure of administrative appeals could be exercised, at any material time, in addition to the special procedure of "opposition" provided by the legislation dealing with the expropriation of enemy property, especially by Article 47 of the Legislative Decree No. 630 (above, paras. 67-72). The Government of Liechtenstein denies that the two procedures of appeal could under Guatemalan law be followed concurrently.

Nature of Administrative Proceedings

104. According to the Law of 28 September 1936, administrative proceedings may be brought within 7 days to impugn the acts of officials (Art. 7). The complaint is submitted to the competent Minister who must give a decision within one month of the receipt of the file (Art. 7 (2)). If the complaint is directed against an act of the Minister himself, he must re-examine his previous act (Art. 7 (3)). Failure of the Minister to decide a complaint is deemed to constitute a refusal to review the act complained of (Art. 8). Thereupon an appeal may be lodged to the competent court by means of an administrative appeal (Art. 9). The appeal must concern *either* a definitive decision in the exercise of administrative powers which affects a legally recognized right or an administrative decision which violates individual rights recognized by law, provided that the decision was taken as the result of a general measure which itself is in breach of that law (Art. 13).

Sphere of Application—Before 1946

105. The question to be considered is at what time and against what measures the administrative appeal should have been lodged. It may be recalled that the great majority of acts of expropriation affecting the interests of Mr. Nottebohm were initiated in 1944 and 1945 when he and his legal representative were interned. Thus Mr. Nottebohm was prevented until 1946 from lodging any administrative appeal just as he was prevented from lodging any "opposition" by the procedure laid down in the decrees dealing with the expropriation of the property of enemies (above para. 60). Consequently, no charge that the local remedies were not exhausted owing to a failure to lodge an administrative appeal can be brought in regard to this period (above para. 62).

Sphere of Application—After 1946

106. Immediately upon his return from internment, Mr. K. H. Nottebohm, acting as the legal representative of Mr. F. Nottebohm, filed notices of opposition in accordance with the procedure laid down in the decrees dealing with the expropriation of enemies

and added further notices of opposition when this was required by law (above, paras. 68, 72).

If the Government of Guatemala should contend that according to Guatemalan law a claimant must bring two or even more concurrent appeals in different jurisdictions if he wishes to make sure that he obtains justice somehow or somewhere, such a notion of the need to exhaust local remedies is not in accordance with that acknowledged in international law.

Indeed, it may be argued that, had Mr. Nottebohm taken the course now suggested by the Government of Guatemala, he would have laid himself open to the charge, levied against him elsewhere (Countermemorial, para. 56), of having employed delaying tactics.

Administrative Appeals in Proceedings 46 and 109

107. Since no decision was given in Proceedings 46, no occasion could arise to employ the procedure of administrative appeals for the purpose of reversing an administrative act. In so far as Proceedings 109 are concerned, a decision was given. However, no appeal against this decision was required for the following reasons which were set out in detail above (paras. 73-76, 102) and will be summarized here: In the first place, the decision in Proceedings 109 was given *after* the application had been lodged in the International Court of Justice by Liechtenstein. In the second place, the decision in these proceedings was given on the strength of a law (Legislative Decree No. 630), the unambiguous wording of which excluded any reasonable expectation that a higher court would reverse the decision, whatever process of appeal was adopted. In the third place, the equally unambiguous wording of the Constitution excluded any reasonable expectation that the courts would declare Articles 7 *(a)* and *(c)* and 17 of the Legislative Decree No. 630 invalid on the ground that they violated the Constitution of 1945.

108. The complaint of Mr. Nottebohm was not, and the complaint of the Government of Liechtenstein is not, it must be repeated, that Guatemalan law was wrongly applied. The complaint arises from the fact that the tenor of the Guatemalan legislation expropriating enemy property included the property of Mr. Nottebohm on the ground that he was on the Allied Black List, notwithstanding that he was from 1939 onwards a national of Liechtenstein, a neutral State, and thus violated international law.

Procedure under Law No. 1539 (The Law of Protection)

109. The Government of Guatemala contends, finally, that an appeal could have been lodged in accordance with the Law No. 1539 of 28 May 1928 (Countermemorial, Annex 16—below Annex 21)—the Law of Protection. This law provides relief against administrative and judicial acts which infringe private rights protected by the Constitution (Art. 1 *(a)*) and enables the competent

court to declare, in individual cases, that a law, decree or order is not applicable in the particular circumstances.

Applicability—Subsidiary Remedy

110. The Government of Liechtenstein contends, in the first place, that Law No. 1539 is inapplicable, having regard to s. 27 *(b)* of the Law which provides :

"The recourse of protection cannot be lodged .... *(b)* in administrative matters, where the relevant laws authorize appeals."

It is undisputed that in the present case the Legislative Decree No. 630 provided the special procedure of opposition, followed by the appeals enumerated in s. 47 (Countermemorial, Annex 39). Consequently, the general procedure in virtue of the Law of Protection could not be employed while the former is still pending.

Absence of Grounds

111. The Government of Liechtenstein contends, in the second place, that even if the procedure under Law No. 1539 had been available, the exhaustion of remedies provided by that law could not be required for the following reasons : Applications under this law must be based on the ground ***either*** that the applicant was deprived of his rights guaranteed by the Constitution (Art. 1 *(a)*) *or* that in the particular case, a law, decree or administrative measure is inapplicable. However, it was shown above (paras. 95-102) that Articles 7 *(a)* and *(c)* of the Legislative Decree No. 630 (Countermemorial, Annex 39) do not violate the Constitution and that the relevant articles of the Legislative Decree No. 630 were correctly applied, given the undisputed fact that Mr. Nottebohm was placed on the Black List.

Conclusion

112. In these circumstances, no reasonable expectation could be entertained that the courts would reverse the decision of the competent Minister given in Proceedings 109, and Mr. Nottebohm could not be required to exhaust a formal remedy which, having regard to the unambiguous wording of Article 92 of the Constitution (Countermemorial, Annex 15) and of Article 7 *(a)* and *(c)* of the Legislative Decree No. 630 (Countermemorial, Annex 39), could not be substantiated materially.

E. *Imprisonment and Detention in the United States*

113. As regards the imprisonment and subsequent detention of Mr. Nottebohm in the United States, the Government of Guatemala contends that Mr. Nottebohm should have resorted to the remedies available to him under the Law of 28 September 1936 concerning Administrative Procedure (Countermemorial, para. 46, and Annex 18)

or under the Law of Protection No. 1539 of 28 May 1928 (Countermemorial, paras. 47, 52 ; *Annex 16 ; below Annex 21*).

114. This contention is unfounded. When Mr. Nottebohm was arrested on 19 November 1943, he was given no opportunity of communicating with his legal advisers, but was handed over to United States authorities in Guatemala (Memorial, para. 12). He was thus effectively prevented from taking any steps. Moreover, the Government of Guatemala admits that Mr. Nottebohm would have been interned and detained in any event, even if he had lodged an appeal against his detention (Countermemorial, para. 73). In these circumstances it is unnecessary to examine whether the exhaustion of these remedies would have been accompanied by effective redress.

Conclusions

115. The Government of Liechtenstein concludes

(a) as regards measures of expropriation taken against Mr. Nottebohm :

(i) that during the period from 1944 until 1946 Mr. Nottebohm was not required to exhaust the local remedies since he and his legal representatives were physically precluded from exhausting them ;

(ii) that during the period after 1946 Mr. Nottebohm was not required to exhaust the local remedies,

(a) in Proceedings 46, since no decision was ever given against which appeal could be brought,

(b) in Proceedings 109 seeing that

(aa) the decision was given after the application had been filed by Liechtenstein in the International Court of Justice,

(bb) the unambiguous wording of the Legislative Decree No. 630, Articles 7 *(a)* and *(c)* and 17 and of Article 92 of the Constitution of 1945 excluded any reasonable expectation that a higher court would reverse the decision on the ground, which forms the substance of the present complaint, that the expropriation of Mr. Nottebohm, a national of a neutral State, was contrary to international law ;

(b) as regards measures of imprisonment and detention taken against Mr. Nottebohm, that he was physically precluded from exhausting the local remedies and that, on the admission of the Government of Guatemala, the exhaustion of the local remedies would have been of no avail to him.

Part V. *The Treatment of the Person and of the Property of Mr. Nottebohm*

116. The Government of Liechtenstein has now completed its reply to that part of the Guatemalan Countermemorial which raises objections to admissibility of Liechtenstein's claim before this Court.

The Government of Liechtenstein will now therefore turn to reply to the Countermemorial on the merits and will deal in turn with the issues raised by the treatment of Mr. Nottebohm's property, by the treatment of his person, and finally by the claim for damages.

A. *The Property*

General Observations

117. The Government of Guatemala contends that the expropriation without adequate and effective compensation of Mr. Nottebohm, a national of a neutral State, was justified in time of war on three grounds which bear no relation to each other.

It contends, in the first place, that belligerents are entitled to expropriate the property of neutrals without adequate compensation (Countermemorial, paras. 60, 61, 62, 67, 68).

It contends, in the second place, that the expropriation was justified on the ground that Mr. Nottebohm was a German national (Countermemorial, paras. 63, 68, 70, 76, 78-87).

The Government of Guatemala contends, in the third place, that the expropriation was justified as a measure of agrarian reform (Countermemorial, para. 69).

These heterogeneous submissions are supported by a number of unconnected arguments which must be examined in turn.

(a) *Neutral Property during War*

118. The Government of Guatemala contends that no claim for damages can arise in respect of the treatment of neutral property in time of war, including expropriation, if the measures were taken in good faith, upon reasonable grounds and without discrimination (Countermemorial, para. 59).

119. The Government of Liechtenstein does not contest that neutral property may be affected, in time of war, in case of military necessity (Memorial, paras. 57-66), in the exercise of the right of requisition (Memorial, para. 61) or, to a limited extent, if the neutral owner resides in enemy territory, and only as long as a state of war exists (Memorial, para. 62). However, it is not disputed that no case of military necessity arose (Memorial, para. 61 *(b)*), that the Government of Guatemala did not purport to requisition the property of Mr. Nottebohm, that if it had done so, the measure would have been discriminatory (Memorial, para. 61 *(b)*) and that

Mr. Nottebohm did not reside in enemy territory (Memorial, para. 62 *(c)*). Moreover, as far as the last possibility is concerned, the property was not released at the conclusion of hostilities, as is required by international practice (Memorial, para. 62 *(c)*).

Practice of States

120. The Government of Guatemala seeks to support its actions by assertions that Belgium, France, Great Britain and the United States have adhered in their legislation to the principle, adopted by the Government of Guatemala and set out above (para. 118), that the measures, including expropriation, taken against neutral property, are lawful according to international law, if they were taken in good faith, upon reasonable grounds and without discrimination.

Allied Legislation affecting Neutral Property in World War II

121. The Government of Liechtenstein is not aware of any legislation of this kind in the States named by the Government of Guatemala, nor has that Government identified any such legislation. It is true that, during the war, the property of neutral owners was affected by the legislation concerning Trading with the Enemy, but the purport and effect of this legislation is limited.

Limits of Trading with the Enemy Legislation ratione personae

122. Modern Trading with the Enemy Legislation restricts itself, in so far as the person of the owner is concerned, to individuals who are resident in enemy territory or who reside in neutral territory, but are trading with the enemy.

On the other hand, modern Trading with the Enemy Legislation never affects enemy nationals or neutrals as such who are resident in the country of the belligerent himself. For this reason alone the legislation of Guatemala purporting to treat the property of a resident neutral individual as enemy property is contrary to the practice of States.

Limits of Trading with the Enemy Legislation ratione materiae

123. In the second place, modern Trading with the Enemy Legislation restricts itself to measures of a temporary character which are required by the exigencies of war. These exigencies are to deny the enemy access to potential economic resources and to exclude the resurgence of economic penetration by the enemy after the war. For these purposes two types of measures are employed. Enemy property may be frozen or sequestered.

Liquidation of Enemy Property

124. Contrary to the contention of the Government of Guatemala (Countermemorial, para. 63), no unequivocal rule of customary international law exists which permits the confiscation of assets owned

by enemy nationals, while hostilities are still in progress (Oppenheim, *International Law*, II (.... th ed., 1952), para. 102, p. 326; Hyde, *International Law*, III (2nd ed., 1946), pp. 1735 ff.; J. B. Moore, *Harvard Law Review*, 50 (1934), pp. 395, 421; Turlington, *American Journal of International Law*, 36 (1942), p. 460; Sommerich, *ibid.*, 37 (1943), p. 58 at p. 69; Borchard, *ibid.*, 37 (1943), p. 92).

Liquidation and Peace Treaties

125. The contention that no customary rule of international law is established which permits the confiscation of assets owned by enemy nationals during hostilities is borne out by the practice of States. It is significant that the Peace Treaties concluded at the end of the First and the Second World War contain express and detailed clauses which empower the victor to liquidate the property of enemy nationals (Treaty of Versailles, Art. 297 *(b)*, and Annex paras. 1, 2, 4, 9; Treaty of Peace with Italy, 16 February 1947, Art. 79 (1)-(4); Treaty of Peace with Bulgaria, 10 February 1947, Art. 25; Treaty of Peace with Hungary, 10 February 1947, Art. 29; Treaty of Peace with Roumania, Art. 27). On the other hand, where no liquidation of the assets of enemy nationals is envisaged, the treaty is silent (see Treaty of Peace with Finland, 10 February 1947, Art. 27).

It is thus clear that the liquidating States are of the opinion that, as regards assets owned by enemy nationals, a treaty is required to justify the expropriation without adequate and effective compensation.

Compensation and Peace Treaties

126. At the same time, the Peace Treaties concluded after the First and Second World Wars coupled the provisions permitting the victors to liquidate the assets of the nationals of the vanquished State with a provision imposing upon the latter the obligation to compensate his own nationals. Thus the principle was preserved that private property is not to be expropriated without adequate compensation.

Liquidation of Neutral Property

127. So far it has been shown that no rule of customary international law exists which permits the expropriation, without adequate and effective compensation, of assets belonging to enemy nationals. But where assets belonging to neutral nationals are concerned, the principle is clear (cf. Littauer, *Yale Law Journal*, 52 (1943) 739, 761). Even if these assets should have been subject to control or sale during the war owing to the fact that, technically, the neutral owner was to be treated as an enemy during the war in consequence of the Trading with the Enemy Legislation (above, para. 122), these assets cannot be liquidated.

The Distribution of German Enemy Property Act, 1949, enacted by Great Britain, serves to illustrate this aspect. S. 8 of this Act

provides that the liquidation procedure affects only the assets of

"(1) any individual who was a German on or after 3 September 1939 and (i) was included among the persons specified in any order made under s. 2 (2) of the Trading with the Enemy Act, 1939...." [*i.e.* who were on the Black List].

Conclusion

128. In other words, only the property of those persons on the Black List was to be expropriated who were enemy nationals (see also the legislation of the United States cited by Bishop, *Harvard Law Review*, 52 (1948-49) 721 at p. 752). On the other hand, the sequestered assets, or the proceeds of the sale of such assets, belonging to neutral owners, must be returned to them after the war : *Bank voor Handel* v. *Slatford* [1953] 1 Q.B. 248 ; *Kaufman* v. *Société Internationale* (1952) 343 U.S. 156. The reason is obvious. The purpose of liquidation is to exclude future economic penetration by the enemy, not by neutrals. Moreover, the purpose is not to punish the individual owner. While the victorious State can and does impose upon the vanquished State the obligation to compensate his own nationals, no such obligation can or may be imposed upon a neutral State. To expropriate a neutral national now and to promise him—a promise lacking in fact in Mr. Nottebohm's case—an uncertain amount of compensation to be fixed by a future Peace Treaty to be concluded at an uncertain date is not adequate and effective compensation. Thus the liquidation of the assets of a neutral would amount to an unjustified and undisguised predatory action (Memorial, para. 62). Once the war is over, the property of neutral nationals cannot be liquidated in good faith, upon reasonable grounds and without discrimination. In the face of the practice of international law, it cannot be done in good faith. In view of the conclusion of hostilities there can be no reasonable grounds. In the absence of wholesale expropriations of the property of all neutrals and all nationals alike, there must, of necessity, be discrimination.

129. The Government of Guatemala refers to a number of resolutions adopted by Inter-American Conferences (Countermemorial, para. 61), but to no purpose. For, in the first place, these resolutions do not bind Liechtenstein. In the second place, they authorize only the sequestration and sale of assets, but not a final liquidation after the war without adequate and effective compensation.

(b) *Enemy Nationality of Mr. Nottebohm*

130. The Government of Guatemala says that the expropriation of Mr. Nottebohm was justified on the ground that he was an enemy national (Countermemorial, paras. 63, 68, 70, 75, 76, 78-87). It thus takes up an argument which it had already developed on its contention that the Government of Liechtenstein was not entitled to espouse the claim of Mr. Nottebohm on the ground

that his naturalization in Liechtenstein is invalid and that he is still only a German national (Countermemorial, paras. 84-87) or that he retained his German nationality upon acquiring that of Liechtenstein (Countermemorial, paras. 78-82).

131. The Government of Liechtenstein contends that Mr. Nottebohm has not retained his former German nationality and that he possesses and possessed exclusively the nationality of Liechtenstein at all relevant times. The facts and the legal grounds on which this contention is based were set out above (paras. 15-48) and need not be repeated here.

It may be, as the Government of Guatemala maintains (Countermemorial, para. 70), that the choice in Article 7 *(a)* of the Legislative Decree No. 630 (Countermemorial, Annex 39) of the date of 7 October 1938 as a criterion for determining enemy nationality, was not deliberately designed to cover the individual case of Mr. Nottebohm, but those German nationals who were also Guatemalan nationals (Governmental Decree No. 2153 of 7 October 1938 ; Countermemorial, Annex 20, abrogated by the Legislative Decree No. 281 of 26 September 1946, Countermemorial, Annex 37). Nevertheless, Article 7 *(a)* of Decree No. 630, being unqualified in its terms, does in fact include the case of Mr. Nottebohm. It was thus faulty, and the Government of Guatemala cannot shelter behind the statute, however innocent its intention may have been.

It is only necessary to point out in this connection that the Government of Liechtenstein fails to perceive the relevance of the legal argument to be derived from the authorities cited by the Government of Guatemala. These serve to show only that according to the domestic law of England, though not according to that of Germany, a dual national cannot divest himself of his British nationality in time of war (*Freyberger*'s Case [1917] 2 K.B. 129, 139 ; *Gschwind* v. *Huntingdon* [1918] 2 K.B. 420) ; that according to the law of the United States a national may be deprived of his nationality for disloyal statements (*U.S.* v. *Kramer, Annual Digest*, 1919-1922, Case No. 142) and that according to French law a person who served in the Austrian army during the First World War could be treated as a "ressortissant" of an enemy State in virtue of the Peace Treaties of 1919.

(c) *Agrarian Reform*

132. The Government of Guatemala contends, finally, that the expropriation of the properties of Mr. Nottebohm was lawful as a measure of a far-reaching social and agrarian reform (Countermemorial, para. 69).

It must be noted, however, that the agrarian reform in Guatemala is based on the Legislative Decree No. 900 which bears the date of 17 June 1952 (Countermemorial, Annex 40). At this time, the measures of expropriation directed against Mr. Nottebohm had long been carried out, opposition proceedings had been pending for six

years, and an application had been filed by Liechtenstein in the International Court of Justice. The Government of Liechtenstein contends that a State is not entitled, by the device of subsequent legislation, to cloak with the title of legality any completed acts which were initially contrary to international law and which were already the object of a complaint in the International Court at the time when the subsequent legislation was passed. Moreover, the property of Mr. Nottebohm which was affected by the measures of expropriation forming the subject of the present complaint consisted only in part of agricultural land. Finally, no previous indemnity was paid, as is required by Article 5 of the Legislative Decree No. 900 of 17 June 1952. The Government of Liechtenstein concludes that the argument drawn from Legislative Decree No. 900 is specious and must be disregarded.

B. *The Personal Treatment of Mr. Nottebohm*

Arrest and Internment of Neutral Nationals—Compatibility with International Law

133. The Government of Guatemala argues that the treatment of the person of neutral nationals by a belligerent is subject only to the restriction that any measures of whatever kind affecting them must be taken in good faith, and for justifiable reasons and not be discriminatory (Countermemorial, para. 60 (1)). The measure must be justified by the requirements of the state of war and must be commensurate to them (Countermemorial, para. 62).

134. The Government of Guatemala thus denies that, subject to the exigencies of war, the nationals of a neutral State remain unaffected by the outbreak of war and continue to be entitled to the same treatment to which aliens are generally entitled in the territory of a foreign State (Memorial, para. 34). In particular, the Government of Guatemala denies, by implication, that in cases of arrest or detention on suspicion, those suspicions must be verified by serious inquiry (Memorial, paras. 35-37).

135. The Government of Liechtenstein cannot accept these contentions. It observes that the Government of Guatemala has been unable to produce any evidence in support of its assertions in the face of the overwhelming range of authorities to the contrary, adduced and relied upon in the Memorial submitted by the Government of Liechtenstein (Memorial, paras. 35, 40, 45, 46, 47, 48).

Inter-American Resolutions and Guatemalan Law

136. Instead, the Government of Guatemala refers to Resolution XX of the Special Inter-American Consultative Committee for the Political Defence of the Hemisphere. This recommends that all dangerous nationals of the Axis States and of their satellites residing in the Western Hemisphere should be detained for the duration of

the hostilities. For this purpose the States participating in the Conference were enjoined to employ the weapon of expulsion or deportation, if need be to another American Republic (Countermemorial, para. 61 (3)).

137. The Government of Liechtenstein, while observing that this Resolution is not binding upon it, notes that the Resolution refers only to dangerous nationals of the Axis and not to the nationals of neutral States. It notes, in addition, that Article 13 of the Legislative Decree No. 2655 of 23 December 1941 (Countermemorial, Annex 25), which provided the legal basis for internment orders made in Guatemala, purports to apply only to nationals of the countries with which the Republic is at war and to Guatemalan citizens, if their attitude justifies the suspicion that they are engaged in activities which are subversive or endanger the security of the Nation and its institutions.

138. Contrary to the contention of the Government of Guatemala (Countermemorial, para. 66), the Government of Liechtenstein submits that the omission to mention nationals of neutral States in Resolution XX of the Inter-American Consultative Committee and in Article 13 of the Guatemalan Legislative Decree No. 2655 is not fortuitous. It is in accordance with the international practice to the effect that, in the absence of proximate danger or of grave suspicion substantiated by proper enquiry, nationals of neutral countries must not be arrested or detained (Memorial, paras. 34, 35).

Foundation and Substantiation of Charges—In General

139. The Government of Guatemala has not attempted to allege, let alone substantiate, either at the time of Mr. Nottebohm's arrest, or in the course of the present proceedings, any reason for grave suspicion that Mr. Nottebohm was engaged, or was likely to engage, in activities dangerous to the security of Guatemala and of its Allies.

His birth in Germany, more than sixty years before, followed by thirty-eight years of residence in Guatemala, his former German nationality, the fact that he had relations there (though neither descendants nor ascendants), that as an import and export merchant his trade, in time of peace, with Germany equalled only that which he carried out with firms in the United States, that certain German firms had shares in properties in which Mr. Nottebohm was interested, that in the course of trade he discounted drafts drawn by the German Legation and sold them either to German banks or to the Chase National Bank of New York, all these circumstances are entirely inadequate to found a charge of actual or potential subversive activities.

Individual Charges

140. Inclusion, at one time or another, in the Allied Black List cannot be regarded either as a sufficient substantiation of the serious

charge of actual or potential subversive activities in Guatemala or in the Western Hemisphere.

The Allied Black Lists were economic weapons whereby the allied belligerents attempted to ensure that merchants and others in neutral countries engaged in trade, legitimate according to international law, with enemy countries were deprived of any supplies or assistance by persons in allied territory. Inclusion in the list did not constitute a charge of political or criminal activities in favour of the enemy.

Removal from the Black List

141. Moreover, the procedure whereby a person resident in neutral territory was included in the Black List was naturally speedy and not necessarily accompanied by such evidence as would be required in ordinary proceedings. For this reason persons included in the list were given the opportunity to establish their innocent character. Thus the British Government was prepared (Countermemorial, Annex 5), and the Government of the United States eventually agreed (Memorial, Annex 3), to strike the name of Mr. Nottebohm off the Black List. The reason for this change of attitude was that a thorough examination of the books of the firm of Nottebohm Brothers had disclosed the innocent character of their trading activities (Memorial, Annex 5, paras. 35, 36).

Other Charges

142. The fact that after a thorough investigation the Government of the United States released the Nottebohm interests in 1950 (Memorial, Annex 3) takes the sting out of the charges contained in a Memorandum of the Embassy of the United States in Guatemala, which is undated but appears to have originated during the War (Countermemorial, Annex 12). The Government of Liechtenstein desires to state, however, that the letter, alleged to have been written by Mr. Nottebohm, which was quoted in the report of the Guatemalan authorities in connection with Proceedings 109 (Annex 22, pp. 499-500), is a forgery, and that all the other allegations against Mr. Nottebohm contained in the same report are untrue.

Detention in the United States

143. The Government of Guatemala contends that, as regards the detention of Mr. Nottebohm after he had been handed over to the United States Forces in Guatemala (Memorial, para. 12), the manner of the transportation to the United States (Memorial, para. 13), as well as his subsequent detention in the United States until January 1946 (Memorial, para. 13), international responsibility, if any, falls upon the United States (Countermemorial, paras. 67 (1), 74, 75 (1)). The Government of Guatemala contends, further, that in the absence of any complaint by the Government of Liechtenstein

in respect of the conditions of internment in the United States, his detention in the United States must be regarded as a reasonable measure on the part of the Government of Guatemala, seeing that equally favourable conditions of internment might not have been available in Guatemala (Countermemorial, para. 74).

144. The Government of Liechtenstein cannot accept this argument. As a national of a neutral State, resident in Guatemala, Mr. Nottebohm was entitled to the protection of his liberty there, subject to the limited exceptions enumerated above (Memorial, paras. 34, 35 ; above, paras. 135, 138) which were not in fact applicable to his case. The Government of Guatemala cannot shirk this responsibility by an act of forcible deportation to a third State, where Mr. Nottebohm did not enjoy the privileges of a lawful resident, on the understanding that he would be detained there (Memorial, paras. 42-49).

Manner of Detention

145. While the Government of Liechtenstein reserves the right to complain of the manner and circumstances in which Mr. Nottebohm was deported to the United States as a fact which, by itself, attracts responsibility in international law (Memorial, paras. 45-48), these circumstances are primarily of significance in determining the amount of damages arising from his illegal detention.

146. The Government of Guatemala contends that the circumstances of hardship suffered by Mr. Nottebohm in the course of his transportation (Memorial, para. 13) have not been proved. However, the Government of Guatemala does not deny that the journey took thirty days and that one hundred and fifty persons were confined in a single room below deck. These facts alone are sufficient evidence of overcrowding and of great hardship visited upon an innocent elderly person who was not even an enemy.

Non-discriminatory Treatment violating International Law

147. Further, the argument is untenable (Countermemorial, para. 66) that nationals of neutral States are not entitled to a more favourable treatment than the nationals of the State of residence and that, since the latter could be interned in virtue of Article 13 of the Legislative Decree No. 2655, the former could be treated likewise. In putting forward this argument, the Government of Guatemala has fallen into the error of confusing the rule that, normally, States cannot complain of measures which are applied without discrimination to nationals and aliens alike with the entirely distinct rule that a State must strictly observe clearly established rules of international law in its dealings with aliens. And in the submission of the Government of Liechtenstein, international law prohibits the arrest and internment of neutral nationals except in the limited circumstances and subject to the conditions set out above (para. 138 ; Memorial, para. 34).

148. In effect, the Government of Guatemala treated Mr. Nottebohm as a German enemy national. Indeed, the Government of Guatemala still asserts that he is a German national (Countermemorial, paras. 78-87). If, as the Government of Liechtenstein has submitted (above, paras. 15-48), Mr. Nottebohm was exclusively a national of Liechtenstein at the outbreak of the war between Guatemala and Germany, the Government of Guatemala cannot escape its international responsibility for the measures of arrest and detention taken against him by contending that according to international law enemy nationals and neutral nationals may be treated alike in time of war.

Absence of Inquiry

149. The Government of Liechtenstein does not deny that in cases of grave suspicion substantiated by a proper inquiry, nationals of neutral countries may be arrested and detained in time of war (Memorial, paras. 34, 35 ; above, para. 138). Yet it is undisputed that no inquiry took place either before or after the arrest of Mr. Nottebohm. Instead he was prevented from communicating with his legal advisers and was thus deprived of every opportunity to test the legality of his detention according to Guatemalan law by initiating proceedings, or according to international law by insisting upon an inquiry into the validity of any charges brought against him. Nor would any such proceedings or any such inquiry, however favourable its results, have been of much assistance to Mr. Nottebohm, for the Government of Guatemala admits that he would have been arrested, detained and deported in any event (Countermemorial, para. 73).

Failure to re-admit

150. The Government of Guatemala contends that it was entitled to refuse to re-admit Mr. Nottebohm upon his release from internment (Countermemorial, para. 75 (2)). It states as the justifiable reason for this refusal the Recommendation of the Inter-American Conference of 6 March 1945 inviting American States to take measures against persons who were expelled for reasons of Inter-American security and who are likely to endanger the security and well-being of the American States in the future (Countermemorial, para. 75(3)).

151. The Recommendation, by itself, even if its relevance in international law were uncontested, does not provide any justification for the refusal to re-admit Mr. Nottebohm. On the other hand, it does lay down the criteria in which circumstances the refusal to re-admit an expelled alien may be justified. The alien must have been expelled for reasons of Inter-American security and must be likely to endanger the security and well-being of the American States in the future. These grounds do not differ substantially

from those which, in the view of the Government of Liechtenstein (above, paras. 135, 138, 149), can alone justify the expulsion of an alien. But as in the case of the deportation of Mr. Nottebohm, so in the case of the refusal of the Government of Guatemala to re-admit him, no evidence has been produced which shows that Mr. Nottebohm, an elderly merchant, and a national of Liechtenstein, was justifiably expelled for reasons of national security and that he was endangering or could reasonably be believed to be endangering the security and well-being of the American Republics in the future (see above, paras. 139-142).

The Government of Liechtenstein submits, therefore, that the Government of Guatemala has failed to substantiate its contention that the refusal to re-admit Mr. Nottebohm was justified within the framework of the conditions laid down by the Recommendations of the Inter-American Conference of 6 March 1945.

Conclusions

152. The Government of Liechtenstein concludes therefore:

(i) that the arrest and internment of nationals of neutral States by a belligerent is not justified according to international law in the absence of grave suspicion substantiated by a serious inquiry;

(ii) that no serious inquiry was instituted in the case of Mr. Nottebohm;

(iii) that the charges levelled against Mr. Nottebohm were not supported by any grave suspicion that Mr. Nottebohm was engaged, or was likely to engage, in activities dangerous to the security of Guatemala and of its Allies;

(iv) that the arrest and internment of nationals of neutral States by a belligerent is not justified according to international law in virtue of the fact alone that nationals of the State of residence are subject to the same measures;

(v) that the Government of Guatemala, as the State where Mr. Nottebohm, a national of Liechtenstein, a neutral State, resided, is responsible for his deportation, including the manner and circumstances in which it was carried out, and for his subsequent internment in the United States;

(vi) that, in the absence of any evidence that Mr. Nottebohm, a resident non-enemy alien of long standing, was justifiably expelled for reasons of security and that he was endangering or could reasonably be believed to be endangering the security and well-being of the American Republics, the refusal of the Government of Guatemala to admit him is unjustifiable and therefore illegal according to international law.

Part VI. *Damages*

Damages for Unlawful Arrest, Detention, Deportation and Refusal to re-admit Mr. Nottebohm—Detention, Deportation and Internment in the United States

153. The Government of Guatemala contends (Countermemorial, para. 89 (3)) that no damages can be claimed against that Government in regard to the detention, deportation and internment of Mr. Nottebohm by the Government of the United States. The Government of Guatemala thus returns to its contention, examined above (para. 143), that it is not liable for the acts of detention, deportation and internment in so far as they were carried out by United States authorities or in United States territory. The Government of Liechtenstein rejects this contention and maintains its conclusion, developed above (para. 144), that the Government of Guatemala cannot escape liability for illegal acts of arrest, detention, deportation and internment by delegating its powers in this sphere to the authorities of another State. The Government of Guatemala is liable and, consequently, it is under the obligation to pay damages. The Government of Guatemala assumes wrongly that the claim for special damages amounts to 20,000 dollars. The Government of Liechtenstein only claims 20,000 Swiss francs under this head (Memorial, para. 65).

Damages in respect of Sequestered Estates—Interest

154. The Government of Guatemala contends (Countermemorial, para. 90) that, as regards the revenues from the sequestered estates of Mr. Nottebohm, the Government of Liechtenstein is not entitled to claim interest at the rate of 6 per centum. The Government of Guatemala argues that the sums representing such income were regularly collected by the enterprises which produced this income. It contends, therefore, that these sums representing income were available to the beneficiaries, and that, consequently, the Government of Guatemala cannot be required to pay interest in respect of monies which were not at its disposal.

155. The Government of Liechtenstein observes that the monies in question were originally (from 9 October 1941 onwards) placed on blocked accounts in the name of the firms which had been placed under control (Governmental Decree No. 2601, Art. 1 ; Countermemorial, Annex 22 ; Governmental Decree No. 2789, Arts. 1 and 2 ; Countermemorial, Annex 26). However, subsequently (on August 14, 1944), these blocked accounts were expropriated (Governmental Decree No. 3134, Art. 1 ; Countermemorial, Annex 30). Thus the monies were originally paid to Mr. Nottebohm on blocked account together with the interest which had accrued while they were so frozen, but he was not able to dispose of them, and thus he never

collected these monies in the proper meaning of the word. Finally, they found their way into the Guatemalan Treasury. After the Decree No. 3134 had come into force on 14 August 1944, the way to the Treasury was direct. It follows that the Government is liable for the interest which had accrued on the blocked account between 9 October 1941 and 14 August 1944 and for interest on all income from expropriated properties derived after their expropriation on 14 August 1944.

Loss of Revenue

156. The Government of Guatemala contends that the claim for 300,000 Swiss francs as damages representing the additional income which, in the opinion of the Court, would have been earned by the property if it had remained under the control of the original owner (Memorial, para. 71 *(a)*) is unfounded in the absence of any evidence.

The Government of Liechtenstein observes that the sum of 300,000 Swiss francs must remain an approximation (Memorial, para. 71 *(a)* ; Final Conclusions (3)) as long as the Government of Guatemala fails to deliver an account of the revenues of the various estates. Once this account has been rendered, it will be possible, by means of the following process, to assess the difference between the actual yield and that which could have been obtained by Mr. Nottebohm :

The average annual yield of coffee or sugar produced by the particular estate (see Annex 20, col. 9) must be multiplied by the price per quintal of coffee or sugar prevailing at the time. The sum reached by this process represents the gross income which could have been obtained by Mr. Nottebohm. From this gross income must be deducted the cost of production and administration which can be ascertained if, and as soon as, Mr. F. Nottebohm is enabled to inspect his books which are at present under the control of the Government of Guatemala. This net sum must be compared with that representing the net income of the same estates under Government administration, taking into consideration war tax which had been imposed only upon the estates of persons on the Black List. The difference between these two totals represents the sum due under the present head of claim. The Government of Liechtenstein estimates this sum to be in the neighbourhood of 300,000 Swiss francs.

Value of the Estates

157. The Government of Guatemala contends that the values of the various estates submitted by the Government of Liechtenstein (Memorial, Annex 4) are exaggerated. It asserts that a correct assessment can only be reached by relying on the fiscal values (Counter-memorial, para. 93), as the Decree No. 630, Art. 25 does (Counter-memorial, Annex 39). The difference, it will be readily perceived, between the values, as estimated by the Government of Liechten-

stein (Memorial, Annex 4 and below, Annex 20, col. 10) and the fiscal values (Countermemorial, para. 93 ; and below Annex 20, col. 11) is considerable.

Fiscal Value and Market Value

158. The fiscal value of landed property in Guatemala is based on assessments made in the course of the period between 1930 and 1940. Up to the date of expropriation no re-assessments have taken place. Instead, a law of 1941 precluded persons on the Black List from applying for a re-assessment of fiscal values which had been fixed at an earlier period. It goes without saying that any re-assessment of fiscal values following expropriation in favour of the State, and in the absence of the former owner, would not provide any reliable guidance in assessing the market value.

The market value of the estates which produce coffee and sugar must be ascertained by calculating the average annual income, taking as a basis the average yield (Annex 20, col. 9), multiplied by the price of coffee or sugar per quintal. For the purpose of this calculation the Government of Liechtenstein has estimated the current price of coffee per quintal at 50 dollars at the time when the claim was presented. To-day the prices have increased by fifty per centum.

Compensation under the Agrarian Reform Legislation

159. The Government of Guatemala contends, finally, that if compensation were payable, it would have to be calculated by reference to the fiscal values, in accordance with Article 96 of the Law on Agrarian Reform (Legislative Decree No. 900 of 17 June 1952 ; Countermemorial, Annex 44, Article 96.)

The Government of Liechtenstein rejects this argument for two reasons. In the first place, the Law on Agrarian Reform was enacted long after the acts of expropriation had taken place and when Mr. Nottebohm was no longer the owner of any land which could have been expropriated under the Law on Agrarian Reform. In the second place, the Government of Liechtenstein affirms its previous claim (Memorial, paras. 70-71) that, in view of the illegal nature according to international law of the measures of expropriation taken against Mr. Nottebohm, neither nominal or adequate, but only full compensation in lieu of *restitutio in integrum* is the proper measure of damage adopted by international law.

The Interest of Mr. Nottebohm in the Firm of Nottebohm Hermanos

160. The Government of Guatemala denies that any damages can be claimed by the Government of Liechtenstein in respect of Mr. Nottebohm's share in the firm of Nottebohm Hermanos. In support of this contention, the Government of Guatemala refers to Article 18 of the Legislative Decree No. 630 (Countermemorial, Annex 39).

Article 18 provides :

"Notwithstanding the provision of the foregoing article [*i.e.* that exemption from expropriation may be granted in certain circumstances], no exemption can be allowed which affects immovable property, rights affecting land, or rights, shares or participations which, in one form or another, represent immovable property or rights affecting land, if these assets form part of the capital or of the holdings of legal entities engaged in agriculture, finance or banking which are subject to expropriation in virtue of the present law.

In addition, no exemption can be granted which affects shares or participations of any kind which represent legal entities engaged in agriculture, finance or banking which are subject to expropriation in virtue of the present law."

161. In the first place, the Government of Liechtenstein fails to perceive the relevance of Article 18 of the Legislative Decree No. 630 for the determination of the amount of damages due by the Government of Guatemala in consequence of an initial breach of international law.

In the second place, it is observed that, by referring to Article 18 of the Legislative Decree No. 630, the Government of Guatemala reverts to the question examined above in Part V (paras. 118-131) whether any liability arises in international law in consequence of the expropriation on the ground of enemy character of Mr. Nottebohm, a national of a neutral State, in accordance with Articles 7 *(a)* and *(c)*, 10 and 17 of the Legislative Decree 630 (Counter-memorial, Annex 39).

162. The conclusion was reached by the Government of Liechtenstein that the legislative measures in question were contrary to international law. At the same time the Government of Liechtenstein emphasized that its complaint does not arise from any charge that the Guatemalan legislation was misapplied by the authorities or that the legislation violated the Constitution (paras. 53, 99, 100).

163. The complaint of the Government of Liechtenstein which forms the substance of the present proceedings is predicated precisely on the ground that the legislation of Guatemala failed to include provisions which exempted the property of nationals of neutral States from expropriation on the ground of enemy character. The Government of Guatemala cannot now attempt to escape international responsibility by showing that in the case of certain types of assets exemption from expropriation was expressly excluded by statute. It is a rule of international law which is so well established as not to require any citation of authorities that a State cannot escape its responsibility in international law by sheltering behind its domestic legislation.

Conclusions

164. The Government of Liechtenstein concludes, therefore:

(i) that the Government of Guatemala is liable to pay damages in respect of the detention, deportation and internment of Mr. Nottebohm by the authorities of the United States;

(ii) that the Government of Guatemala is liable to pay interest at the rate of 6 per centum in respect of the monies representing the income of the sequestered and subsequently expropriated estates of Mr. Nottebohm;

(iii) that the Government of Guatemala is liable to pay damages in respect of the loss of income from the expropriated estates of Mr. Nottebohm. This loss of income consists of the difference between the revenues which were in fact obtained by the Government of Guatemala and the notional income, calculated by reference to the average yield per annum of the estates and to the current market price of the products;

(iv) that the value of the estates for the purpose of compensation according to international law is the market value calculated by reference to the average income per annum which must be ascertained in the manner set out above (iii);

(v) that the Law on Agrarian Reform of 17 June 1952 is inapplicable;

(vi) that the prohibition of restitution enacted by Article 18 of the Legislative Decree No. 630 cannot exempt the Government of Guatemala from liability under international law.

Final conclusion

May it please the Court to hold and declare,

As to the pleas of non-admissibility of the claim of Liechtenstein in respect of Mr. Nottebohm:

(1) that there is a dispute between Liechtenstein and Guatemala which is the subject-matter of the application to the Court by the Government of Liechtenstein and that it is admissible for adjudication by the Court without further diplomatic exchanges or negotiations between the parties;

(2) that the naturalization of Mr. Nottebohm in Liechtenstein on October 20th, 1939, was granted in accordance with the municipal law of Liechtenstein and was not contrary to international law; that in consequence Mr. Nottebohm was from that date divested of his German nationality; and that

Liechtenstein's claim on behalf of Mr. Nottebohm as a national of Liechtenstein is admissible before the Court ;

(3) that the plea by Guatemala of the non-exhaustion of local remedies by Mr. Nottebohm is excluded by the prorogation in this case of the jurisdiction of the Court ; or *alternatively* that the plea goes properly not to the admissibility of Liechtenstein's claim on his behalf but to the merits of that claim ;

(4) that in any event Mr. Nottebohm exhausted all the local remedies in Guatemala which he was able or required to exhaust under the municipal law of Guatemala and under international law.

As to the merits of its claim, the Government of Liechtenstein repeats the Final Conclusions set out in its Memorial at p. 51 and, with reference to paragraphs 2, 3 and 4 of those Final Conclusions, will further ask the Court to order, under Article 50 of the Statute, such inquiry as may be necessary into the account of profits and quantification of damages.

(Signed) ERWIN H. LOEWENFELD.

14th July 1954.

List of Annexes

A. *Diplomatic Correspondence*

1. Intervention of the Swiss Consul in Guatemala on behalf of F. Nottebohm and others.
2. Reply by the Minister of Foreign Affairs of Guatemala, dated 20 December 1944, to the Intervention of the Swiss Consul.
3. Aide-mémoire of the Swiss Legation in Paris, dated 10 August 1951, relating to representations made on behalf of Liechtenstein.

B. *Nationality of Mr. Nottebohm*

4. Extracts from the Nationality Laws of States providing for Naturalization without previous Residence.
5. Application for Naturalization in Liechtenstein submitted on 9 October 1939 by Mr. Nottebohm.
6. Certificate relating to the acquisition of the citizenship of the Commune of Mauren (Liechtenstein) by Mr. Nottebohm, dated 16 October 1939.
7. Statutory Declaration of Dr. L. Marxer, Prince's Counsel, relating to the loss of German Nationality of Mr. Nottebohm, dated 19 June 1954.
8. Copy of the German Passport of Mr. Nottebohm.
9. Statutory Declaration of Mr. Nottebohm relating to his character and his religious Denomination, dated 9 October 1939.
10. Certificate relating to Mr. Nottebohm's Financial Status dated 9 October 1939.
11. Instructions of the Government of Liechtenstein relating to the Conclusion of an Arrangement regarding Taxation dated 20 October 1939.
12. Certificate relating to the Conclusion of an Arrangement between Mr. Nottebohm and the Revenue Authorities regarding Liability to Taxation dated 19 June 1954.
13. Certificate relating to the Payment of Naturalization Fees to the Treasury, dated 17 October 1939.
14. Extract from the Records of the Diet of Liechtenstein, Session of 14 October 1939.
15. Certificate of Naturalization relating to Mr. Nottebohm, dated 20 October 1939.
16. *Certificate relating to the Oath of Allegiance in Liechtenstein*, dated 20 October 1939.
17. Certificate of Nationality relating to Mr. Nottebohm, dated 19 October 1939.

18. Letter from the Swiss Clearing Office, dated 24 July 1946, relating to the status of Mr. Nottebohm.
19. Certificate of the Senate of the Free and Hansetown of Hamburg, dated 15 June 1954, relating to the loss of German Nationality by Mr. Nottebohm.

C. *Expropriation Assets of Mr. Nottebohm*

20. Revised List of the Expropriated Assets of Mr. Nottebohm and, so far as is known, the Date on which they were seized, the Date of their Final Expropriation, of any Appeal (opposition), their present and their fiscal Values.

D. *Guatemalan Documents*

21. Legislative Decree Number 1539 of the 18 May 1928 (Law of Protection), as produced by the Government of Guatemala.
22. Copy of the documents filed in Proceeding Number 109.

Annex 1

INTERVENTION OF THE SWISS CONSUL IN GUATEMALA ON BEHALF OF Mr. F. NOTTEBOHM AND OTHERS

B 51.322 Am. 12
B 51.322 Am. 30
B 51.322 Am. 0
FF. 2366

Dear Minister,

I have the honour to address myself to your Excellency in order to make the following declaration, relating to the Decrees of the Government of Guatemala which provide for the confiscation of the property of nationals of the Nations which are at war with the Republic and of those persons whose names are included on the Black Lists, although they are not subjects of the said Nations.

I have the honour to bring to the attention of your Excellency that Switzerland regards the Black Lists as economic measures which, in its view, cannot be applied against citizens or nationals of neutral countries, not belligerents, in circumstances in which the person or legal entity has not violated the local law or international law.

My Government, anxious to avoid that the rights of its subjects and of the subjects of the Principality of Liechtenstein, whose interests abroad are represented by Switzerland, should be detrimentally affected, has instructed me to inform your Excellency that the names of two Swiss citizens and of one national of Liechtenstein figure on the Black Lists, namely

. . . . . .

Frederico Nottebohm, a national of Liechtenstein, a partner in the firm of Nottebohm Brothers, who was moreover deported to the United States of America.

My Government is of the opinion that, if the expropriation of the property of the said persons is to be recognized by the Government of Switzerland and that of Liechtenstein, which it represents, the said persons must be judged and convicted in accordance with the laws of Guatemala and the expropriation of their property must be carried out in accordance with the law and as a consequence of the criminal acts which these persons should have committed.

I beg your Excellency to take cognizance of the observations made above and to favour me with a reply to this note in order to enable me to inform my Government in this important matter.

Thanking you in advance for the attention which your Excellency will give to this matter, which it undoubtedly deserves, given the desire which animates your Government always to maintain and to strengthen the ties of friendship with Switzerland, I take this opportunity to sign myself, etc.

(Signed) Roberto FISCHER,
Consul.

To His Excellency The Minister of Foreign Affairs
Licenciado Don Enrique Munoz Meany.

Annex 2

REPLY OF THE MINISTER OF FOREIGN AFFAIRS OF GUATEMALA, DATED 20 DECEMBER 1944, TO THE INTERVENTION OF THE SWISS CONSUL

Ministry of Foreign Affairs
of the Republic of Guatemala

No. 16317 Guatemala, 20 December 1944.

Classification : 032(494-00)

Dear Consul,

I have the honour to acknowledge the receipt of your Note, Number FF. 2366 of 15 December of this year, wherein you refer to the application of the Expropriation Decrees, which were recently issued, by the Government of Guatemala, to Messrs . . . . . Frederico Nottebohm.

As regards Mr. Nottebohm, I must inform you that, although as a matter of courtesy it was noted in his certificate of inscription [as an alien] that he had acquired the nationality of Liechtenstein—in view of a passport which he produced—international law does not accord to any Government the power to naturalize aliens who are habitually resident in another State. For this reason this Government cannot recognize that Mr. Nottebohm, a German subject habitually resident in Guatemala, has acquired the nationality of Liechtenstein without changing his habitual residence.

. . . . . .

Thus it is not a question of punishing criminal acts according to the laws of Guatemala—which do not include expropriation as a penal sanction—but simply a matter of taking measures which further the collaboration of this Republic in the common war effort of the United Nations and which fulfil the various Inter-American agreements for the safety and defence of this continent.

I take this opportunity of renewing, etc.

(Signed) E. MUNOZ MEANY.

Señor Roberto Fischer,
Swiss Consul,
Ciudad.

Annex 3

AIDE-MÉMOIRE OF THE SWISS LEGATION IN PARIS, OF 10 AUGUST 1951, RELATING TO REPRESENTATIONS MADE ON BEHALF OF LIECHTENSTEIN

Swiss Legation in France.

Aide-mémoire

The Federal Authorities have repeatedly drawn the attention of the Government of Guatemala to the case of the national of Liechtenstein Mr. Friedrich Nottebohm. The assets of Mr. Nottebohm have in fact been seized by the Guatemalan authorities on the ground that the interested party is alleged to be a national of an enemy country.

However, Mr. Nottebohm acquired the nationality of Liechtenstein a considerable time before Guatemala entered the war against Germany.

The Federal Authorities would welcome it, therefore, if the assets of Mr. Nottebohm were released without delay for he, too, is a national of a country which remained neutral during the entire period of the last conflict.

Paris, 10 April 1951.

Annex 4

EXTRACTS FROM THE NATIONALITY LAWS OF STATES PROVIDING FOR NATURALIZATION WITHOUT PREVIOUS RESIDENCE

PART I

Naturalization without Previous Residence if in the interest of the State

Austria :

Federal Law No. 285 of 30 July 1925 (Flournoy and Hudson, *A Collection of Nationality Laws* (1929), p. 18)

Art. 4. The granting of provincial citizenship to foreigners can only take place in the case of applicants who :

4. Have for at least four years had their ordinary residence on federal territory. The federal government can, however, make an exception to this requirement in individual cases if they designate the grant as in the interest of the Confederation.

France :

Ordinance of 19 October 1945

Art. 64. There may be naturalized without fulfilling the requirements of residence....

(9) an alien who has rendered exceptional services to France or whose naturalization is in the special interest of France. In this case the decree of naturalization may only be granted after the agreement of the Conseil d'État has been obtained, following a reasoned report of the Garde des Sceaux, Minister of Justice.

Hungary : Law 60 of 30 December 1948

Art. 4. The Minister of the Interior may naturalize any non-Hungarian national

(a) who has had his permanent residence in Hungary without interruption for three years prior to making his (her) application....

Art. 6. The Government on application made by the party and on proposal of the Minister of the Interior may also naturalize in default of the requirements set out in paragraph *(a)* of Article 4 hereinabove any such non-Hungarian national who is living in Hungary or wants to settle in this country if his (her) naturalization is motivated by substantial interests of the State.

Netherlands : Law of 12 December 1892 (Flournoy and Hudson, p. 441)

Art. 3. Dutch nationality by naturalization shall be acquired on the coming into force of the law by which this shall have been granted.

Art. 4. Naturalization may also be granted for reasons of State interests. In such cases Article 3 shall not be of application.
The Act by which this is granted regulates, in every such case, the conditions attaching to such naturalization.

Norway : Nationality Act of 8 December 1950 (U.N. Doc. E/2164/Add. 1) (*Textes Législatifs Étrangers*, 1952, No. 1, p. 107)

Art. 6. The King, or the authority the King empowers thereto, may upon application issue a certificate of citizenship to an alien, provided the applicant :

1. is not less than 18 years old ;
2. has resided in this country during the last seven years ;
3. has shown good conduct ;
4. is able to support himself and his family.

An applicant who has previously been a Norwegian national may be granted nationality even though he does not fulfil the said

conditions. The same applies to an applicant who is married to a Norwegian national and lives with the spouse, or in case other special reasons make it appear reasonable to grant nationality. The condition mentioned in the first paragraph under 2 may be dispensed with also in other respects, when the applicant is a national of either Denmark, Finland, Iceland or Sweden.

Saudi Arabia : Nationality Regulations, 1938 (*British and Foreign State Papers*, Vol. 142, p. 803)

Art. 9. Saudi Arabian nationality may be conferred by Royal decree on any petitioner from whom any considerable gain to the Saudi Arabian Kingdom is expected.

Sweden : Nationality Act of 22 June 1950 (*Textes Législatifs Étrangers*, 1952, No. 1, p. 127)

Art. 6. The King in Council may upon application confer Swedish citizenship upon (naturalize) an alien who

1. has attained the age of eighteen years ;
2. has been domiciled in Sweden during the last seven years ;
3. is of good character ; and
4. is able to support himself and his family.

Naturalization may be granted even though the conditions laid down in the first paragraph of this article are not fulfilled if it is found to be of advantage to Sweden that the applicant should be granted Swedish citizenship, or if the applicant has formerly possessed Swedish citizenship, or if the applicant is married to a Swedish citizen, or if, having regard to the applicant's circumstances, there should otherwise be special reasons for his being granted Swedish citizenship.

If the applicant is a Danish, Finnish, Icelandic or Norwegian citizen the requirement stated in sub-paragraph 2 may be waived even if no other special reason should exist.

Thailand : Nationality Act, B.E. 2495 of 31 January 1952

Sec. 9. Any alien may apply for naturalization who

1. has become *sui juris* under the Thai law and his own law ;
2. is of good conduct and is substantially occupied ;
3. has taken up residence within the Kingdom for an uninterrupted period of not less than ten years to the date of applying for naturalization ;

4. has such knowledge of the Thai language as prescribed by Ministerial Regulations.

Sec. 10. The provision of Section 9 (3) shall not apply if the applicant

1. has performed a distinguished service to Thailand ; ....

Uruguay : Constitution of 24 March 1934 ; 29 November 1942 (Peaslee, III, p. 391)

Art. 66. The following have the right to legal citizenship :

A. Foreign married men and women of good conduct, who possess some capital in cash or property in the country, or are engaged in some scientific, artistic, or industrial profession, and have resided habitually in the Republic for three years.

B. Foreign men and women of good conduct, unmarried or married with wives or husbands not residing in the Republic, who fulfil any of the requirements in the preceding subsections and have habitually resided in the country for five years.

C. Foreign men and women who obtain special permission from the Assembly on account of notable service or appropriate merits.

The proof of residence must be founded on a public or private document of proven date.

PART II

Naturalization without Previous Residence for Services

Afghanistan : Nationality Act of 8 November 1936 (*British and Foreign State Papers*, Vol. 140, p. 303)

Art. 7. Foreign subjects remaining in the service of the Government of Afghanistan abroad for a period of five years, or rendering outstanding assistance in matters relating to the public interests of Afghanistan during that period, will, on submitting the requisite application, be accepted as Afghans and Afghan subjects without regard to the period of residence laid down in Article 9.

Belgium : Law of 15 May 1922 (Flournoy and Hudson, p. 31) as modified by Law of 15 October 1932, Art. 3 ; Royal Decree of 14 December 1932.

Art. 12. In order to obtain final naturalization, one must :

(1) Be fully twenty-five years of age.
(2) Have resided for at least ten years in Belgium or in the Colony. This period is reduced, however, to five years for a foreigner married to a woman of Belgian origin or for the widower or divorced husband of a woman of Belgian origin by whom he has one or several children, and for a foreign-born woman who married a Belgian.

Final naturalization may be granted, without additional conditions, for appreciable services rendered the State or the colony.

Burma : Union Citizen Act, 1948 (U.N. Doc. E/2164/Add. 10)

Art. 13. A person who has served honourably at any time in the Armed Forces of the Union for a period or periods aggregating three years, may be naturalized if the petition for naturalization is filed while he is still in the service or within six months after the termination of such service, upon full compliance with all the requirements of this Act, with the following exceptions :

(i) no notice of intention shall be required ; and
(ii) no residence within the Union shall be required.

Ecuador : Constitution of 31 December 1946 (Peaslee I, p. 680)

Art. 11. The following are Ecuadorians by Naturalization :

(a) Those who have obtained Ecuadorian nationality from Congress for having rendered service to the country.

Egypt : Law No. 160 of 1950 on Egyptian Nationality (*Journal Officiel du Gouvernement égyptien* No. 21 of 15 March 1951) .

Art. 7. Naturalization can be accorded by a special law to an alien who, without having satisfied the conditions set out in Article 5, shall have rendered eminent services to the State. It can equally be accorded by decree to those related to the Royal family and to heads of the Egyptian religious communities.

Eire : Nationality Act No. 13 of 1935 (Public General Acts 1935, p. 173)

S. 5. (1) The Executive Council may, if and whenever they so think proper, cause a certificate of naturalization to be issued under this Act to any person or to a child or grandchild of any person who, in the

opinion of the Executive Council, has done signal honour or rendered distinguished service to the Irish Nation.

(2) The Executive Council may authorize the Minister to dispense, in relation to the issue of a certificate of naturalization under this section, with compliance by the person to whom such certificate is issued with all or such one or more as the Executive Council shall think proper of the conditions which are by virtue of this Act conditions precedent to the grant of a certificate of naturalization.

France : Ordinance of 19 October 1945

Art. 64 *(a)*. See above, Part I.

Greece : Law No. 391 of 29 October 1856 (Flournoy and Hudson, p. 316)

Art. 22. An alien who renders great services to Greece, who introduces there an important invention or industry, who founds establishments of public utility, or who is distinguished for superior intellectual ability, may be naturalized by law.

Italy : Decree-Law No. 1997 of 1 December 1934, amending the Law of Nationality of 13 June 1912
(Parliamentary Papers, Miscellaneous No. 4 (1935) Cmd. 5028 : Gazzetta Ufficiale of 19 December 1934)

Art. 1. Article 4 of the law of the 13th June, 1912, No. 555, is replaced by the following :
"Italian nationality, including the enjoyment of political rights, can be granted by Royal decree, having heard the Council of State :

(1) To a foreigner who has served the Italian State for three years, even if such service is performed abroad.

(2) To a foreign man residing at least five years in the Kingdom.

(3) To a foreigner who resides two years in the Kingdom and has performed noteworthy services to Italy or has contracted matrimony with an Italian citizen.

(4) After six months of residence to whoever might have become an Italian citizen in accordance with the law had he not omitted to make an express declaration to this effect within the required period.

The Government has the right to grant in exceptional cases and in special circumstances

Italian nationality to persons who do not come within the conditions laid down in Nos. (1)-(4) of the present article."

Japan

Nationality Act No. 147 of 4 May 1950 (Yearbook of Human Rights, 1950, p. 176) (*Textes Législatifs Étrangers*, 1951, No. 3)

Art. 4. The Attorney-General shall not permit the naturalization of an alien unless he or she fulfils all the following conditions:

(1) That the alien has had a domicile in Japan for five or more years;

(2) that the alien is twenty years of age or more and a person of full legal capacity according to the law of his or her native country;

(3) that the alien is a man or woman of upright conduct;

(4) that the alien has sufficient property or ability to support himself by independent means;

(5) that the alien has no nationality, or his acquisition of Japanese nationality will cause the loss of his nationality;

(6) that the alien is not a person who, since the coming into force of the Constitution of Japan has plotted or advocated, or formed or belonged to a political party or other organization which has plotted or advocated the overthrow of the Constitution of Japan or the Government existing thereunder.

Art. 7. With respect to an alien who has rendered meritorious service to Japan, the Attorney-General may, notwithstanding the provision of article 4, permit the naturalization of the alien with the approval of the Diet.

Luxemburg:

Law of 12 November 1848, as amended by Law of 27 January 1878 (Flournoy and Hudson, p. 421)

Art. 2. Neither can it [i.e. naturalization] be granted to persons who have not reached the age of twenty-five years or to persons who have not resided for at least five years in the Grand Duchy.

Residence during five years is not obligatory, when the person soliciting naturalization, (1) is born on Luxemburg soil; (2) has possessed Luxemburg nationality and lost it; (3) has rendered signal services to the State; (4) is the adult offspring of a foreigner naturalized for services rendered.

Portugal : Civil Code 1867 (Flournoy and Hudson, p. 491)

Art. 20. In the case of foreigners married to Portuguese women, or in the case of those who may have rendered, or may have been called upon to render to the nation any important service, the Government may dispense with all or part of the time of residence required by paragraph number 2 of the preceding article.

PART III

Naturalization without Previous Residence for Various Reasons

Bulgaria : Nationality Law of 26 March 1948, as amended (*Textes Législatifs* 1953, No. 3, p. 23)

Art. 3. "Foreign nationals, without distinction of ethnical origin or race may acquire Bulgarian nationality in accordance with the procedure provided in this Law.

A foreign national of Bulgarian ethnical origin who declares that he renounces upon his foreign nationality with the intention of becoming a Bulgarian citizen and of establishing himself in the People's Republic of Bulgaria, acquires Bulgarian nationality as soon as he enters the country...."

Iceland : Law of 28 January 1935 (*British and Foreign State Papers*, Vol. 139 (1935), p. 553, *Textes Législatifs Étrangers*, 1952, No. 1, p. 61) amending the Nationality Law of 19 June 1926 (Flournoy and Hudson, p. 346)

Art. 1. Article 4 of law No. 33 of the 15th June, 1926, shall read as follows :

"Citizenship may be granted by process of law to persons who have resided continuously in Iceland during the 10 years preceding their application and who are not indebted for parish relief. But it is permissible to grant citizenship to persons who have for an uninterrupted period of 5 years been in the service of the State or of a Government establishment, provided that the other provisions of this law are fulfilled.

The stipulations of the preceding paragraph in respect of residence do not apply to persons born of Icelandic parents."

Iran : Civil Code, Book 2 concerning Nationality (adopted on 16 February 1936 (British Parliamentary Papers, Miscellaneous No. 4, (1935) Cmd. 5028))

Art. 980. Those opting for Iranian nationality who have rendered services or notable assistance to public interests in Iran, or who have Iranian wives by whom they have children, or who have attained high scientific distinctions, or who have specialized in affairs of public interest, can be accepted as Iranian nationals without the observance of the requirement of residence, subject to the sanction of the Council of Ministers, and provided that the Government considers their naturalization to Iranian nationality to be advisable.

Venezuela : Law of 13 July 1928 (Flnornoy and Hudson, p. 641)

Art. 1. Foreigners who have resided for two years in the territory of the Republic may apply for naturalization papers.

This period shall not be required of foreigners who have done some important service for Venezuela or for humanity nor for those who have married Venezuelan women or who come here as immigrants under contract with the national Government.

Yugoslavia : Law of 5 July 1946 (*British and Foreign State Papers* 1946, p. 1048)

Art. 8. Any foreign citizen may acquire citizenship of the F.P.R.Y. by ordinary procedure if he fulfils the following conditions :

(1) applies for naturalization ;

(2) is of over 18 years of age and capable of working ;

(3) has at the time of application been domiciled in the F.P.R.Y. for at least 5 years and, as a rule, at least 2 years on the territory of the People's Republic of which he desires to become a citizen ;

(4) has release from the citizenship he hitherto enjoys or otherwise guarantees that he will be able to obtain such release if accepted to citizenship of the F.P.R.Y. ;

(5) if his conduct suggests that he will be a loyal citizen of the F.P.R.Y.

The condition contained in point 4 of this Article will be considered to be fulfilled if the applicant has no citizenship whatever, or if by the Laws of his country he will lose that citizenship by naturalization elsewhere. If any foreign State does not allow of release

or subjects release to conditions which in the nature of things cannot be fulfilled, the categorical declaration of the applicant that if he acquired citizenship of the F.P.R.Y. he would renounce his alien citizenship will suffice.

Art. 9. Any applicant who by nationality belongs to any of the peoples of the F.P.R.Y. may be given citizenship of the F.P.R.Y. without regard to the conditions of article 8, points 3 and 4.

PART IV

Naturalization without Residence for Special Considerations

Czechoslovakia : Nationality Law of 13 July 1949 (*American Journal of International Law* 44 (1950), Suppt. p. 77)

Art. 3. (1) The Ministry of the Interior grants nationality to applicants who :

(a) have not committed any offence against the Czechoslovak Republic or its system of people's democracy ;

(b) have had a domestic residence continuously for at least five years ;

(c) will, upon acquisition of nationality, lose the nationality they had so far, unless they are stateless persons.

(2) The Ministry of the Interior grants nationality in its free discretion ; in instances worthy of special consideration, it may grant it also to a person who does not come within the provisions of (1) *(b)* and *(c)*.

Finland : Law No. 325 of 9 May 1941

Art. 4. Upon application, an alien may be granted Finnish nationality, provided that he :

1. has attained twenty-one years of age ;
2. has had his real abode and domicile in Finland during the last five years ;
3. as far as is known, has been of good life and morals ;
4. is able to support himself and his family, and shows promise of continuing to do so.

Spouses may be granted naturalization only upon a common application made by them. However, one spouse may be singly granted naturalization, provided either :

1. that the other spouse is already a Finnish citizen ;

2. the spouses are separated ;
3. the other spouse has not been heard of for 3 years ; or
4. there are special reasons to justify it.

Art. 6. Upon application, an alien may be granted Finnish naturalization irrespective of the condition mentioned in point 2 of the first part of section 4, provided that either :

1. he was at one time a Finnish citizen [and lost his Finnish citizenship for one reason or the other] ;
2. he is married to a Finnish citizen ;
3. he is submitting his application in common with his spouse who has fulfilled the said condition, or
4. there are special reasons to justify it.

Greece : Law of 10 September 1925 (Flournoy and Hudson, p. 318)

Art. 1. In exceptional cases the naturalization of foreigners by decree may be permitted even without residence in Greece.

In such cases the declaration made by the foreigner concerning the acquisition of Greek nationality is made in the presence of the Greek consular authorities in the place of his residence, or, if there be none other, in the presence of the nearest Greek consular authorities.

Persons thus naturalized take the oath as Greek citizens in the presence of the above consular authorities and are registered in the register of whatever municipality or community they choose.

The age of such persons is determined on the basis of an act of registration or, in default of such, of a certificate of the competent administrative municipal or ecclesiastical authorities of the place from which he comes or, in default of such, it is determined on the basis of a statement by the person naturalized, attested by the consular authorities.

Iraq : Law of 9 October 1924 (Flournoy and Hudson, p. 350)

Art. 11. The Minister of the Interior shall have absolute discretion to grant or refuse an application for a certificate of naturalization as he thinks most conducive to the public good and no appeal shall lie from his decision.

The Minister of the Interior may, if he considers that special circumstances render it desirable, dispense with the condition of three years' previous residence.

Israel : Nationality Law 5712-1935 (Reshumot, Sefer ha Hukkim No. 95, p. 146, of 8 April 1952, *Textes Législatifs Étrangers*, 1952, No. 3, p. 25)

Art. 5. *(a)* A person of full age, not being an Israel national, may obtain Israel nationality by naturalization if :

(1) he is in Israel ; and

(2) he has been in Israel for three years out of the five years preceding the day of the submission of his application ; and

(3) he is entitled to reside in Israel permanently ; and

(4) he has settled, or intends to settle, in Israel ;

(5) he has some knowledge of the Hebrew language ; and

(6) he has renounced his prior nationality or has proved that he will cease to be a foreign national upon becoming an Israel national.

(b) Where a person has applied for naturalization, and he meets the requirements of subsection *(a)*, the Minister of the Interior, if he thinks fit to do so, shall grant him Israel nationality by the issue of a certificate of naturalization.

(c) Prior to the grant of nationality, the applicant shall make the following declaration :

"I declare that I will be a loyal national of the State of Israel."

(d) Nationality is acquired on the day of the declaration.

Art. 6. *(d)* The Minister of the Interior may exempt an applicant from all or any of the requirements of section 5 *(a)* (1), (2), (5) and (6) if there exists in his opinion a special reason justifying such exemption.

Jordan : Nationality Law of 1 June 1928
(*British and Foreign State Papers*, 128 (1928), 268)

Art. 8. The Chief Minister shall have absolute discretion to grant or refuse an application for naturalization, and may, if he considers that special circumstances render it conducive to the public good, and if his decision is approved by His Highness the Amir, dispense with the condition of 2 years' previous residence.

Liechtenstein : Law of 4 January 1934

Art. 6. Nationality may only be granted to foreigners:

(d) Who have been habitually domiciled in

the territory of the Principality of Liechtenstein for at least 3 years; in cases specially worthy of consideration and as an exception this requirement may be dispensed with.

Turkey : Law of 28 May 1928 (Flournoy and Hudson, p. 570)

Art. 6. Foreigners who have not fulfilled the condition of residence stipulated in the foregoing article, but who are considered as meriting special consideration, may as an exception be granted Turkish citizenship by decision of the Council of Ministers.

PART V

Naturalization without Previous Residence—No conditions

Colombia : Constitution of 16 February 1945 (Peaslee, Constitutions, p. 469)

Art. 8. Colombians are....

(2) By adoption : *(a)* Foreigners who apply for and obtain letters of naturalization.

Ethiopia : Nationality Law of 22 July 1930 (*British and Foreign State Papers*, 1932, p. 800)

Art. 12. Any foreigner may acquire Ethiopian nationality provided that he fulfils the following conditions :

(a) Has attained his majority according to his national law.

(b) Has been domiciled in Ethiopia for at least 5 years.

(c) Is capable of earning his living and can provide for the needs of himself and his family.

(d) Knows the Amharic language perfectly and can speak and write it fluently.

(e) Can establish that he has not been condemned for any crime or offence against common law.

Proclamation of 5 October 1933 (*British and Foreign State Papers*, 1933, p. 544)

In view of article 9 of our constitution and article 12 of the nationality law which was issued on 15th Hamlie, 1922 (22nd July, 1930), we hereby promulgate the following :

In the event of any foreigner applying for Ethiopian nationality, should the Ethiopian Government see fit to accept the foreigner,

or should any other special occasion arise to accept the applicant, such an applicant can be granted Ethiopian nationality even if he cannot fulfil the conditions prescribed in paragraphs *(b)* and *(d)* of article 12 of the nationality law above referred to.

Honduras : Constitution of 28 March 1936 (Peaslee II, p. 135)

Art. 11. Naturalized are : ....

(3) Those who attain certificates of naturalization granted by the National Congress.

Monaco : Civil Code of 6 November 1913 (Flournoy and Hudson, p. 437)

Art. 10. The following may, moreover, be naturalized without conditions of probation :

(1) Any alien whom the Prince may judge to be worthy of this favour.

Poland : Nationality Law of 8 January 1951 (*Textes législatifs étrangers*, 1952, No. 3, p. 77)

Art. 10 (1) Polish nationality may be conferred upon an alien, if he makes application.

(2) The grant of Polish nationality may be made dependent upon the production of evidence showing that the applicant has obtained permission to divest himself of his foreign nationality.

U.S.S.R. : Citizenship Law of 1938 (*American Journal of International Law*, 33 (1939), p. 158, 159 ; Taracouzio, The Soviet Union and International Law (1935), p. 96)

Art. 3. Upon their petition foreigners, irrespective of their nationality or race, are admitted to the citizenship of the U.S.S.R. by the Praesidium of the Supreme Council of the U.S.S.R. or by the Praesidium of the Supreme Council of the Union Republic in which they reside.

And see the previous Law of 22 April 1931, s. 13.

Annex 5

APPLICATION FOR NATURALIZATION IN LIECHTENSTEIN SUBMITTED ON 9 OCTOBER 1939 BY Mr. F. NOTTEBOHM

Title page

Application for Naturalization
by
Mr. Friedrich Wilhelm Nottebohm
resident in Guatemala
to the Government of the Principality of Liechtenstein in Vaduz
and
to the Commune in
submitted on 9 October 1939
together with five Enclosures
by Dr. L. Marxer, Prince's Counsel, Advocate in Vaduz

Note in writing

Previous Consent of His Highness obtained on 13.X.
13.10.39
(initialled) H
Transmit Resolution of the Diet of 14.X.39 to Mauren
14.X.39
(initialled) H

P. 1

To the Government of the Principality, Vaduz
and
to the Commune of Mauren in Mauren

The undersigned, Mr. Friedrich Wilhelm Nottebohm, resident in Guatemala since 1905 (at present residing as a visitor with his brother, Dr. Hermann Nottebohm, in Vaduz), born on 16 September 1881 in Hamburg, acting through his representative, Dr. L. Marxer, Prince's Counsel, Advocate in Vaduz, who holds his power of attorney, herewith applies for admission as a national of Liechtenstein and for the previous conferment of citizenship of the Commune of Mauren, with waiver of the requirement of three years' residence as prescribed by law.

The following evidence is submitted:

(1) a certified copy of the Passport, issued on 1 April 1938 by the German legation for Central America and Panama in Guatemala; original of the certificate of birth;
(2) a statutory declaration concerning his character and his membership of a religious denomination;
(3) a Statement of the *Schweizerischen Kreditanstalt* in Zürich concerning the assets of the applicant
and
a declaration of Dr. Nottebohm in Vaduz concerning the same matter.

The applicant is a bachelor and a member of the Lutheran denomination. The name of Dr. Hermann Nottebohm in Vaduz is submitted as a reference.

The applicant is able to produce as financial contributions:

Swiss francs	25,000,	being the single tax payment for admission by the Commune of Mauren.
,, ,,	12,500,	being the single tax payment of 50% to the State of Liechtenstein.
,, ,,	500,	being dues in connection with the proceedings payable to the Diet.
,, ,,	500,	being administrative dues payable to the Government of the Principality.
Total Swiss francs	38,500	

The applicant has made arrangements with the Revenue Authorities P. 2
of the Government of Liechtenstein for the conclusion of a formal agreement to the effect that he will pay an annual tax of Naturalization amounting to Swiss francs 1,000, of which Swiss francs 600 are payable to the Commune of Mauren and Swiss francs 400 are payable to the Principality of Liechtenstein, subject to the proviso that the payments of these taxes will be set off against ordinary taxes which will fall due if the applicant takes up residence in one of the Communes of the Principality.

The applicant will, in addition, take up bonds of the Savings Bank for the Principality of Liechtenstein to the amount of 30,000 Swiss francs. In accordance with the Order of the Government of the Principality of Liechtenstein of 29 December 1936 he will deposit them as a security within the meaning of the aforementioned Order or he will give security in another suitable form which is acceptable to the Government of the Principality.

The applicant bears a respectable character. He has lived in Guatemala since 1905. He owns a considerable fortune amounting to at least one million Swiss francs. His financial position is such that according to reasonable expectations he will never become a burden to the Commune whose citizenship he will acquire or to the State. He makes a statutory declaration that he is a Protestant, that he has no previous convictions and that he bears a good character.

His brother, Dr. Hermann Nottebohm in Vaduz, who is given as a reference in this application, is a person whose position is uncontroversial. He enjoys an excellent reputation in Liechtenstein as well as in Switzerland and in Germany. He has been a citizen of Liechtenstein for many years and resides in Vaduz. His unexceptionable character, with which the authorities are fully acquainted, is a sufficient guarantee of the standing of his brother, the applicant for naturalization.

In view of the foregoing, the applicant for naturalization, acting P. 3
through his undersigned representative, begs that naturalization proceedings be initiated and concluded before the Government of the Principality and before the Commune of Mauren without delay, that the application be then placed before the Diet with a favourable recom-

mendation and, finally, that it be submitted with all necessary expedition to His Highness the Reigning Prince.

Vaduz, 9 October 1939

Friedrich Wilhelm Nottebohm

represented by

(Signed) MARXER.

Enclosures :

P. 4 (Signed) FRANZ JOSEF.

P. 5 File No. 193. Folio N. 747. Current No.

Transmitted to the
Mayor's Office, Mauren
for further action
Vaduz 14 October 1939
(Signed) Illegible.

Card issued.

Annex 6

CERTIFICATE RELATING TO THE ACQUISITION OF THE CITIZENSHIP OF THE COMMUNE OF MAUREN (LIECHTENSTEIN) BY Mr. NOTTEBOHM ; DATED 15 OCTOBER 1939

The Mayor's Office,
Commune of Mauren,
Principality of Liechtenstein.

To the Government of the Principality,
Vaduz.

Enclosed we transmit to you the file in the matter of the acquisition of citizenship by Mr. Friedrich Wilhelm Nottebohm, represented by Dr. L. Marxer, Advocate in Vaduz.

At the meeting of the Commune held on 15 October 1939 the privilege of citizenship of the Commune of Mauren was conferred upon the abovementioned person. Result of the voting : 130 votes were cast. Of these 111 were in favour, 8 against and 11 blank.

May it please the Government of the Principality to submit to the Diet the decision to confer citizenship for its approval.

Mauren, 15 October 1939.

Respectfully,
Mayor's Office of the Commune of Mauren,
(Signed) Dr. MEIER,
Mayor.

Annex 7

STATUTORY DECLARATION OF Dr. L. MARXER, PRINCE'S COUNSEL, RELATING TO THE LOSS OF GERMAN NATIONALITY OF Mr. NOTTEBOHM

Dr. jur., Dr. rer. pol., Ludwig Marxer,
Prince's Counsel, advocate.

Vaduz, Principality of Liechtenstein.
19 June 1954.

Statutory Declaration

I herewith declare solemnly and sincerely that Friedrich Nottebohm, who was my client at the relevant time, did not make an application to the Government of the Principality of Liechtenstein, in accordance with paragraph 6 *(c)* of the Law for the Acquisition and loss of Nationality of 4 January 1934, for permission to retain German Nationality.

(Signed) MARXER.

Annex 8

COPY OF THE GERMAN PASSPORT OF Mr. NOTTEBOHM

Passport No. 60

Name of holder	*Friedrich* Wilhelm *Nottebohm*
Nationality	German
Photograph	
Personal signature	Friedrich Nottebohm

It is certified hereby that the holder is the person whose photograph is attached and that the signature below was signed by him in person.

Guatemala, 1 April 1938.

German Legation for Central America and Panama.

Stamp *(Signed)* RIENLE.

Personal Description

Occupation	Merchant
Place of birth	Hamburg
Date of birth	16.9.1881
Place of residence	Guatemala
Figure	tall
Face	oval
Colour of eyes	blue
Colour of hair	fair, greying
Special marks	none

Validity of the Passport	Inland and Abroad
This passport expires on	1 April 1943
Issuing Office	German Legation for Central America and Panama.

Guatemala, 1 April 1938.

(Signed) RIENLE.

Annex 9

STATUTORY DECLARATION OF Mr. NOTTEBOHM RELATING TO HIS CHARACTER AND HIS RELIGIOUS DENOMINATION

I hereby solemnly and sincerely declare,

(1) that I have no previous convictions

(2) that I am a member of the Evangelist-Lutheran denomination.

Vaduz, 9 October 1939.

(Signed) Friedrich NOTTEBOHM.

Annex 10

CERTIFICATE RELATING TO Mr. NOTTEBOHM'S FINANCIAL STATUS

WKa-R.K.

Schweizerische Kreditanstalt,
Zürich.

Zürich, 9 October 1939.

D. 53400
Vd. 4564

Dr. Ludwig Marxer,
Prince's Counsel,
Vaduz, Liechtenstein.

At the request of Mr. Friedrich Nottebohm, Haus Letzi, Vaduz, we confirm hereby that this gentleman has deposited with us securities and gold the value of which amounts to-day to
approximately Swiss francs 322,800 (Three hundred and twenty-two thousand and eight hundred francs)
and that he has an account with us which amounts at present to Swiss francs 460,000 (Four hundred and sixty thousand francs)

We are,
Yours faithfully,
Schweizerische Kreditanstalt,
(Signed) Two illegible signatures.

Annex 11

INSTRUCTIONS OF THE GOVERNMENT OF LIECHTENSTEIN RELATING TO THE CONCLUSION OF AN ARRANGEMENT REGARDING TAXATION

20 October 1939.

G.

To the Revenue Office of the Principality
in Vaduz

You are instructed to conclude an agreement with the newly naturalized citizen Mr. Friedrich Nottebohm regarding his liability to taxation on the basis of an annual tax payment of francs 1,000 (francs 600 to the Commune of Mauren and francs 400 to the State). You will report on the execution of these instructions.

Government of the Principality.

Annex 12

CERTIFICATE RELATING TO THE CONCLUSION OF AN ARRANGEMENT BETWEEN Mr. NOTTEBOHM AND THE REVENUE AUTHORITIES REGARDING LIABILITY TO TAXATION

Revenue Administration of the
Principality of Liechtenstein

This Office confirms that in connection with the Naturalization of Mr. Friedrich Wilhelm Nottebohm an arrangement concerning liability to taxation was concluded on 23 October 1939 by the Revenue Administration of the Principality of Liechtenstein on the one part and Mr. Nottebohm on the other part, after consultation with the Tax Commission of the Commune of Mauren.

Revenue Administration of the
Principality of Liechtenstein.

Vaduz, 19 June 1954.

Stamp. Signature (illegible).

Annex 13

CERTIFICATE RELATING TO THE PAYMENT OF NATURALIZATION FEES TO THE TREASURY

Savings Bank for the Principality of Liechtenstein
Bank of Liechtenstein in Vaduz.

Vaduz,
Government Building.
17 October 1939.

To
the Government of the Principality
of Liechtenstein,
Vaduz.

We have the honour to inform you that Mr. Friedrich Nottebohm has transferred to-day

Francs	25,000	to the account of the Commune of Mauren, being the tax for admission to citizenship ;
,,	12,500	to the Account of the State of Liechtenstein being the tax amounting to 50 % of the above ;
,,	500	to the Account of the State of Liechtenstein being fees in connection with the decree of Naturalization ;
,,	500	to the account of the State of Liechtenstein being *administrative dues* ;
,,	1,000	to the account of the State of Liechtenstein being the Naturalization tax ;
,,	(600	payable to the Commune of Mauren ;
,,	400	payable to the State of Liechtenstein).

Please take notice of these payments.

Further, Mr. Friedrich Nottebohm, Vaduz, has purchased francs 3,000 3½ % Bonds of our Institution not repayable for 7 years, and we have deposited them as a security in a deposit in favour of Mr. Friedrich Nottebohm.

Dispositions regarding this deposit can only take place in agreement and with the consent of the Government of the Principality of Liechtenstein in Vaduz.

Yours faithfully,

Savings Bank for the Principality
of Liechtenstein.

Bank of Liechtenstein.

Annex 14

EXTRACT FROM THE RECORDS OF THE DIET OF LIECHTENSTEIN, SESSION OF 14 OCTOBER 1939

The Naturalization of Friedrich Wilhelm Nottebohm

The Diet, having considered the evidence submitted in support of the application, resolves to transmit the application to the Commune of Mauren.

Annex 15

CERTIFICATE OF NATURALIZATION RELATING TO Mr. NOTTEBOHM

G.
193/474

Certificate of Nationality

for Mr. *Friedrich Wilhelm* NOTTEBOHM, born on 16 September 1881 in Hamburg, who was naturalized as a national of the State of Liechtenstein in virtue of the Resolution of His Serene Highness the Reigning Prince dated 13 October 1939 and was thereby received as a citizen of the Commune of Mauren.

Vaduz, 20 October 1939

Government of the Principality of Liechtenstein,
(Signed) Dr. VOGT.

Copies to :
1 Mayor's Office, Mauren.
2 Office of the Rev. the Rector of Mauren for inscription in the local register of citizens. Government of the Principality.

Annex 16

CERTIFICATE RELATING TO THE OATH OF ALLEGIANCE IN LIECHTENSTEIN

Transacted in Vaduz on 20 October 1939.

Then appears Mr. Friedrich Nottebohm, recently naturalized as a national of the State of Liechtenstein in virtue of the Resolution of his Serene Highness and thereby received as a citizen of the Commune of Mauren and swears the following

Oath of Allegiance :

I swear that I shall bear allegiance to the Reigning Prince, that I shall obey the laws and that I shall respect the Constitution.
So help me God !

Thus I have sworn.
(Signed) Friedrich NOTTEBOHM.

Before me.

Annex 17

CERTIFICATE OF NATIONALITY RELATING TO Mr. NOTTEBOHM

19 October 1939.

Certificate

Mr. Friedrich Nottebohm, merchant in Guatemala, born on 16 September 1881, is a national of Liechtenstein.

Government of the Principality of Liechtenstein.

Annex 18

LETTER FROM THE SWISS CLEARING OFFICE, DATED 24 JULY 1946, RELATING TO THE STATUS OF Mr. NOTTEBOHM

Swiss Clearing Office,
Zürich,
Börsenstrasse 26.

Official Organ for the Regulation of Payments by way of Clearing with Foreign Countries (Decree of the Federal Council of 2 October 1934)

To
Dr. jur., Dr. rer. pol.
Ludwig Marxer,
Advocate
Vaduz
(Principality of Liechtenstein)

Blocked Payments—Germany
271/KL

Zürich, 24 July 1946.

Your letters of 17 and 26 June 1946

Concerning : Decrees of the Federal Council dated 16 February, 27 April, 3 July and 30 November 1945 regarding the Blocking of German assets in Switzerland. In the matter of the assets, situated in Switzerland and in the Principality of Liechtenstein, belonging to Mr. Friedrich Nottebohm, a national of Liechtenstein since 20 October 1939 according to Passport No. 702.

We confirm the receipt of your letters of 17th and 26th June 1946 wherein you produce the originals of documents which prove that the above-mentioned person is exclusively a national of Liechtenstein, that his permanent residence since 1906 is Guatemala and that he has never resided in Germany after that date. At present he is in Vaduz, Principality of Liechtenstein.

Having examined the information in our possession and the documents placed at our disposal we are in a position to confirm that we can recognize Mr. Friedrich Nottebohm as a person who holds exclusively the nationality of Liechtenstein. In view of this fact and of the circumstances that the above-mentioned person is permanently resident in a country which is not affected by the measures of blocking, the above-mentioned regulations concerning blocked assets laid down by the Decrees of the Federal Council do not apply to the said assets.

We return the enclosed documents and add two copies of this letter for your convenience.

Yours faithfully,
Schweizerische Verrechnungsstelle,
(Signed) Illegible.

Enclosures :

1 Passport No. 702
2 Certificate
2 Copies of this letter
2 Copies of letter Nottebohm.

Annex 19

CERTIFICATE OF THE SENATE OF THE FREE AND HANSETOWN OF HAMBURG DATED 15 JUNE 1954 RELATING TO THE LOSS OF GERMAN NATIONALITY OF Mr. NOTTEBOHM

Senate of the Free and Hansetown
of Hamburg 15 June 1954.
Legal Department.
AZ : 60.45 - 4290/54 - Ot/Kst.

Certificate

According to the files of the Legal Department of the Senate of the Free and Hansetown of Hamburg

Friedrich Wilhelm *Nottebohm*
born on 16 September 1881 in Hamburg
resident in Vaduz, Liechtenstein

has lost his German Nationality in accordance with paragraph 25 of the German Nationality Law of 22 July 1913 in consequence of having acquired the nationality of Liechtenstein on 20 October 1939. He has not applied for, and has not received, permission to retain German nation-

ality in accordance with paragraph 25 (2) of the Nationality Law of 22 July 1913.

By order.

(Signed) PETERS.
Oberregierungsrat.

Annex 21

LEGISLATIVE DECREE No. 1539 OF 18 MAY 1928 AS AMENDED BY THE DECREE No. 478 OF 20 FEBRUARY 1948

(Text made available by the courtesy of the Government of Guatemala, being Annex 16 of the Countermemorial submitted by the Government of Guatemala.)

L'Assemblée législative de la République de Guatemala décrète la loi suivante de protection :

CHAPITRE I

Objet de la loi

Article 1er

Toute personne a le droit :

1) d'exercer le recours de protection :

a) aux fins d'être maintenue ou rétablie dans la jouissance des droits et garanties établis par la Constitution ;

b) aux fins de faire déclarer, dans des cas concrets, qu'une loi, un règlement ou une disposition de l'Autorité ne lui est pas applicable ;

2) de demander à comparaître personnellement en justice *(habeas corpus)* :

a) quand elle est illégalement arrêtée, détenue ou entravée de quelque manière dans la jouissance de sa liberté individuelle ;

b) quand, légalement emprisonné, il est appliqué au détenu ou prisonnier des tourments, tortures, exactions illégales, mauvais traitements ou toute contrainte, restriction ou gêne, qui ne sont pas nécessaires à sa sécurité ou au bon ordre de la prison.

CHAPITRE II

Compétence

Article 2

Il appartient au Tribunal Extraordinaire de Protection de connaître des recours formés contre les décisions ou les actes de procédure de la Cour Suprême de Justice ou de n'importe lequel de ses membres. Ce Tribunal est composé du Président de la 1ère Chambre de la Cour d'Appel, et, à défaut, du président de la 2ème Chambre, et à défaut de ce dernier, du président de la 3ème Chambre et de six membres des mêmes Chambres, qui sont tirés au sort entre les titulaires et les suppléants de ces Cham-

Annex 20

REVISED LIST OF THE EXPROPRIATED ASSETS OF Mr. NOTTEBOHM AND, SO FAR AS IS KNOWN, THE DATE ON WICH THEY WERE SEIZED, THE DATE OF THEIR FINAL EXPROPRIATION, OF ANY APPEAL (OPPOSITION), THEIR PRESENT AND THEIR FISCAL VALUES.

1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Current Number	*A. Objects : Land*	Owner	Share F. Nottebohm	Sequestration (Coffee)	Sequestration (Land)	Expropriation	Opposition	Decision	Production (in quintals)	Market Value	Fiscal Value	Share F. Nottebohm	Memorial	Counter-memorial	Remarks	Claims total in quetzales
1	Santa Cecilia	Nottebohm Brothers	5.55%	9/10/41-8/11/41	18/9/42	after 14/8/44	?		Coffee 8370 Sugar 6630	450000	250000	25000	—	—		
2	El Peru	,,	9½%	9/10/41-8/11/41	6/8/42	6/11/44 or 6/4/45	3/7/46	—	Coffee 8114	400000	60000	38000	p.61(7)	p.29(75) ; p.35(93)	This plantation was not valued together with Monte Cristo.	
3	Mediodia & Filipinas	,,	5.55%	9/10/41-8/11/41	25/7/42	after 14/8/44-12/2/48	28/11/46	—	Coffee 5097	250000	50000	14000	p.80(40)	p.29(75) ; p.25(93)		
4	Bola de Oro	,,	9½%	9/10/41-8/11/41	21/7/42	13/7/45 or 6/11/44	3/7/46	—	Coffee 3031	150000	48000	14000	p.61(7)	p.29(75) ; p.35(93)		
5	Los Castanos	Cia Commercial y Agricola	5.42%	9/10/41-8/11/41	7/7/42	7/10/44	?	—	Coffee 1800	85000	42000	115000	—	—		
6	La Florida	Nottebohm Brothers	20%	9/10/41-8/11/41	6/8/42 or 22/8/42	28/10/44 or 29/12/44	3/7/46	—	Coffee 2106	109000	40000	22000	p.61(7)	p.29(75) ; p.35(93)	The Fiscal Value was 40000, not 25000 Quetzales.	
7	Los Sabanetas	,,	15%	9/10/41-8/11/41	after 12/6/42	20/12/45 or 26/10/44	3/7/46	—	Coffee 2777	140000	40000	21000	p.61(7)	p.29(75) ; p.35(93)		
8	Los Brillantós	,,	5.55%	9/10/41-8/11/41	25/7/42	19/2/47 or after 4/9/45	3/7/46	—	Coffee 800	36000	22.636.67	2000	p.61(7)	p.29(75)		
9	Monte Cristo	,,	10.96%	9/10/41-8/11/41	7/7/42 or 25/7/42	6/11/44	3/7/46	—	Coffee 2323	110000	42000	12000	p.61(7)	p.35(93)	This plantation was not valued together with Peru. Its value was not 15000 Quetzales.	
10	Farm Coatunco	,,	5.55%	—	16/6/42-22/6/42	after 14/8/44	—	—	—	30000	35000	1500	—	—		
11	Land Huchuetenango	,,	5%	—	—	12/4/45-26/4/45	—	—	—	40000	16825	2000	—	—		
12	Casa Grande Quelzaltenango	,,	5.55%	—	13/6/46	9/6/45	—	—	—	63000	35000	3500	—	—		
13	Bodega Boston	,,	37½%	—	—	9/6/45	3/7/46	—	—	11000	8000	4000	p.61-62(7)	—		
14	Businesshouse 10th Street & 5th Ave. Guatemala City.	,,	44%			13/3/45 or 9/6/45	3/7/46	—	—	150000	32895	66000	p.61(7)			
15	38 Avenida del Hipodromo Guatemala City.	,,	30.75%			9/6/45	3/7/46	—	—	40000	15000	15000	p.61(7)	—		
16	Building Site, Los Arcos	,,	37½%	—	—	9/6/45	—	—	—	30000	20000	11000	—	—		
17	Los Chicnarros						28/11/45	—					p.80(40)			
18	San Rafael Panán	F. & K. H. Nottebohm	50%	9/10/41-8/11/41	17/7/42	21/11/44	3/7/46	—	Coffee 4060	200000	100000	100000	p.62(7)	p.35(93)		
19	El Potosi and Annexes	,,	50%	9/10/41-8/11/41	11/9/42	28/10/44	3/7/46		Coffee 3974	200000	78000	100000	p.62(7)	p.35(93)		
20	Guatalón	,,	50%	16/6/42-22/6/42	8/8/42-11/8/42	20/10/45 ; 22/5/50	3/7/46 ; 22/8/50	18-20/12/51	—	14000	15000	7000	p.62(7) ; 82(46) Annex			
21	Morazán	,,	50%	16/6/42-22/6/42	8/8/42-11/8/42	20/10/45 ; 22/5/50	3/7/46 ; 22/8/50	18-20/12/51	—	4000	3000	2000	p.62(7) ; 82(46)	—		
22	El Carmen Hetzabal	,,	50%	9/10/41-8/11/41	20/7/42	4/3/47	5/3/47	—	Coffee 549	20000	8000	10000	p.80(41)			
23	Building 6ª Calle Tiroli 7A Ave. Sur.	,,	50%							80000	32.895.35	40000				
24	Aleman Electrico General	Nottebohm Brothers	37½%			29/8/46	2/9/46			16.337.90		4526	p.79(39)			519526
	B. Objects : Shares & Deposits									Nominal value		Nominal value				
25	13 Comp. Com. y Agricola	,,										8000				
26	2904 Banco Central	,,	37½%			11/6/45	3/7/46			37752		14000	p.62(7)			
27	122 Agancia Maritima Nat.	,,	37½%			11/6/45	3/7/46					5000	p.62(7)			
28	3 Huelle de Champerico	,,	37½%			11/6/45	3/7/46					500	p.62(7)			
29	746 Vina Zapete	F. Nottebohm	100%									373000				
30	285 Concepción	,,	100%									285000				
31	479 Cia F. C. Verapaz	,,	100%									96000				
32	Objects : Deposit A/c Balance :	Nottebohm Brothers	37½%				4/9/46			412632.94		111486	p.78(38)			
33	Frozen Deposits	,,				11/8/50				8264		3099	p.83(47)			896085

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Current Number	C. *Objects : Mortgages*	Creditor	Share F. Nottebohm	Sequestration (Coffee)	Sequestration (Land)	Expropriation	Opposition	Decision	Production (in quintals)	Original Debt	Total outstanding	Total outstanding Share of Mr. Nottebohm	Memorial	Counter-memorial	Remarks	Claims total in quetzales
33a	Moises Rivera Soto Finca Bonaventura	Nottebohm Brothers	37½%			20/8/45-12/12/45	3/7/46			2000	1075		p.62(7)			
34	Roberto Pivaral Padilio, Finca El Trapichita	,,	,,			25/9/45	3/7/46			12000	8571.88		p.62(7)			
35	Juana Altenbach de Lavarre, Villa Ilse	,,	,,			25/9/45	3/7/46			3800	685.86		p.62(7)			
36	Hector Augusto Pivaral Padilla, El Salto etc.	,,	,,			25/9/45	3/7/46			13500	4262.41		p.62(7)			
37	Cristina Vielman de Anzueto ; Espejo Tapia etc. Guadelupe	,,	,,			25/9/45				40000	8760.45					
38	Same	,,	,,			25/9/45				25000	25750.98					
39	Hijos Aparicios Barrios, Las Violetas	,,	,,			25/9/45	3/7/46			6000	6086.13		p.62(7)			
40	Jose Herrarte Segustume, Las Filipinas	,,	,,			12/10/45	3/7/46			120000	103350.44		p.62(7)			
41	Elvira L. di Aparicio, 2 houses in Guatemala	,,	,,			10/11/45	3/7/46			8500	6800		p.62(7)			
42	Blanca M. R. A. de Mencos, house in Guatemala	,,	,,			10/11/45	3/7/46			4000	4215.23		p.62(7)			
43	Hermann Moeller, Finca Quebrada Seca	,,	,,			10/11/45	3/7/46			2000	2378.53		p.62(7)			
44	Felipe Yurrita Castaneda, house in Guatemala	,,	,,			10/11/45	3/7/46			9000	18374.75		p.62(7)			
45	Vincente G. Borja, Finca Paxan y Pachitulul	,,	,,			12/12/45	3/7/46			20000	7650		p.62(7)			
46	Bernardo Padilla de Hernandez — house in Guatemala	,,	,,			12/12/45	3/7/46			2500	1743.26		p.62(7)			
47	Silvia V. do Lemus, Finca Santa Clara	,,	,,			12/12/45	3/7/46			2500	2276.85		p.62(7)			
48	E. G. Krische Schwalbe, La Suiza	,,	,,			12/12/45	3/7/46			28000	20579.26		p.62(7)			
49	Lopez Caceres Hnos, house in Guatemala	,,	,,			3/4/46 or 29/8/46	2/9/46 or 3/7/46			3000	3294.79		p.62(7), 79(39)			
50	E. D. Meendsen-Bohlken, various properties	,,	,,			4/5/46	3/7/46			13526.67	8000		p.62(7)			
51	Carlos & Juan Irigoyen, Finca Santa Fé	,,	,,			10/11/45	3/7/46			10000	9195		p.62(7)			
52	Club Guatemala, Club Bldg, Guatemala	,,	,,			26/6/46	3/7/46			14000	1670.24		p.62(7)			
53	F. Bermudez de Castro, house in Guatemala	,,	,,			29/8/46				1000	300					
54	Mariano Castello Azmitia, 2 houses in Guatemala	,,	,,			29/8/46	2/9/46			3000	2500		p.79(39)			
55	Carlos Salazar Argumedo, house in Guatemala	,,	,,			29/8/46	2/9/46			5000	5000		p.79(39)			
56	Manuel Anzueto Valencia, various agr. properties	,,	,,			29/8/46	2/9/46			5000	6717.68		p.79(39)			
											257238.74	96463.75				96463.75
					Total value under A		519526								Quetzales	1512074.75
					Total value under B		896085									
					Total value under C		96463.75									
							1512074.75	quetzales								

1512074.75 quetzales at 4.30 Swiss francs to 1 quetzal equals Swiss francs 6501721

bres ; le tirage au sort est effectué parmi les membres de la Chambre à laquelle appartient le président désigné.

Article 3

La Cour Suprême de Justice connaît des recours formés contre les décisions ou actes de procédure :

1) du Président de la République et des Secrétaires d'État ;
2) des Chambres de la Cour d'Appel, des Cours Martiales et de l'un quelconque de leurs membres, et du Tribunal Supérieur des comptes ;
3) du Procureur Général de la Nation ;
4) des Magistrats du Comité National Électoral.

Article 4

Les Chambres de la Cour d'Appel connaissent dans leurs juridictions respectives des recours interjetés contre les agissements ou les actes de procédure :

1) des directeurs généraux ;
2) des fonctionnaires supérieurs de n'importe quelle juridiction et qui connaissent en première instance ;
3) des gouverneurs de province et des commandants d'armées.

Article 5

Les Juges de 1ère instance, appartenant à la juridiction de droit commun connaissent dans leurs juridictions respectives des recours interjetés contre les agissements ou les actes de procédure :

1) des administrateurs des recettes ;
2) des juges de paix, des juges municipaux, des autres autorités et employés qui leur sont subordonnés ;
3) des commissaires départementaux, des autres employés de la police nationale et des commandants locaux ;
4) des maires et des autres fonctionnaires, autorités et employés non visés aux articles précédents.

Article 6

Quand il existe plus d'un juge de première instance dans un département, le juge qui est saisi en premier est compétent pour l'instruction entière du recours.

Article 7

En dérogation aux règles établies sur la compétence, le recours en comparution personnelle peut être interjeté devant n'importe lequel des tribunaux mentionnés au présent chapitre ; ce tribunal aura la faculté de prendre, étant le premier saisi, les ordonnances urgentes que le cas exige et laissera au Tribunal compétent le soin d'examiner l'affaire, en lui remettant le rapport de la procédure déjà faite sans retard.

CHAPITRE III

Recours de protection

Article 8

Le recours de protection a lieu dans les cas mentionnés au paragraphe *a)* de l'article 1 de la présente loi.

Le recours de protection doit être formé par écrit et mentionner :

a) la désignation de l'Autorité contre laquelle il est dirigé ;
b) le nom du recourant, son âge, son état civil, sa profession et son domicile ;
c) un exposé succinct des faits sur lesquels est basé le recours ;
d) la garantie constitutionnelle que le recourant estime avoir été violée ou, le cas échéant, la loi, le règlement ou la disposition de l'Autorité contre l'application de laquelle il est recouru ;
e) l'Autorité, le fonctionnaire ou l'employé contre qui l'on recourt.

Article 9

Les juges et les tribunaux sont obligés de trancher les recours de protection au cours de l'audience même où ils sont présentés ; ils demanderont communication du dossier ou à son défaut des informations détaillées à l'Autorité, au fonctionnaire ou à l'employé contre lequel est dirigé le recours ; ceux-ci devront s'exécuter et remettre le dossier ou fournir les informations en retour dans le délai péremptoire de 24 heures, sous réserve du délai de distance et qui sera compté à raison d'un jour pour 20 kilomètres.

Si, dans le délai indiqué, le dossier ou les informations n'ont pas été envoyés, le tribunal qui connaît du recours devra accorder la protection provisoire au recourant jusqu'à réception du dossier ou des informations.

Article 10

Après réception du dossier ou, le cas échéant, des informations, le débat sera ouvert à leur sujet tant au recourant qu'au Ministère Public qui pourront présenter leur exposé dans le délai de 24 heures. Passé ce délai, que les parties aient ou non présenté leur exposé, le Tribunal sera appelé à trancher sur le siège ou si des faits doivent être établis, il renverra l'affaire en procédure probatoire pour un délai improrogeable de 8 jours. Le Tribunal saisi pourra ordonner d'office que l'on procède à la procédure probatoire qui sera nécessaire dans le délai indiqué. La procédure probatoire terminée, le juge ou le tribunal rendra une ordonnance prescrivant que l'on entende le recourant et le Ministère Public pour pouvoir résoudre le cas dans les 24 heures qui suivent la clôture de la procédure probatoire.

Article 11

Contre les décisions rendues, il n'y a pas d'autre recours que le recours en responsabilité, et elles sont immédiatement exécutoires. A cet effet, peut être chargé de l'exécution n'importe quelle Autorité ou citoyen honorablement connu et jouissant d'une excellente réputation, qui agira en qualité de juge exécuteur.

Pour rendre plus efficace l'accomplissement de la décision, le Tribunal ou, le cas échéant, le juge exécuteur peut requérir l'aide de la force publique ou celle des citoyens, lesquels sont tenus de la fournir, sous peine de la sanction prévue par le Code pénal s'il s'agit de la force publique ou d'une amende de 10 à 50 quetzales s'il s'agit des citoyens.

Article 12

Les juges et les tribunaux qui connaissent du recours de protection ont la faculté d'accorder, quel que soit le stade de l'affaire, mais avant la

solution définitive, la suspension provisoire des agissements ou de l'acte de procédure qui a modifié le recours, à condition que se présente l'une des circonstances suivantes :

a) quand un dommage irréparable résulterait de la commission des agissements ou de la continuation de la procédure ;

b) quand l'Autorité, le fonctionnaire ou l'employé contre lequel le recours est interjeté sont en train de commettre notoirement une illégalité, une faute de juridiction ou de compétence.

Article 13

Si l'Autorité, le fonctionnaire ou l'employé à qui la suspension a été notifiée commet des agissements ou continue les actes de procédure qui ont motivé le recours, sa mise en accusation sera ordonnée et à cet effet, il sera établi une attestation adéquate et pour le surplus on procédera conformément à la loi.

Article 14

Toute Autorité, tout fonctionnaire ou tout autre employé public a l'obligation de remettre aux parties sans retard l'attestation des documents demandés afin de pouvoir les présenter comme preuve dans le recours de protection. Les Autorités, fonctionnaires ou employés publics qui se refuseraient à établir les attestations indiquées feront l'objet d'une procédure pénale et seront punis conformément au Code pénal.

CHAPITRE IV

Recours de comparution personnelle

Article 15

Le recours de comparution personnelle ou d'« habeas corpus » peut être interjeté par écrit, par télégramme ou verbalement par le lésé ou par toute autre personne sans qu'un pouvoir soit nécessaire. Les Autorités compétentes sont obligées d'entamer ou de déclencher d'office la procédure que la présente loi autorise quand d'une manière ou d'une autre elles auraient connaissance qu'une personne se trouve illégalement détenue ou entravée d'une façon ou d'une autre dans la jouissance de sa liberté individuelle ; ce qui a lieu également dans les cas indiqués au par. *b* de la 2ème fraction de l'article 1 de la présente loi.

Article 16

Quand le maire, le chef de l'établissement, les subalternes ou les agents d'exécution de l'endroit où une personne se trouverait être détenue ou arrêtée ont connaissance d'un fait qui donne lieu à la comparution personnelle, ils en aviseront immédiatement toute autorité qui pourrait connaître du recours de comparution personnelle sous peine d'une amende de 10 à 100 quetzales, sans préjudice des autres sanctions légales.

L'Autorité compétente qui aurait connaissance des faits auxquels se rapporte le présent article instruira la procédure y relative en se constituant sans retard à l'endroit où se trouve le lésé ; si le lésé est domicilié en dehors du cercle ou de la Commune où le Tribunal peut connaître

d'une plainte, il nommera un juge exécuteur qui procédera conformément à l'article 20 de la présente loi. Au cas où il ne serait pas procédé comme le prescrit le paragraphe précédent, l'Autorité ou le fonctionnaire qui a connaissance des faits en question sera puni conformément aux dispositions du code pénal.

Article 17

La requête pour le recours en comparution personnelle doit contenir :

1) l'indication de l'autorité à laquelle il est adressé ;
2) le nom du lésé ;
3) l'exposé des faits sur lesquels se fonde le recours ;
4) l'endroit où le lésé se trouve arrêté ou détenu si on le sait ;
5) l'autorité, le fonctionnaire, l'employé ou la personne considérée coupable ;
6) la signature du requérant et l'indication de son domicile et de celui de la personne qui signe à sa demande au cas où il ne le sait pas ou ne peut le faire lui-même. Quand on se trouve dans l'ignorance du lésé, de l'Autorité ou de la personne contre qui on agit ou les deux choses à la fois, il suffit d'indiquer l'endroit où se trouve le lésé.

Article 18

Dès que la requête sera reçue ou dès qu'il aura connaissance d'un fait qui donne lieu à la comparution, le Tribunal, au nom de la République de Guatemala, et le même jour fixera une heure pour que le lésé soit présenté par les soins de l'Autorité, du fonctionnaire, de l'employé ou de la personne qui aura motivé le recours ; cette personne devra assister au procès si cela lui est demandé, présenter son dossier, ainsi qu'un rapport très détaillé sur les faits que le Tribunal indique ; ce rapport contiendra :

a) l'indication de qui a ordonné l'arrestation ou les mauvais traitements et l'indication de qui a procédé à l'exécution avec mention de la date et des circonstances du fait ;
b) si la personne détenue s'est trouvée directement sous la garde de la personne chargée du rapport ou si celle-ci l'a transférée à une autre en indiquant en ce cas le nom de cette dernière, de même que le lieu, le temps et le mode de transfert ;
c) il faut joindre l'ordre qui a été le motif de la détention. On ne pourra jamais dépasser de 24 heures le délai dans lequel doit intervenir la comparution du lésé.

Article 19

Quand le lésé se trouve détenu en dehors de la Commune de résidence du juge ou du tribunal qui connaît du recours, le jugement de comparution personnelle pourra être exécuté par n'importe quelle Autorité ou par un citoyen d'honorabilité notoire et connue, domicilié à l'endroit où se trouve le lésé ou dans un autre endroit immédiatement voisin. En ce cas les instructions adéquates seront remises à l'exécuteur et celui-ci s'occupera de les exécuter immédiatement ; à cet effet, il se rendra au lieu où se trouve celui aux ordres duquel est soumis le détenu et il lui notifiera le jugement en exigeant qu'on le remette au lésé ; on lui remettra aussi le dossier et le rapport en faisant cesser, le cas échéant, les restric-

tions ou les mauvais traitements auxquels le lésé aurait été soumis, et en l'informant tout de suite du résultat de ces agissements.

Article 20

Passé le délai fixé pour la comparution personnelle et le retour du dossier, si l'Autorité ou le fonctionnaire qui en a reçu l'ordre ne l'a pas exécuté, le Tribunal délivrera contre la personne coupable de négligence un mandat d'arrêt et la déférera en jugement en ordonnant en même temps la mise en liberté du détenu si la loi l'exige ; en ce cas, il faudra faire constater le refus d'obéissance du fonctionnaire négligent et la personne chargée de l'exécution donnera avis par télégraphe ou par téléphone si c'est nécessaire.

Article 21

La comparution de la personne est obligatoire, même quand elle est incarcérée en vertu d'un ordre de l'Autorité judiciaire compétente, à la suite d'une procédure en bonne et due forme ; dans un tel cas, le détenu est ensuite renvoyé en prison et son dossier est restitué.

Article 22

S'il résulte de l'étude du dossier et des pièces que la détention ou la prison est illégale, la mise en liberté du lésé sera ordonnée ; toutefois s'il résulte qu'il se trouve dans l'un des cas visés par la partie 2 de l'article 32 de la Constitution, la cessation des actes établis sera ordonnée et il sera procédé conformément à la loi contre les personnes responsables de la transgression. Si le recours a pour motif des inscriptions irrégulières ou d'autres actes militaires illégaux, le Tribunal en ordonnera l'annulation ou la cessation.

Article 23

La personne qui est chargée de l'exécution remplit sa charge à titre gratuit et aucun citoyen ne peut se refuser à la remplir, sauf pour cause de maladie, sous peine de 10 à 50 quetzales d'amende, ou d'être déférée à la Justice pour refus d'obéissance.

Article 24

Pendant que la procédure de comparution personnelle est en cours, l'agent d'exécution devra prendre, conformément à la loi, les mesures de sécurité qui seraient nécessaires pour empêcher l'évasion du détenu.

Article 25

Les Tribunaux et la personne chargée de l'exécution, le cas échéant, pourront demander l'aide de la force publique pour l'exécution de leurs décisions ; l'Exécutif le fera immédiatement sous peine de la responsabilité prévue par le Code pénal.

Article 26

Des messages télégraphiques et postaux relatifs au recours de comparution personnelle doivent être transmis gratuitement et par exprès en faisant constater l'heure du dépôt.

Les chefs des bureaux respectifs seront responsables du défaut d'accomplissement de la présente disposition, sous peine de 10 à 50 quetzales d'amende.

CHAPITRE V

Cas où le recours de protection ne peut être interjeté

Article 27

Le recours de protection ne peut être interjeté :

a) dans les affaires judiciaires d'ordre civil et pénal en ce qui concerne les parties qui y interviennent ou qui y sont intervenues, ainsi que les tiers qui auraient exercé des recours ou des actions prévus par la loi contre des jugements définitifs et exécutoires ;
b) dans les affaires d'ordre administratif dans lesquelles les lois sur la matière autorisent des recours ;
c) contre les décisions intervenues dans les procès de protection ;
d) contre les actes accomplis de manière irréparable ;
e) quand ont cessé les effets de l'acte contre lequel la réclamation a été élevée ;
f) contre les actes auxquels l'inculpé a acquiescé ;
g) contre les mesures sanitaires et celles qui sont prises en vue de prévenir et de conjurer des calamités publiques.

Article 28

Sont présumées acceptées les décisions d'ordre administratif contre lesquelles il n'y a pas eu de recours de protection dans un délai de 60 jours suivant la notification faite au plaignant ou la date à partir de laquelle il en a eu connaissance.

CHAPITRE VI

Dispositions générales

Article 29

La décision intervenant dans le recours de protection a pour effet que les choses sont restituées dans l'état où elles se trouvaient avant la commission de l'acte contre lequel il est réclamé.

La décision en matière de recours n'a pas l'effet de l'exception de chose jugée.

Article 30

Quand le recours de comparution personnelle ou de protection est dirigé contre les fonctionnaires de l'Administration visés au paragraphe 1 de l'article 5 de la présente loi, la Chambre qui connaît du cas parce qu'elle en a été saisie la première est compétente pour l'instruction entière du recours.

Article 31

Dans les recours de protection, tous les jours et toutes les heures de l'année sont utiles ; les délais sont fatals et improrogeables.

Article 32

L'Autorité, le fonctionnaire ou l'employé public contre qui est prononcée la décision de protection en supportera les frais, sans préjudice du fait qu'il demeure comptable des responsabilités civiles et pénales envers qui de droit ; si l'action de protection vient à être déclarée malicieuse ou téméraire, le plaignant sera condamné aux frais et à payer une amende de 10 à 50 quetzales. Font exception à cette règle les cas de comparution personnelle.

Article 33

Les Tribunaux, le cas échéant, déclareront si l'action de protection revêt le caractère de malice ou de témérité.

Article 34

Les amendes imposées sur la base de la présente loi seront recouvrées par les soins du Tribunal qui a connu du recours, par la voie de contrainte si cela est nécessaire et le produit en sera versé aux fonds de justice.

Article 35

L'Autorité, le fonctionnaire ou l'employé public contre qui est formulée une demande de protection pourra intervenir dans le procès à n'importe quel moment.

Article 36

Dans les cas de comparution personnelle ou quand il y a urgence, les tribunaux communiqueront leurs ordonnances ou leurs décisions au moyen de dépêches télégraphiques, en prescrivant cette procédure dans l'ordonnance même. En ce cas ils décideront que les stations télégraphiques réceptrices, les fonctionnaires ou les personnes à qui sont adressées les dépêches donnent un avis immédiat de leur réception.

Article 37

Entraîne la responsabilité : le refus concernant l'admission d'un recours de protection ; la décision terminant le recours et prise en contravention des principes de la loi ; le retard dans l'acheminement du recours, ainsi que le retard dans l'acheminement des messages et la remise des dépêches. L'infraction à la présente disposition sera punie d'une amende de 10 à 50 quetzales sans préjudice des autres responsabilités.

Article 38

Les directeurs de prison, les maires, les gardiens, les personnes chargées de la surveillance des détenus, donneront copie signée de l'ordre d'écrou aux personnes qu'ils gardent ou à toute autre qui le demanderait. S'ils refusent ou s'ils tardent à le remettre plus de 6 heures, ils encourront une amende de 10 à 50 quetzales.

Article 39

Les actes de procédure seront établis sur papier timbré, sauf ceux qui contiennent les décisions définitives des procès de protection et sur lesquels sera apposé le timbre.

Article 40

La présente loi déroge au Décret législatif n° 354 et aux autres lois qui sont en contradiction avec lui.

A transmettre à l'Exécutif pour publication et exécution.

Fait en la salle des sessions de l'Assemblée législative à Guatemala le 12 mai 1928.

(Signé) A. RIVERA P., Président.
Federico CARBONELL R., secrétaire.
Ramon CALDERON, secrétaire.

Palais du Gouvernement, le 18 mai 1928.

A notifier et publier.
(S.) L. CHACON.

Le Secrétaire d'État au Bureau de l'Intérieur et de la Justice *(S.)* L. Alberto PAZ Y PAZ.

Le présent Décret a fait l'objet d'une addition le 20 février 1948 au moyen du Décret n° 478 du Congrès attribuant à la Cour Suprême de Justice la connaissance du recours de protection interjeté contre le Procureur Général de la Nation et contre les magistrats du Comité National électoral qui ne sont pas mentionnés à l'article 3 de la loi de protection.

Annex 22

COPY OF THE DOCUMENTS FILED IN PROCEEDING *NUMBER 109* [1] DIRECTED AGAINST: Federico NOTTEBOHM WEBER AND KARL HEINZ NOTTEBOHM STOLTZ. WITH REFERENCE TO THE EXPROPRIATION OF THE ESTATES: "MORAZÁN" AND "GUATALÓN"

The undersigned Secretary of the Department for German Affairs (Departamento de Asuntos Alemanes) of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), *certifies*: That for the purpose he has had before him the petition, ruling, and file of documents, which, literally copied, read: —"Department for German Assets (Departamento de Bienos Alemanes): Ministry of the Treasury (Ministerio de Hacienda).—I, Karl Heinz Nottebohm, as the proxy of Mr. Federico Nottebohm Weber, as stated in the respective

[1] This Annex consists of an exact translation of the documents which were obtained by the legal representatives of Mr. Nottebohm in Guatemala. It is a copy of all the papers which have been filed in proceedings Number 109—the proceeding instituted in Guatemala by Mr. Nottebohm's representatives in an effort to secure the return of his properties Morazán and Guatalón.

file of documents, respectfully request that at my own cost and with the knowledge of the Public Ministry (Ministerio Público), there be issued to me a complete certified copy in duplicate of the file relating to the exception of the expropriation proceedings initiated against Mr. Federíco Nottebohm Weber, which is in the possession of your Department. Guatemala, 3rd. of November, 1951.—(signed) Karl Heinz Nottebohm."—There is a stamp indicating the receipt of the document which reads: Department for German Affairs (Departamento de Asuntos Alemanes). Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—Delivered by: Licenciate (Lic.) R. Cerna.—Received on the 5th. of November, 1951.—At: 14.30 hours.—Registered under number.—No. 01361.—*Department for German Affairs of the Ministry of the Treasury and Public Credit (Departamento de Asuntos Alemanes del Ministerio de Hacienda y Crédito Público):* Guatemala, sixth of November, one thousand nine hundred and fifty-one.—*Subject: Karl Heinz Nottebohm, as the proxy of Mr. Federíco Nottebohm Weber, requests a certified copy in duplicate of the file relating to the exception of the expropriation proceedings initiated against Mr. Federico Nottebohm Weber.*—As requested, with the previous knowledge of the Public Ministry (Ministerio Público), and at the cost of the interested party, issue as may be convenient the requested certified copy in duplicate.

Articles 104, 105 and 110 of Governmental Decree 1862.—(Let it be notified. (signatures) Reyes Cardona.—O. Toruño O.—There is the stamp of the Department for German Affairs (Departamento de Asuntos Alemanes) of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público). *Notifications:* In the city of Guatemala, it being exactly 10.00 hours on the eighth day of November, one thousand nine hundred and fifty-one, I notified in the Public Ministry (Ministerio Público) the content of the foregoing decision, No. 01361, to the Procurator General of the Nation (Procurador General de la Nación) by means of a document which I handed over to Licenciate (licenciado) Alfonso Hernández Polanco.—Certified by me.—(signed) J. Oscar Barrientos.—There is the stamp of the Notifying official for German Affairs (Oficial Notificador de Asuntos Alemanes). In the city of Guatemala, it being 11.00 hours on the 8th. of November, one thousand nine hundred and fifty-one, in the office of the Department for German Affairs (Departamento de Asuntos Alemanes) of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), I notified the content of the foregoing decision to Mr. Karl Heinz Nottebohm, by means of the document which I handed over to Licenciate (licenciado) Carlos Rodríguez Corna, and, having been informed, he did not sign—signing as witness of his presence Mr. Emilio Recinos M.—Certified by me.—(signed) J. Oscar Barrientos.—E. Recinos Muñoz.—There is the stamp of the Notifier (Notificador).

Folio No. 1 of the file: *"Public Ministry (Ministerio Público):* Guatemala, twentieth of August, one thousand nine hundred and forty-five.—In conformity with article 5 of Legislative Decree 114, Messrs. Nottebohm Brothers are informed of the term, which may not be extended, of three days in which they shall appear before the Government Clerk (Escribano del Gobierno) to issue the deed of transference of ownership, in favour of the Nation, of the estates "Morazán" and "Guatalón", registered respectively in numbers 1204, folio 108,

of book 9 of Suchitepéquez and 3928, folio 140, of book 24 of Suchitepéquez, the information of the registration of which in the Register (Registro) and their fiscal declarations are to be found in this file, with the warning that it will be issued officially, in case of their refusal, pointing out that the time elapsed in communication (término .... de la distancia) is included in the term indicated, and that Messrs. Nottebohm Brothers are included under the provisions of the Expropriation Decrees.—Let it be published according to the law in the Official Journal (Diario Oficial).— (signatures) Méndez Montenegro. F. Saavedra T.—There is the stamp of the Public Ministry (Ministerio Público) . . . . . ."

Folio No. 2.—This Office (Despacho), in the respective expropriation proceedings, has issued the following decision which reads literally :. . . . "Public Ministry (Ministerio Público) : Guatemala, twentieth of August, one thousand nine hundred and forty-five.—In conformity with article 5 of Legislative Decree No. 114, Messrs. Nottebohm Brothers are informed of the term, which may not be extended, of three days in which they shall appear before the Government Clerk (Escribano del Gobierno) to issue the deed of transference of ownership, in favour of the Nation, of the estates "Morazán" and "Guatalón", registered respectively in numbers 1204, folio 108, of book 9 of Suchitepéquez and 2928, folio 140, of book 24, of Suchitepéquez, the information of the entering in the Register (Registro) of which and their fiscal declarations are to be found in this file, with the warning that it will be issued officially, in case of their refusal, pointing out that the time elapsed in communication (término .... de la distancia) is included in the term indicated and that Messrs. Nottebohm Brothers are included under the provisions of the Expropriation Decrees. —Let it be published according to the law, in the Official Journal (Diario Oficial).—(signatures) Marcial Méndez M.—F. Saavedra T.—And for the purposes of the law, the present declaration is made.—Secretariat of the Public Ministry (Secretaría del Ministerio Público) : Guatemala, twenty-first of September, one thousand nine hundred and forty-five. —Secretary. Fidel Saavedra T."—On folio 3 is to be found No. 64 of the Official Journal (Diario Oficial), dated the 25th. of September, 1945, Volume XLIV, in which appears the edict copied above.—"*General Registry of the Republic (Registro General de la República)* : Guatemala, No. 1.—The Director of the General Register of Immovable Property (Registro General de la Propiedad Inmueble), *Certifies* : That on folio 108 of book 9 of Sololá, appears estate No. 1204, the documents registering the ownership of which literally read : Number 1.—Property under the jurisdiction of the municipality of Sta. Bárbara, Department of Sololá, made up of seven *caballerías*, fifty *manzanas*, six thousand two hundred and forty-two square yards, the boundaries of which are : East. Marcelino García, Rafael Leal and Virgilio Hernández ; South. Anto. Taboada, West. Valentín Ruiz and North. Nicolás García. The owner of this estate is Pedro Rodas, who acquired it in a public auction according to entry 497, folio 445 volume 4 of Sololá.—Guatemala, 27th. of February, 1935 —(signed) José Mariano Trabanino.—Number 7.—Federíco Nottebohm Weber and Karl Nottebohm Stoltz are the owners of this estate, as stated in the 14th. of ownership of the estate No. 1368, folio 274, volume 378, 4th. of sololá. —Entry 591, folio 414, volume 378.—Guatemala, 8th. of June, one thousand nine hundred and thirty-eight.—(signed) José Mariano Trabanino.—And in order to hand it over to the Government

Clerk of the High Court of Justice (Escribano de Cámara del Gobierno), I issue the present certificate, on a single sheet of paper, in Guatemala, on the sixteenth day of the month of October, one thousand nine hundred and forty-five.—(signed) Illegible."—There is the stamp of the General Registry of the Republic (Registro General de la República). . . . .

Folio 5 . . . . General Registry of the Republic (Registro General de la República).—Guatemala.—No. 1.—The Director of the General Registry of Immovable Property (Registro General de la Propiedad Inmueble), *certifies:* that on folio 140 of book 24 of Sololá, appears the estate No. 13928, the registration of the ownership of which literally reads: Number 1.—Property situated under the jurisdiction of Santa Bárbara, measuring twenty-seven *caballerías*, forty-two *manzanas*, eight thousand and forty-five square yards, from which must be deducted fourteen *manzanas*, two thousand nine hundred and thirteen square yards leased to the Central Guatemala Railway Company (Empresa del Ferrocarril Central de Guatemala), thus leaving an area of twenty-seven *caballerías*, twenty-eight *manzanas*, five thousand one hundred and thirty-two square yards bounded by: on the North, "Las Ilusiones", and the property of the *Hacienda* "Variedades" with wire fences between the properties; on the South, the *Hacienda* "La Cabaña" and a small part of "San Pedro El Socorro"; on the East, "Las Lomas" and part also of "El Socorro", with the river "Siguacán" between; and on the West, "Santa Elena" with the river "Seco" between and the property "San Ramón", with an old fence between.—Enrique Diederichsen is the owner of the property thus bounded which was formed from the area of estates 31 and 2268, the numbers of which were completely cancelled, and of the surplus, consisting of two *caballerías*, sixty *manzanas* and nine thousand two hundred and two square yards which by reason of the payment of three thousand two hundred and thirty-nine *pesos*, one *centavo*, was adjudged to him by the Executive Power in an agreement of the eighteenth of April last, as appears in the title deed issued by the Constitutional President of the Republic, C. Carlos Herrera, in Guatemala on the twentieth of May of this year and countersigned by the Government Notary (Notario del Gobierno) Licenciate (Licdo.) Abel Paredes, which was presented on the twenty-third of June last at 10. a.m.—Entry 118, folio 179, volume 13, Journal (Diario). Quezaltenango, 25th of July, one thousand nine hundred and twenty-one.—(signed) D. G. Escobar.—Number 7.—Federico Nottebohm Weber and Karl Nottebohm Stoltz are the owners of this estate, as stated in the fourteenth of ownership of estate No. 368, folio 274, volume 4 of Sololá.—Entry 591, folio 414, volume 378.—Guatemala, eighth of June, one thousand nine hundred and thirty-eight.—(signed) José Mariano Trabanino.—And in order to hand it over to the Government Clerk of the High Court of Justice (Escribano de Cámara del Gobierno), I issue the present certificate in one single sheet of paper in Guatemala, on the sixteenth day of the month of October, one thousand nine hundred and forty-five.—(signed) Illegible. There is the stamp of the Registry of Immovable Property (Registro de la Propiedad Inmueble).

Folio 6. Public Ministry (Ministerio Público): Guatemala, twenty-eighth of September, one thousand nine hundred and forty-five. Since the term of three days fixed for Nottebohm Brothers to issue the deed transferring ownership in favour of the Nation of the estates "Morazán"

and "Guatalón", situated in the department of Suchitepéquez, has expired, since they have refused, let it be issued officially, the present proceedings being put into force for that purpose by the Government Notarial Office (Escribanía del Gobierno).—Articles 7—Legislative Decree 114.—(signatures) Marcial Méndez Montenegro.—F. Saavedra T.—There is the stamp of the Public Ministry (Ministerio Público).—Notice : by a deed authorised by me and dated today, the estates referred to in this file were adjudged as belonging to the Nation.—Guatemala, twenty-second of October, one thousand nine hundred and forty-five.—(signed) Eduardo Rivera M.—There is the stamp of the Government Notarial Office (Escribanía de Cámara y Gobierno.)

Folios 7 to 10—Number one hundred and twenty-one.—In the city of Guatemala, on the twenty-second day of the month of October, one thousand nine hundred and forty-five, in my presence, Eduardo Rivera Morales, Government Clerk (Escribano del Gobierno), and in the presence of the witnesses, competent according to the law and residents in this city, Messrs. Jorge Molina Franco and Alfredo Tejeda Cruz, there appeared : on the one hand, Licenciate (licenciado) Marcial Méndez Montenegro, and on the other Licenciate (licenciado) Gonzalo Méndez de la Riva, both of thirty-eight years of age, married, lawyers and Notaries, Guatemalans by birth, resident in this city and in full enjoyment of their civil rights.—The First acts in his capacity as Procurator General of the Nation (Procurador General de la Nación), according to the nomination dated the sixth of April of the present year issued by the Congress of the Republic in Decree number fifty-six ; and the Second, appears in his capacity as Under Secretary of the Treasury and Public Credit (Subsecretario de Hacienda y Crédito Público), according to the nomination dated the twenty-sixth of June of the present year issued by the Executive Power.—I, the Government Clerk (Escribano del Gobierno), *certify :* that the applications (representaciones) presented by Messrs. Licenciates (licenciados) Méndez Montenegro and Méndez de la Riva are adequate for the purposes of these proceedings and fulfil the requirements of the law ; that I know the witnesses, as also the mandators, and that the latter, assuring me that they possess the necessary civil powers and that they answer to the corresponding description, verbally and in Spanish, declared before me :

Firstly : The Procurator General of the Nation (Procurador General de la Nación) Licenciate (licenciado) Marcial Méndez Montenegro, declares: that, in conformity with the dispositions of Governmental Decrees numbers : three thousand one hundred and thirty-four (3134) and three thousand one hundred and thirty-five (3135), duly approved by the National Legislative Assembly, and in those in which, in cases of public utility and necessity, assets belonging to private persons or corporations included in the "Promulgated Lists" ("Listas Proclamadas") published in the Official Journal (Diario Oficial) and in those which appear listed in article forty of Governmental Decree number two thousand six hundred and fifty-five (2655), were declared to be expropriated in favour of the Nation ; and in fulfilment of the dispositions of Governmental Decree number three thousand one hundred and thirty-eight (3138) and Legislative Decree number one hundred and fourteen (114) ; he initiated on the twentieth of August, one thousand nine hundred and forty-five, in the Ministry under his direction, the corresponding deci-

ions for the purpose of issuing a deed transferring ownership in favour of the Nation of the two rural estates: "Morazán" and "Guatalón", situated under the jurisdiction of the municipality of Santa Bárbara, in the department of Suchitepéquez, belonging to "Nottebohm Brothers Limited" and registered in the General Register of Immovable Property (Registro General de la Propiedad Inmueble) under numbers one thousand two hundred and four (1204), folio one hundred and eight (108), of the ninth book (9th.) of Sololá; and three thousand nine hundred and twenty-eight (3928), folio one hundred and forty (140) of the twenty-fourth book (24th.) of Sololá, respectively; and possessing the boundaries and extent acknowledged in the same Register (Registro); the said estates are included in Decree Number three thousand one hundred and thirty-five (3135) and their proprietors, Messrs. Nottebohm Brothers, in the Promulgated Lists (Listas Proclamadas).—That in the respective proceedings were issued judgments to this effect:—"Public Ministry (Ministerio Público), Guatemala, twentieth of August, one thousand nine hundred and forty-five.—In conformity with article 5 of Legislative Decree 114, Messrs. Nottebohm Brothers are informed of the term, which may not be extended, of three days, in which they shall appear before the Government Clerk (Escribano del Gobierno) to issue the deed of transference of ownership, in favour of the Nation, of the estates "Morazán" and "Guatalón", registered respectively in numbers 1204, folio 108, of book 9 of Suchitepéquez, and 3928, folio 140, of book 24 of Suchitepéquez, the information of the registration of which in the Register (Registro) and their fiscal declarations appear in this file, with the warning that it will be issued officially, in case of their refusal, pointing out that the time elapsed in communication (término .... de la distancia) is included in the indicated term and that Messrs. Nottebohm Brothers are included under the provisions of the Expropriation Decrees. Let it be published according to the law in the Official Journal (Diario Oficial)—(signed) Marcial Méndez M.—F. Saavedra T." (There is the corresponding stamp). And that which follows, to this effect: Public Ministry (Ministerio Público): Guatemala, twenty-eighth of September, one thousand nine hundred and forty-five.—Since the term of three days fixed for Nottebohm Brothers, in which they were to issue the deed transferring ownership, in favour of the Nation, of the estates "Morazán" and "Guatalón", situated in the Department of Suchitepéquez, has expired, and since they have thus refused, let it be issued officially, the present proceedings being put into force for that purpose by the Government Notarial Office (Escribanía del Gobierno).—Article 7, Legislative Decree 114.—Marcial Méndez Montenegro.—F. Saavedra T. (There is the corresponding stamp.) *Secondly:* That, by virtue of the said reason, the publications having been made according to the law in the Official Journal (Diario Oficial), and the term of three days fixed for Nottebohm Brothers and Company having expired and been exceeded, in which, in conformity with the decision transcribed above, they were to issue the deed transferring the ownership of the properties described in the first clause of this document, without having carried this into effect at the time of writing, and by virtue of the dispositions of the second, fifth and eighth articles of Legislative Decree Number one hundred and fourteen (114) and since there exists no counterclaim or claim pending in favour of Nottebohm Brothers and Company, —since they have refused, he issues in favour of the Nation a deed trans-

ferring ownership, to be registered in the Register of Immovable Property (Registro de la Propiedad Inmueble), of the rural estates known as : "Morazán" and "Guatalón", situated under the jurisdiction of Santa Bárbara, in the Department of Suchitepéquez, and entered respectively in the General Register of Immovable Property (Registro General de la Propiedad Inmueble) under the numbers one thousand two hundred and four (1204), folio one hundred and eight (108), of book nine (9) of Sololá ; and three thousand nine hundred and twenty-eight (3928), folio one hundred and forty (140), of book twenty-four (24) of Sololá.— *Thirdly :* The transfer is made free of mortgages, annotations and limitations.— *Fourthly* :—that, in conformity with the Decrees mentioned at the beginning, the amount of the indemnity due to Messrs. Nottebohm Brothers, on account of the two properties hereby transferred in favour of the Nation, is : eighteen thousand *quetzales* (Q. 18.000.00), i.e. : three thousand *quetzales* (Q. 3.000.00) for the estate "Morazán" and fifteen thousand *quetzales* (Q. 15.000.00) for the estate "Guatalón" ; the value in which the said estates were declared for the purposes of the payment of the tax of three per thousand on the date of the declaration of war, a payment which will be carried out in the form established by the first article of legislative decree number one hundred and fourteen (114) of the sixteenth of May of the present year.— *Fifthly :* The Under Secretary of the Treasury and Public Credit (Subsecretario de Hacienda y Crédito Público), Licenciate (licenciado) Gonzalo Méndez de la Riva, declares that, on the terms designated by the present instrument, he accepts on behalf of the Nation the transfer made in its favour.—I, the Government Clerk (Escribano del Gobierno), certify that I have had before me : (a) the file instituted by the Procurator General of the Nation (Procurador General de la Nación), in which are to be found the decisions transcribed ; (b) a certificate of the Registry of Immovable Property (Registro de la Propiedad Inmueble) containing the registrations of ownership now in force referring to the expropriated estates ; (c) the Decree and agreement in which appear the nominations of Licenciates (licenciados) Méndez Montenegro and Méndez de la Riva ; (d) the numbers of the Official Journal (Diario Oficial) in which the abovementioned Governmental and Legislative Decrees are published, and those containing the publication of the corresponding edicts, and (e) the fiscal settlements which, literally copied, read : "The undersigned Secretary of the General Directorate of Income (Dirección General de Rentas), *certifies :* that, in register No. 4314—of the Department of Suchitepéquez, corresponding to Nottebohm Brothers, is registered the estate : "Morazán", the numbers of the registration of which are : 108/9/.—with an area of 3517.739 metres.—Declared to be of the value of Q.3.000.00 (three thousand *quetzales*).—Guatemala, eleventh of June, one thousand nine hundred and forty-five.—(signature illegible)." —Secretary.—Approved. A. Padilla.—Director General of Income (Director General de Rentas).—There are the corresponding stamps. And that which follows to the effect that: "The undersigned Secretary of the General Directorate of Income (Dirección General de Rentas)— *certifies :* that in the register No. 4314—of the Department of Suchitepéquez, corresponding to Nottebohm Brothers, is registered the estate "Guatalón", the numbers of the registration of which are : 3928/140/24.—with an area of 12483.021 metres. Declared to be of the value of Q.15.000.00 (fifteen thousand *quetzales*).—Guatemala, eleventh

of June, one thousand nine hundred and forty-nine.—(signature illegible).''—Secretary ; Approved. A. Padilla.—Director General of Income (Director General de Rentas).—There are the corresponding stamps.—I certify : that as appointed by the mandators I read to them the whole of what had been written in the presence of the witnesses of the instrument, and that, well informed of its content, effects, object and the general clauses which ensure the validity of this instrument, as also that I gave the necessary warning with respect to the presentation of the evidence of this document to the Registry of Immovable Property (Registro de la Propiedad Inmueble) for the purposes of its registration, they accepted, ratified and signed together with the witnesses of the instrument and with the Clerk (Escribano), all of which I certify.—Marcial Méndez M.—G. Méndez de la Riva. J. Molina F.—Alfredo Tejada C.—In my presence: Eduardo Rivera M.—This is the first affidavit, which, duly collated with its original and being on four effective sheets, I issue, stamp and sign, in the city of Guatemala, on the twenty-sixth day of the month of January, one thousand nine hundred and forty-six, in order to deliver it to the Procurator General of the Nation (Procurador General de la Nación).—Signature Eduardo Rivera M.—There is the stamp of the Government Notarial Office (Escribanía del Gobierno).

Folios 11 and 12.—"Public Ministry (Ministerio Público).—Guatemala, Central America. Office No. 864.—Guatemala, 24th. of May, 1950.—Subject : Karl Heinz Nottebohm Stoltz, Federico Nottebohm Weber : Expropriation file No. 345.—There is also a counter-claim, in File No. 46, on 65 sheets, initiated by Carmen Nottebohm.—Mr. Minister: In conformity with articles 7 and 18 of Decree 630 of the Congress of the Republic, it is in accordance with the law and thus I request : that there be designated the term, which may not be extended, of three days, in which shall be included the time elapsed in communication (término.... de la distancia), within which Messrs. Karl Nottebohm Stoltz and Federico Nottebohm Weber shall appear before the Government Clerk of the High Court of Justice (Escribano de Cámara del Gobierno) to issue a deed transferring ownership in favour of the Nation in respect of the following properties : Estate "Morazán", Reg. 1204, folio 108, book 9 ; and estate "Guatalón", Regs. No. 3928, folio 140, of book 24, both of Sololá.—The said decision must be issued with the warning that the deed will be issued officially, in case of their refusal, and this expropriation can be extended in later documents if any other assets should be discovered which for any reason does not figure in the present proceedings and which belongs to the gentlemen indicated. The publications required by the law and to enable notification to be made to the expropriated persons must be made previously. The facts of the registration in the Register (Registro) and in the List of Immovable Assets (Matrícula de Rienes Inmuebles) appear in this file. Pointing out to this Ministry that, since according to note No. 67 dated the 22nd. of May of the current year, the Government Notarial Office (Escribanía del Gobierno) had already issued a deed transferring the ownership of the assets referred to in this file, which deed was not put into effect in the respective Registry (Registro) as the said properties had been wrongly entered under the name of the firm "Nottebohm Brothers", it is according to law that a new document should be drawn up correcting the said error.—Attentively—(signed) J. F. Licona.—José F. Licona M.—Procurator General of the

Nation (Procurador General de la Nación) Head of the Public Ministry (Jefe del Ministerio Público). Mr. Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público). National Palace."—There is the stamp of the Public Ministry (Ministerio Público) and another which reads: Department of National Assets, Auctions and German Affairs (Departamento de Bienes Nacionales, Licitaciones y Asuntos Alemanes), Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—Handed over by: Public Ministry (M. Público).—Received on 26th. May 1950.—At: 10.00 hours.—Registered Number 160.—N.—*Folio 13:* —"384—*Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público):* Guatemala, twenty-fourth of July, one thousand nine hundred and fifty.—*Subject: The expropriation of the estates "Morazán" and "Guatalón", belonging to Federico Nottebohm and Karl Nottebohm Stoltz, situated in Suchitepéquez.—seen and considering:* That the Brothers Federico Nottebohm Weber and Karl Nottebohm Stoltz come within the criminal forms classified and penalised by articles 7 and 18 of Decree 630 of the C. of the R., *therefore:* This Office (Despacho), Resolves:

(a) To indicate to Nottebohm Brothers the term of three days, which may not be extended, in which is to be included the time elapsed in communication (término .... de la distancia), in which they shall appear themselves or in the person of their legal representative before the Government Notarial Office (Escribanía de Cámera y Gobierno) to issue a deed transferring ownership in favour of the State of the estates "Morazán" and "Guatalón", situated in Suchitepéquez;

(b) To warn Nottebohm Brothers that, in case of their refusal, the State will issue the respective deed officially;

(c) That this decision be published in the Official Journal (Diario Oficial) three times within the term of fifteen days; and

(d) That it be brought to the notice of the person affected.—Articles 43 and 45 of Decree 630 of the C. of the R.—(signatures) A. Padilla I. —F. Barilas C."—There is the stamp of the Ministry and the Treasury and P. C. (Ministerio de Hacienda y C. P.)

Notifications: On the third of August, one thousand nine hundred and fifty, it being 17.00 hours, I notified the foregoing decision to the Procurator General of the Nation (Procurador General de la Nación) by means of the document handed to Miss María Nory Moreira.— Certified by me.—(signed) A. Muñiz F.—There is the stamp of the Notifying Official for German Affairs (Oficial Notificador de Asuntos Alemanes).—On the fourth of August, one thousand nine hundred and fifty, it being 15.25 hours, at No. 31, Eighth Avenue South, I notified the foregoing decision to Messrs. Nottebohm, by means of the document handed to Mr. Guillermo Grotto.—Certified by me.—(signed) A. Muñiz F.—There is the stamp of the Notifying Official for German Affairs (Oficial Notificador de Asuntos Alemanes).—*Folio 14.*—"Mr. Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público): I, Karl Heinz Nottebohm Stoltz, on my own behalf and as the proxy of Mr. Federico Nottebohm Weber, a legal representation which I have proved before your Office (Despacho), attentively refer to decision number three hundred and eighty-four (384), issued by your Ministry, dated the twenty-fourth of July of the present year, by which is indicated "to Nottebohm Brothers" the term of three days in which they must issue in favour of the State a deed transferring ownership of the estate "Morazán" and

"Guatalón", situated in Suchitepéquez. May I be allowed to point out that the degree of kinship between Mr. Federíco Nottebohm Weber and the undersigned, is that of uncle and nephew, and not that of brothers as stated in the above-mentioned decision.—Furthermore, since I, the undersigned, am of Guatemalan nationality, and Mr. Federíco of Swiss nationality, and since no company exists formed between us for the ownership of the said estates, articles 7 and 18 of Decree of the Congress 630, on which the Ministerial decision is based, are not applicable to us.—For the said legal reasons I appear before you to present a petition of exception against the expropriation proceedings in respect of the above-mentioned estates, and I request that it be declared admissible, that a trial be made of it as opportune, and that it be definitely resolved as convenient.—Guatemala, 22nd. of August, 1950.—(signed) Karl Heinz Nottebohm on his own behalf and as the proxy of Mr. Federíco Nottebohm."

There is a stamp indicating the receipt which reads: "Department for German Affairs (Departamento de Asuntos Alemanes), Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público): Delivered by Int.—Received on the: 23rd of August, 1950.—At 11.00 hours. Registered under No. 160."—*Folio 15*—No. 00671.—*Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público):* Guatemala, twenty-fourth of August, one thousand nine hundred and fifty: *Subject:* Messrs. Karl Heinz Nottebohm Stoltz and Federíco Nottebohm Weber, present a petition of exception against decision No. 384 of this Ministry. *Seen and considering:* That Messrs. Karl Heinz Nottebohm Stoltz and Federíco Nottebohm Weber have appeared before this Office (Despacho), within the term laid down by paragraph II of article 43 of Decree 630 of the Congress of the Republic, indicating their counter-claim in respect of the expropriation of the Estates "Morazán" and "Guatalón", situated in Suchitepéquez; *therefore:* This Office (Despacho) Resolves:

(A) To admit the above-mentioned petition of exception and (B) to submit the counter-claim to trial for the term of fifteen days.—Articles 43 and 60 clause (b) Decrees 630 and 689, respectively, of the Congress of the Republic.—*Let it be notified.*—(signed) A. Padilla I. By order of the Under Secretary A. Zelaya G.—Chief Official (Oficial Mayor).—There is the stamp of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—*Notifications:*

On the twenty-ninth of August, one thousand nine hundred and fifty, it being 15.15 hours, I notified the foregoing decision to the Procurator General of the Nation (Procurador General de la Nación), by means of the document delivered to Mrs. María Teresa Barrios.—Certified by me.—(signed) A. Muñiz F.

There is the stamp of the Notifying Official for German Affairs (Oficial Notificador de Asuntos Alemanes).

On the same date, it being 15.30 hours, I notified, at No. 31, Eighth Avenue South, the decision to Messrs. Karl Heinz Nottebohm and Federíco Nottebohm by means of the document delivered to the person who said she was called Rosa Cabrera.—Certified by me.—(signed) A. Muñiz F.—There is the stamp of the Notifying Official for German Affairs (Oficial Notificador de Asuntos Alemanes).—On Folios 16, 17 and 18 are to be found the Official Journals (Diarios Oficiales) dated the 23rd. and 30th. of August and 6th. of September, one thousand nine

hundred and fifty, in which appeared the edicts ordered by the expropriation decision.—*Folio 19*—Mr. Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público).—Subject: The expropriation proceedings in respect of the estates "Morazán" and "Guatalón", belonging to Karl Heinz Nottebohm Stoltz and Federico Nottebohm Weber.—I, Karl Heinz Nottebohm, whose particulars are known, respectfully present myself in my capacity as general proxy of my uncle Mr. Federico Nottebohm Weber and refer to the decision issued by this Ministry under the No. 00671, dated the 24th. of August of the present year, admitting the petition of exception and ordering that the counter-claim which had been presented be put to trial.—*Evidence on behalf of Federico Nottebohm Weber.*—There exists in this Ministry the file relating to the expropriation of assets belonging to my mandator initiated by the Public Ministry (Ministerio Público) in the year 1945 marked with the No. 46; in which file appear the following decisions and documents:

(1) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores), relating to the registration of my mandator as a resident foreigner, of German nationality, under Entry No. 1968, folio 1968 of book 20, dated the 16th. of April, 1928, and modified on the 7th. of February, 1940, in the sense of recognising that the registered person holds the nationality of the Principality of Liechtenstein.

(2) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores), containing copies of letters relating to personal details in respect of my mandator signed by Messrs. Licenciate (licenciado) José María Reina Andrade, Carlos Herrera Dorión, Roberto Fischer, Doctor José Luis Asencio, Mario Willemsen, Arthur Neale and Daniel Orbaugh.

(3) The First Affidavit of the registration No. 147 in the Register of the Supreme Court of Justice (Registro de la Corte Suprema de la Justicia), dated the 15th. of July, 1946, relating to the declaration as to the nationality of my mandator made by the Government of the Principality of Liechtenstein.

(4) Declarations of the witnesses Doctor Leopoldo Aschkel and Mr. Carlos Elmenhorst, in respect of the personal circumstances guaranteeing the conduct of my mandator.

(5) Certificate of the testimony of public document No. 54 authorised in this city by the Notary Mr. Federico Salazar Gatica on the 16th. of March, 1939, in which appears the general power of attorney granted by Mr. Federico Nottebohm in favour of Karl Heinz Nottebohm. As evidence on my mandator's behalf, I request that at my own cost the documents and decision specified to be found as I stated in the file carried by your Ministry under the Number 46, be registered in the present expropriation file relating to the estates "Morazán" and "Guatalón".—Guatemala, 6th. of September, 1950.—(signed) Karl Heinz Nottebohm, as the proxy of Mr. Federico Nottebohm Weber.—There is a stamp which reads: "Department for German Affairs (Departamento de Asuntos Alemanes), Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—Handed over by: int. Received on the 6th. of September, 1950.—At: 17.45. Registered under No. 160.

Folio 20.—No. 00854.—*Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público):* Guatemala, second of Sep-

tember, one thousand nine hundred and fifty.—*Subject:* Karl Heinz Nottebohm Stoltz, as the legal representative of Mr. Federíco Nottebohm Weber, requests that the documents listed below be registered in the present expropriation file: (a) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores); (b) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores); (c) First Affidavit of Registration No. 147; (d) Declarations of the nature of testimony of Dr. Leopoldo Aschkel and Carlos W. Elmenhorst; (e) Certificate of the attestation of the public document number 54 in which appears the general power of attorney.—With the knowledge of the Public Ministry (Ministerio Público), let the documents requested be registered in the file, and if it fulfils the requirements of the law, let it be held as evidence on behalf of the presentor.—Articles 104 and 105 of Governmental Decree 1862.—(signatures) A. Padilla I.—F. Barillas C."

There is the stamp of the Department.—On the twenty-ninth of September, one thousand nine hundred and fifty, it being 15.00 hours, I notified the foregoing decision to the Procurator General of the Nation (Procurador General de la Nación), by means of the document delivered to Licenciate (licenciado) Carlos González L.—Certified by me. (signed) A. Muñiz F.—There is the stamp of the Notifying Official (Oficial Notificador).—On the second of October, one thousand nine hundred and fifty, it being 09.05 hours, at No. 31, Eighth Avenue South, I notified the foregoing decision to Mr. Karl Nottebohm, by means of the document delivered to Mr. Guillermo Grotto.—Certified by me.—(signed) A. Muñiz F.—There is the stamp of the Notifying Official (Oficial Notificador).—*Sheet No. 21.*—Mr. Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público). Subject: The expropriation proceedings in respect of the estates "Morazán" and "Guatalón", belonging to Karl Heinz Nottebohm and Federíco Nottebohm Weber.—Karl Heinz Nottebohm, in his own name appears and states: that the proceedings mentioned in the heading of this document now being submitted for trial, it is within his rights that it be ordered he receive the following:

(1) Certificate of the Civil Registry (Registro Civil) verifying my birth which occurred in this city on the 13th. of July, 1910.

(2) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores) in which appear the governmental agreement of the 24th. of November, 1939, by which I was recognised to have the status of a Guatemalan by birth and the renouncement of the German nationality which I possessed by reason of the Montufar-Von Bergen treaty.

(3) Declarations communicated to the Public Ministry (Ministerio Público) on the 17th. of August, 1945, by the witnesses Mr. Carlos Ibargüen and Mr. Carlos Walter Elmenhorst, with respect to personal circumstances justifying my exception from all expropriation proceedings.

(4) Authenticated record of my registration as a soldier in the *Mayoría de Plaza* of this administrative area (Departamento).

(5) Information with respect to my conduct and criminal record which the directorate of the Judicial Police (Guardia Judicial) furnished to the Public Ministry (Ministerio Público).

(6) Certificate issued by the Ministry of External Relations (Ministerio de Relaciones Exteriores) in which are copied letters signed by Messrs. Licenciate (licenciado) José María Reyna Andrade, Carlos Herrera

Dorión, Doctor José Luis Asencio, Roberto Fischer, Mario H. Willensen, Arthur Neale and Daniel W. Orbaugh, relating to my personal qualities.

(7) Certificates issued by the Central Bank of Guatemala, by the Secretariat of The Child's Home (Casa del Niño), by the Guatemalan Red Cross, by the Society of Saint Vincent de Paul, in which appear donations made to philanthropic institutions and Societies.—The documents and decisions enumerated appear in the file formed by the Public Ministry (Ministerio Público) with respect to my exception from the effects of the emergency laws, which at the present time is to be found in this Ministry of the Treasury (Ministerio de Hacienda), and I request that at my own expense it be decided that they be registered in the present file relating to the expropriation of the estates "Morazán" and "Guatalón", and that they be held to be evidence on my behalf.—Guatemala, 6th. of September, 1950.—(signed) Karl Heinz Nottebohm. —Department for German Affairs (Departamento de Asuntos Alemanes). Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público). Delivered by: Int. Received on the: 6th. *September*, 1950. At: 17.45. Registered Under No.: 160.—*Sheet No. 22.*—No. 00853.—*Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público):* Guatemala, twelfth of September, one thousand nine hundred and fifty.—*Subject:* Karl Heinz Nottebohm requests that the following documents be registered in the present expropriation file: (a) Certificate of the Civil Registry (Registro Civil); (b) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores); (c) Declarations communicated to the Public Ministry (Ministerio Público) by Carlos Ibárgüen and Carlos Walter Elmenhorst; (d) Record of registration as a soldier; (e) Report of the Judicial Police (Guardia Judicial); (f) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores); (g) Certificates issued by the Bank of Guatemala, Secretariat of The Child's Home (Casa del Niño), Guatemalan Red Cross, Society of Saint Vincent de Paul.—Inform the petitioner that the documents referred to in his communication dated the 6th. of the present month, have been added to file number 42, to be found in the Tribunal established for the settlement of claims against the Government (Tribunal de lo Contencioso Administrativo).—Article 91 of Governmental Decree 1862.—(signed) A. Padilla I.—F. Barillas C. —Department for German Affairs (Departamento de Asuntos Alemanes). Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—On the twenty-ninth of September, one thousand nine hundred and fifty, it being 15.00 hours, I notified the foregoing decision to the Procurator of the Nation (Procurador de la Nación), by means of the document delivered to Mr. Licenciate (licenciado) Carlos González L.—Certified by me.—(signed) A. Muñiz F.—There is the stamp of the Notifying Official (Oficial Notificador).—On the second of October, one thousand nine hundred and fifty, at No. 31, Eighth Avenue South, I notified the foregoing decision to Mr. Karl Heinz Nottebohm, by means of the document delivered to Mr. Guillermo Grotto.—Certified by me.—(signed) A. Muñiz F.— There is the stamp of the Notifying Official (Oficial Notificador.)

Folio 23—No. 01416.—A.—Guatemala, 4th. of December, 1950.—Messrs. Federíco Nottebohm Weber and Karl Heinz Nottebohm S.—8th. Avenue South No. 31.—City.—I respectfully request you to come

to this office on Friday, the 8th. day of the present month, in order to discuss a matter concerned with decisions Nos. 853 and 854, issued by the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), dated the 2nd. of September. The said decisions were notified to you on the 29th. of the same month, at No. 31, Eighth Avenue South by the document delivered to Mr. Guillermo Grotto. I take this opportunity of signing myself your most obedient servant. (signed) Licenciate (Lic.) Miguel Antonio Alvarado.—Head of the Department (Jefe del Departamento).—*Folio 23-A.*—Guatemala, 5th. of April, 1951. —00462.—*Dear Sirs.*—Federico Nottebohm Weber and Karl Heinz Nottebohm S.—*No.* 31, Eighth Avenue South.—City.—I request you to be so good as to come to this Department on Friday the sixth (6th.) of the present month in order to discuss a matter related to decisions Nos. 853 and 854, issued by the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), dated the 2nd. of September, of last year. The said decisions were notified to you on the 29th. of the same month, at No. 31, Eighth Avenue South, by means of the document delivered to Mr. Guillermo Grotto.—I take the opportunity of signing myself your most obedient servant. (signed) Licenciate (Lic.) Miguel Antonio Alvarado.—Head of the Department (Jefe del Departamento).—*Folios 24 to 37.*—00476. The under-signed Under Secretary of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), *certifies:* That for the purpose he has had before him the document presented by Mr. Karl Heinz Nottebohm, as the legal representative of Mr. Federico Nottebohm Weber, which, together with its ruling and notifications, reads literally :—Mr. Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público).—Subject : The expropriation proceedings in respect of the estates "Morazán" and "Guatalón", belonging to Karl Heinz Nottebohm Stoltz and Federico Nottebohm Weber.—I, Karl Heinz Nottebohm, whose general particulars are known, present myself in my capacity as general proxy of my uncle Mr. Federico Nottebohm Weber, and refer to the decision issued by this Ministry under No. 00671, dated the 24th. of August of the present year, admitting the petition of exception and ordering the submitting for trial of the counter-claim which had been presented.—*Evidence on behalf of Federico Nottebohm Weber.*—There exists in this Ministry the file relating to the expropriation of assets belonging to my mandator initiated in the Public Ministry (Ministerio Público) in the year 1945, marked with the No. 46, in which appear the following decisions and documents :

(1) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores) relating to the registration of my mandator as a resident foreigner, of German Nationality, under entry No. 1968, folio 1968 of book 20, dated the 16th. of April, 1928, and modified on the 7th. of February, 1940, in the sense of acknowledging the nationality of the person registered to be that of the Principality of Liechtenstein.

(2) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores) containing copies of the letters relating to personal details in respect of my mandator, signed by Messrs. Licenciate (licenciado) José María Reyna Andrade, Carlos Herrera Dorión, Roberto Fischer, Doctor José Luis Asencio, Mario Willensen, Arthur Neale and Daniel Orbaugh.

(3) First affidavit of registration No. 147 in the Register of the Supreme Court of Justice (Registro de la Corte Suprema de Justicia), dated the 15th. of July, 1946, relating to the nationality of my mandator as declared by the Government of the Principality of Liechtenstein.

(4) Declarations of the witnesses Doctor Leopoldo Aschkel and Mr. Carlos W. Elmenhorst, referring to personal circumstances answering for the conduct of my mandator.

(5) Certificate of the testimony of public document No. 54, authorised in this city by the Notary Federico Salazar Gatica on the 16th. of March, 1939, in which appears the general power of attorney which Mr. Federico Nottebohm granted in favour of Karl Heinz Nottebohm.—As evidence on my mandator's behalf, I request that certified copies of the documents and decisions which I have specified and which are to be found as I have already stated in the file known in the Ministry by the No. 46, be introduced at my cost into the present expropriation file relating to the Estates "Guatalón" and "Morazán". Guatemala, 6th. of September, 1950.—(signed) Karl Heinz Nottebohm as the proxy of Mr. Federico Nottebohm Weber.—"No. 00854.—*Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público)*: Guatemala, twelfth of September, one thousand nine hundred and fifty.—*Subject: Karl Heinz Nottebohm Stoltz as the legal representative of Mr. Federico Nottebohm Weber, requests that certified copies of the documents enumerated below be introduced into the present expropriation file:*

(a) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores);

(b) Certificate of the Ministry of External Relations (Ministerio de Relaciones Exteriores);

(c) First affidavit of the Registration No. 147;

(d) Declarations in the nature of testimony of Dr. Leopoldo Aschkel and Carlos W. Elmenhorst;

(e) Certificate of the testimony of public document No. 54 in which appears the general power of attorney.—With the knowledge of the Public Ministry (Ministerio Público), let the requested certified copies of the documents be introduced into the file, and, if they fulfil the requirements of the law, let them be considered as evidence on behalf of the presenter. Articles 104 and 105 of Governmental Decree 1862.—(signed) A. Padilla I.—F. Barillas C."—There is the stamp of the Department for German Affairs (Departamento de Asuntos Alemanes) of the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).—On the twenty-ninth of September, one thousand nine hundred and fifty, it being 15.00 hours, I notified the foregoing resolution to the Procurator General of the Nation (Procurador General de la Nación), by means of the document handed over to Licenciate (licenciado) Carlos González L.—Certified by me.—(signed) A. Muñiz F. —There is the stamp of the Notifying Official (Oficial Notificador).— On the second of October, one thousand nine hundred and fifty, it being 09.05 hours, at No. 31, Eighth Avenue South, I notified the foregoing decision to Mr. Karl Nottebohm by means of the document handed over to Mr. Guillermo Grotto. Certified by me.—(signed) A. Muñiz F. There is the stamp of the Notifying Official (Oficial Notificador).— *Secretariat of External Relations (Secretaría de Relaciones Exteriores).*— Republic of Guatemala.—Book No. 0020, folio 1986.—*Certificate of registration.*—Department of Guatemala.—Registration Dues.—Two *Quetza-*

les.—Entry No. 1968.—Today Mr. Federico Nottebohm was registered. —As a German citizen.—After proving his nationality with the justificatory documents indicated below: *Personal description:* Name .... Federico Nottebohm.—Name of parents: Guillermo Nottebohm, Elisa Weber.—Nationality of parents: German.—Place of birth of the registered person, with name of country. Hamburg, Germany.—Place of residence in Guatemala, The capital.—Name of wife.—Wife's place of birth.—Name of children under twenty-one years of age, if born in Guatemala.—Civil state. Bachelor. Profession or trade: business man.—Age forty-six years.—Height: 1 metre 84 centimetres.—Complexion fair.—Eyes blue.—Hair fair.—Special distinguishing marks none.—Documents proving nationality: Passport of the German legation in Guatemala. Notes: the bearer proved that the nationality of Liechtenstein was granted him with passport No. 702, issued by the Governor of Vaduz, on the 20th. of October, 1939. Let it be shown.—Guatemala, 16th. of April, 1928.—(place and date of registration). Federico Nottebohm (signature of interested party).—Illegible (signature of the Under Secretary for External Relations (Subsrio. de RR. EE.)). And in order to hand it over to the interested party in conformity with Decree 969, the present certificate is issued in Guatemala on the 17th. of April, 1928.—Illegible. (Signature of the Minister of External Relations (Ministro[1] de Relaciones Exteriores)).—In the margin is the following: Articles of the Law of Alienship (ley de Extranjería). Article 39. The registration constitutes no more than a legal presumption that the foreigner possesses the nationality attributed to him in it, and admits evidence to the contrary.—Article 40.—Evidence of the registration is given by a certified copy of it issued and signed by the Minister of External Relations (Ministro de Relaciones Exteriores), who alone has power to do so.—Article 41.—No public authority or functionary is permitted to recognise as possessing a definite foreign nationality any person who does not present a certified copy of the registration.—Article 48.—The laws of Guatemala govern all those who find themselves in Guatemalan territory, allowing of no distinction of nationality.—The Status and capacity of the persons and their family relationships are regulated by the laws of the nation to which they belong.—There is a protograph of Mr. Federico Nottebohm, a finger-print (finger-print of the thumb, right index finger or another finger in its stead). On the reverse is the following: L.40. F.195. P. 15.—Civil Registry (Registro Civil): Guatemala, thirteenth of January, one thousand nine hundred and thirty-six. The undersigned Certifies: that Mr. Federico Nottebohm, of German nationality, is registered in this office, under entry No. 15, folio 195 of Book 4 of Resident Foreigners (Extranjeros domiciliados).—Articles 329 and 331 of the C.C. (signed). Ramón Alvarez P.—There is a stamp which reads literally: National Police (Policía Nacional) Control Department (Depto. de Control). Secretariat of External Relations (Secretaría de Relaciones Exteriores): Guatemala, seventh of February, one thousand nine hundred and forty.—It is pointed out that: the bearer has changed his nationality, having chosen that of *Liechtenstein*, according to the evidence of passport No. 702 issued to him by the Governor of Vaduz, dated the 20th. of October, 1939.—And this change is made at the Petition of Mr. Federico Nottebohm.—(signed) Illegible.

[1] The Spanish text here reads *Ministrio*, which is meaningless. I have translated *Ministro*.

There is a stamp which reads :—Secretariat of External Relations (Secretaría de Relaciones Exteriores).—Republic of Guatemala. A.A. "The under-signed Secretary of the Public Ministry (Ministerio Público) certifies :—that for the purpose he has had before him the document, its ruling and papers which read literally : Mr. Procurator General of the Nation (Procurador General de la Nación) : I, Karl Heinz Nottebohm Stoltz, respectfully present myself and refer to the file which I have in progress in your Office (Despacho), in order that the decisions issued for the expropriation of assets may not be applicable to me, and I declare : That it is in my interests that there be added to the file referred to the accompanying certificates containing the declarations of Licenciate (Lic.) José María Reyna Andrade, Ex-President of the Republic, which declaration he made whilst holding the office of Vice-President of the Council of State ; that of Mr. Carlos Herrera Dorión, which he made whilst Vice-President of the National Legislative Assembly and Second Designate in the Office of the Presidency of the Republic ; that of Dr. José Luis Asencio, Head of the Guatemalan Red Cross ; that of Mr. Roberto Fischer, which he made in his capacity as Swiss Consul in Guatemala ; that of Mr. Mario H. Willensen, an honourable Dutch subject ; that of Mr. Arthur Neale, Ex-Civil Attaché of the British Legation, and that of Mr. Daniel W. Orbaugh, Auditor and Accountant, of the United States of North America.—Will the Procurator (Procurador) please add these certificates to the file to which I refer and issue me separately two certified copies of the documents which I present, including the respective sworn translations, all contained on effective sheets.—Guatemala, fifteenth of July, 1946.—Karl Heinz Nottebohm Stoltz.—*Moreover : I rectify my petition made in the last preceding paragraph,* to the effect that I wish that certified copies of the accompanying certificates composed of eight sheets having been left in the file to which I refer, the certificates be returned to me.—Dated *ut supra*.—Karl Heinz Nottebohm Stoltz.—Secretariat of the Public Ministry (Secretaría del Ministerio Público).—Guatemala, Central America. Received on the 15th. of July, 1946. At 16.45 hours from the presenter.—5170.—*Public Ministry (Ministerio Público) :* Guatemala, seventeenth of July, one thousand nine hundred and forty-six.—Let the accompanying documents be held as evidence on behalf of the interested party. The documents will be returned leaving certified copies in the file, at his cost.—(signed) Marcial Méndez Montenegro.—(signed) E. Saavedra T."—There is the stamp of the Public Ministry (Ministerio Público),—which reads : Public Ministry (Ministerio Público) Republic of Guatemala.—*Inserted :* Petition of Mrs. Bárbara Nottebohm. Mr. Minister of State in the Office of External Relations (Ministro de Estado en el Despacho de Relaciones Exteriores) :

—I, Bárbara Nottebohm, of age, married, a house-wife, born and residing in this capital city, very attentively come before you to present to your Secretariat (Secretaría) the following documents :—relating to the persons of my husband Mr. Carlos Heinz Nottebohm Stoltz and my uncle by marriage Mr. Federíco Nottebohm Weber, who are at present in concentration camps in the United States.—These documents are letters granted at my request by prominent persons of this city in which they declare their awareness of the good conduct of Messrs. Nottebohm ; *among these documents are the letters of Licenciate (licenciado)* Mr. José María Reina Andrade, Ex-President of the Republic and at the

present time Vice-President of the Council of State ; that of Mr. Carlos Herrera Dorión, the present Vice-President of the National Legislative Assembly and Second Designate in the Office of the Presidency of the Republic ; that of Doctor José Luis Asencio, Head of the Guatemalan Red Cross, that of Mr. Roberto Fischer, issued by him in his capacity as Swiss Consul in Guatemala ; that of Mr. Mario H. Willensen, a distinguished Dutch subject ; that of Mr. Arthur Neale, Ex-Civil Attaché of the British Legation, and that of Mr. Daniel W. Orbaugh, Accountant and Auditor, of North-American nationality.—I request that the accompanying documents be formed into a file in your Secretariat (Secretaría) for future reference, and at the same time I request that you be pleased to order that a certified copy of this Petition and of the accompanying documents be given to me by the Under Secretary's Office (Subsecretaría).—Guatemala, 25th. of March, 1944.—(signed) Bárbara Nottebohm. Decision Number 183 of the Secretariat of External Relations (Secretaría de Relaciones Exteriores) : Secretariat of External Relations (Secretaría de Relaciones Exteriores) : Guatemala, twenty-fifth of March, one thousand nine hundred and forty-four. Let them be filed for future reference, and, with the knowledge of the Public Ministry (Ministerio Público), issue at the cost of the interested party the requested certified copies (signed) Salazar.—C. Fernández Córdova.—(stamp) Secretariat of External Relations (Secretaría de Relaciones Exteriores). Republic of Guatemala.—Central America. I certify : that the petition and decision described above are authentic and conform with their originals.—C. Fernández Córdova.—There is a stamp which reads : Secretariat of External Relations (Secretaría de Relaciones Exteriores), Republic of Guatemala, Central America.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores), Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four.—Approved (signature Illegible).

Letter of Licenciste (licenciado) José Maria Reyna Andrade, Ex-President of the Republic and at the present time Vice-President of the Council of State.—To whom it may concern : I hereby declare : that I have known Messrs. Federico and Arturo Nottebohm for many years, who were engaged in agricultural work in this country and later broadened their activities, founding a banking house which at the present time bears the trade-name "Nottebohm Brothers" : that, on the death of Mr. Arturo, his successors, amongst them his son Mr. Carlos, continued the same business with Mr. Federico ; both gentlemen have merited the friendship of and have been accepted by the social, commercial and banking worlds, without, to my knowledge, mixing in political matters or those contrary to the democratic and Pan-American doctrine, for I am of the opinion that, possessing such a large and respectable fortune, it would not have been good sense for them to expose themselves to the risk of involving themselves in enterprises connected with the Nazi-Fascist system.—Guatemala, 12th. of March, 1944.—(signed) F. J. M. Reina Andrade....

I *certify :* that the letter copied above is authentic and agrees with its original.—C. Fernández Córdova.—There is a stamp which reads : Secretariat of External Relations (Secretaría de Relaciones Exteriores) Under Secretary for External Relations (Subsecretario de Relaciones Exteriores). Approved. (signature Illegible).

Letter of Mr. Carlos Herrera Dorión the present Vice-President of the Legislative Assembly and Second Designate in the Office of the Presidency of the Republic.—To whom it may concern: I have known personally through business connections Mr. Federíco Nottebohm and Mr. Carlos Nottebohm. Both are members of the board of directors of Nottebohm Brothers and Company (la Sociedad Nottebohm Hermanos) and I understand that their ideology is opposed to that of the Nazi regime. (signed). C. Herrera.—Guatemala, 7th. of March, 1944.—*I certify:* that the foregoing letter is authentic and agrees with its original.—C. Fernández Córdova.—There is a stamp which reads: Secretariat of External Relations (Secretaría de Relaciones Exteriores), Republic of Guatemala, Central America.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores), Guatemala, twenty-ninth of March, 1944.—Approved.—Salazar.

Letter of Doctor José Luis Asencio, President of the Guatemalan Red Cross. Guatemala, 22nd. of March, 1944.—To whom it may concern: for about thirty years, I have known Mr. Frederich Nottebohm, who has been in business in this country for many years. I have known him as an honest man, with a good social and business reputation and keeping away from politics. In the actual war situation, I know that he has been decidedly anti-Nazi. Mr. Carl Nottebohm I do not know as well, on account of the difference in ages. But he, also, has a good social and business reputation and I understand that he has been anti-Nazi. (signed) J. L. Asencio—(stamp). Guatemalan Red Cross.—Presidency. *I certify:* that the preceding letter is authentic and conforms with its original. G. Fernández Córdova.—There is the stamp of the Secretariat of External Relations (Secretaría de Relaciones Exteriores). Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four. Approved. Signature illegible.

Letter of Mr. Roberto Fischer, Swiss Consul in Guatemala: To whom it may concern: I hereby declare that I have known Mr. Federíco Nottebohm, a member of the commercial house of Nottebohm Brothers in Guatemala, for more than thirty years.—I have always considered him an upright and honourable man, in private as well as in commercial life, and I have never seen him involve himself in political matters.—Mr. Federíco Nottebohm belongs to one of the most important commercial families of Hamburg, the members of which are all well known as upholders of the old tradition of commercial probity. I have never observed in him Nazi tendencies nor do I believe it possible that, possessing so great a capital formed over generations by the Nottebohm family, this private commercial undertaking could expose itself to the risk which the Nazi system undoubtedly presents. Carlos Nottebohm I know less well, but I know that he has received the same traditional upbringing as the other members of the family. (signed) Roberto Fischer.—Guatemala, 7th. of March, 1944.

I certify: that the foregoing letter is authentic and conforms with its original.—C. Fernández Córdova.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores).—Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four.—Approved. —Signature illegible.—(There is the stamp of the Secretariat of External Relations) (Secretaría de Relaciones Exteriores).)

Letter of Mr. Mario H. Willensen, in business in Guatemala.—To whom it may concern : I declare that I have known Messrs. Federico and Carlos Nottebohm for many years, both personally and for business reasons, and I know that they are promotors of the firm Nottebohm Brothers. In my opinion, they have no sympathy with Nazi ideas ; they are persons who have lived in Guatemala for many years and have known how to win the friendship and confidence of different sections of our community. —(signed) Mario H. Willensen.—Guatemala, 7th. of March, 1944.

I certify : that the preceding letter is authentic and agrees with its original.—C. Fernández Córdova.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores). Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four.—Approved. —Signature illegible.—(there is the stamp of the Secretariat of External Relations (Secretaría de Relaciones Exteriores))

Letter of Mr. Arthur Neale, Ex-Civil Attaché of the British Legation.— March 7th. 1944.—Guatemala City. To whom it may concern : I conducted a thorough investigation into the firm of Nottebohm Hermanos and its directors. The business transactions of the firm since August, 1939, up to September, 1943, were scrutinised by myself and a chartered accountant, and we were unable to find any instance of the firm having aided the enemy. As the result of the investigation, I was satisfied that the charges made against Nottebohm Hermanos, which resulted in its being placed on the Statutory list in 1939, were based on erroneous evidence or on confused statements given in good faith.—At the same time I conducted an investigation into the life of the partners, Federico Nottebohm and Karl Heinz Nottebohm, and came to the conclusion that neither had aided the Nazis in a business or private capacity. From the investigations and from personal knowledge of the partners I am of the opinion that they should not be considered Nazi sympathisers. (signed) Arthur Neale.

I certify : that the preceding letter is authentic and agrees with its original.—C. Fernández Córdova.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores).—Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four.—Approved. —Signature illegible. There is the stamp of the Secretariat of External Relations (Secretaría de Relaciones Exteriores).

Letter of Mr. Daniel W. Orbaugh, Accountant and Auditor, of North American Nationality : to whom it may concern : During the year 1941, as an authorised accountant, I was engaged by Nottebohm Hnos., of Guatemala, to make an examination of their accounts and records for the purpose of making a report, to be submitted to the American Legation, covering any transactions which might be judged as unfriendly toward the United States, or that were to the benefit of the German Government. After three months of detailed investigation I made an extensive report on their business activities which included everything I found that was related to the subject matter ; I found no evidence on their part of financial aid, or of sympathy toward the present Nazi regime. All transactions were made on a strictly banking or commercial basis for the purpose of profit. During normal times approximately two thirds of their enormous import-export business was transacted with firms in the United States. Mr. Federico Nottebohm is senior partner of their firm. Karl Nottebohm is also

an active partner, and there are two women (both natural born Guatemalans) who have an inactive partnership interest.—I have known Mr. Federíco Nottebohm by sight since many years, but I first came into direct contact with him and his nephew Karl Heinz while engaged in preparing the above-mentioned report.—As a result of inquiries made of sources outside their business I learned that Mr. Federíco Nottebohm a number of years ago became a naturalised Swiss citizen, and that Karl Heinz is a natural born Guatemalan citizen, and that he officially repudiated the claim any other nation might make on his citizenship.—Throughout my investigation I found nothing to indicate that either of the persons had committed acts or hold views unfriendly toward the United States ; the foregoing applies to the firm as well as to the persons. —In conclusion, I state that as an American citizen, my esteem of the above-mentioned persons was enhanced by what I learned about them during my investigation. (signed) Daniel W. Orbaugh.—Guatemala, Central America. March 22, 1944.—Copy to American Embassy in Guatemala.

I certify : that the foregoing letter is authentic and agrees with its original. C. Fernández Córdova. Under Secretary for External Relations (Subsecretario de Relaciones Exteriores). Guatemala, twenty-ninth of March, one thousand nine hundred and forty-four. There is a stamp which reads : Secretariat of Relations (Secretaría de Relaciones). Republic of Guatemala. Central America. Approved. F. Salazar. In three sheets and on five pages.—My No.—3,847.—*I, Alfredo A. Godoy, Sworn Translator* of the English and Spanish languages in and for the Republic of Guatemala, Central America, authorised to fulfill this function by virtue of the Government Agreement of the seventh of May, 1914, residing at No. 24, East Tenth Street, of this city, on my oath, hereby *certify* that : today, Saturday, the thirteenth (13th.) of July, one thousand nine hundred and forty-six (1946), I had before me a certified document of the Ministry of External Relations (Ministerio de Relaciones Exteriores), of this Republic, dated the twenty-ninth (29th.) of March, one thousand nine hundred and forty-four and written on a sheet of paper stamped to the value of ten *centavos de quetzal*, and numbered A—2089863, continued overleaf on another sheet numbered A—2089864 of the present quinquennium, *That :* the said Ministry (Ministerio) Certifies a letter written in the English language, which, according to my loyal understanding and knowledge, reads in translation :

Letter of Doctor José Luis Asencio, President of the Guatemalan Red Cross.—Guatemala, 22nd. of March, 1944.—To whom it may concern : for about thirty (30) years, I have known Mr. Frederick Nottebohm, who has been in business in this country for many years. I have known him as a honest man, with a good social and business reputation and keeping away from politics. In the actual war situation, I know that he has been decidedly anti-Nazi. Mr. Carlos Nottebohm I do not know as well, on account of the difference in ages, but he also has a good social and business reputation and I understand that he has been anti-Nazi.—(signed) : J. L. Asencio, President.—(stamp) "Guatemalan Red Cross.—Presidency." *Certified by :* C. Fernández Córdova. Under Secretary for External Relations (Subsecretario de Relaciones Exteriores).—(Stamp of the Ministry).—In the same file, on sheet No. A—2089865

and its reverse side is to be found the following, the text being in English and reading in translations :

"Letter of Mr. Arthur Neale, Ex-Civil Attaché of the British Legation". City of Guatemala, 7th. of March, 1944.—To whom it may concern : that, as Civil Attaché of His Britannic Majesty in Central America, I conducted a thorough investigation into the firm of Nottebohm Brothers and its directors. The business transactions of the firm since August, 1939, up to September, 1943, were scrutinised by myself and a chartered accountant, and we were unable to find any instance of the firm having aided the enemy. As the result of the investigation I was satisfied that the charges made against Nottebohm Brothers, which resulted in its being placed on the Statutory list of 1939, were based on erroneous evidence or on confused statements given in good faith.—At the same time I conducted an investigation into the life of the partners, Federíco Nottebohm and Karl Heinz Nottebohm, and came to the conclusion that neither had aided the Nazis in a business or private capacity. From the investigations and from personal knowledge of the partners I am of the opinion that they should not be considered as Nazi sympathisers.—(signed) Arthur Neale.

"Certified by : C. Fernández Córdova.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores) (Stamp of the Ministry).—In the same file, on sheet No. A—2089865, continuing on sheet No. A—2089856, is the following letter which I translate as follows : *Letter of Mr. Daniel W. Orbaugh, Accountant and Auditor, of North-American Nationality* :—To whom it may concern : during the year 1941, as an authorised accountant, I was engaged by Nottebohm Brothers, of Guatemala, to make an examination of their accounts and records for the purpose of making a report, to be submitted to the American Legation, covering any transactions which might be judged as unfriendly toward the United States, or that were to the benefit of the German Government. After three months of detailed investigation I made an extensive report on their business activities which included everything I found that was related to the subject matter :

I found no evidence on their part of financial aid, or of sympathy toward the present Nazi regime. All transactions were made on a strictly banking or commercial basis for the purpose of profit. During normal times approximately two thirds of their enormous import-export business was transacted with firms in the United States. Mr. Federíco Nottebohm is senior partner of their firm. Karl Heinz Nottebohm is also an active partner, and there are two women (both natural born Guatemalans) who have an inactive partnership interest.—I have known Mr. Federíco Nottebohm by sight since many years but I first came into direct contact with him and his nephew Karl Heinz, while engaged in preparing the above-mentioned report.— As a result of inquiries made of sources outside their business, I learned that Mr. Federíco Nottebohm a number of years ago became a naturalised Swiss citizen, and that Karl Heinz is a natural born Guatemalan citizen, and that he officially repudiated the claim any other nation might make on his citizenship.—Throughout my investigation I found nothing to indicate that either of the persons had committed acts or held views unfriendly toward the United States ; the foregoing applies to the firm as well as to the persons.—In conclusion, I state that as a citizen, my esteem of the above-mentioned persons was

enhanced by what I learned about them during my investigation. (signed) Daniel W. Orbaugh.

Certified by C. Fernández Córdova.—Under Secretary for External Relations (Subsecretario de Relaciones Exteriores).—(Stamp of the Ministry).—And I, the Translator, in order to deliver this sworn translation to the interested party, sign it on three effective sheets of stamped paper, numbered as has been stated, and I stamp it with my seal, a copy of which has been duly deposited in the Registry of the Ministry of Public Education (Registro del Ministerio de Educación Pública), in the city of Guatemala on the 13th. day of July, 1945.—All of which I certify, as stated above. Alfredo Godoy.—There is a stamp which reads Alfredo A. Godoy. Public Auditor Sworn Translator. Guatemala, Central America."—And for evidence to be left in the records, the present document is issued in seven effective sheets of paper each stamped to the value of ten *centavos de quetzal*, numbers:—A—4171725; A—4171726; A—4166842; A—3847635; A—3947636; A—3947603; A—3947605—respectively, which, having checked them with their originals, I seal and sign on the nineteenth day of the month of July, one thousand nine hundred and forty-six.—The last sheet of this certified copy bears the official numbers: A—3947608 and registered number 3948401.—Let it be recorded.—(signed) F. Saavedra F.—Approved. (signed) Illegible.

There are stamps reading: "Secretariat of the Public Ministry (Secretaria del Ministerio Público).—Republic of Guatemala.—And Public Ministry (Ministerio Público).—Republic of Guatemala.—The undersigned Lawyer and Notary, and the present Secretary of the Supreme Court of Justice (Secretario de la Corte Suprema de Justicia), *certifies*: that, for the purpose, he has had before him the document, its provision and embodiment in protocol which literally read:—"Mr. President of the Judicial Power (Presidente del Poder Judicial): *I, Karl Heinz Nottebohm Stoltz*, 36 years of age, married, a business man, a Guatemalan and resident in this district, giving as my address for the receipt of communications the office of my Chief Lawyer (Abogado Director), Licenciate (Lic.) Carlos Rafael López Estrada, situated at number 20, Fourth Avenue South, of this city, respectfully present myself to request: That according to the formalities of the law, there be issued to me four attested copies of the instrument which was embodied in protocol in the Register (Registro) belonging to the Judicial Body (Organismo Judicial), and which bears the No. 147, and which refers to the citizenship appertaining to Mr. Federico Nottebohm. Will Mr. President please determine in conformity with this request. Article 279 of Decree 2009 and 104 of Decree 1862.—Guatemala, 16th. of July, 1946.—(signed) Karl Heinz Nottebohm S.—Assisting him: (signature) C. R. López E.—Stamp of the Lawyer."—"Presidency of the Judicial Body (Presidencia del Organismo Judicial): Guatemala, sixteenth of July, one thousand nine hundred and forty-six.

At the cost of the interested party, the Secretary of this Body (Organismo) may issue the four attested copies requested.—Articles 13 Governmental Decree number 2374 and 3 of Legislative Decree number 2556. (Signatures) Prado.—Juan Fernández C."—"*Number* one hundred and forty-seven: in the city of Guatemala, on the fifteenth day of the month of July, one thousand nine hundred and forty-six, the Undersigned Secretary of the Supreme Court of Justice (Secretario de la Corte Suprema

de Justicia), proceeds to copy the following documents in virtue of what was ordered in the provision of the date above indicated."

The undersigned Sworn Translator of German-Spanish certifies: that he has had before him a document drawn up in that language, which, translated into Spanish, reads: "*Certificate.*—Mr. Federico Nottebohm, in business in Guatemala, born on the 16th. of September, one thousand eight hundred and eighty-one (1881), possesses, since the 13.10.1939 the citizenship of Liechtenstein and is a resident of the Liechtenstein community, *Mauren.*—Vaduz, 6th. of May, 1946.—Government of the Principality (Gobierno Principesco): (signed) Frick. —(stamps)—Government of the Principality of Liechtenstein (Gobierno del Principado de Liechtenstein).—And, as an affidavit of the truth of this, I issue, sign and stamp the present document in Guatemala on the 12th. of July, 1946. (signed) Carlos Dubois.—There is a stamp.—No. 218.—Fees $3.—The undersigned Guatemalan Consul certifies: the authenticity of the preceding signature which reads:—Frick—by the authority Regierung d. Fürstentums Liechtenstein.—Zürich, 18th. of May, 1946.—The Consul (signed) R. Bracher.

There is a stamp.—The Under Secretary for External Relations (Subsecretario de Relaciones Exteriores), *certifies:* that the signature of Mr. Licenciate (licenciado) René Bracher, who on the date of signing held the post of Guatemalan Consul in Zürich, Switzerland, is authentic. —Guatemala, 11th. of July, 1946.—(Signed) Art. Herbruger A.

Note: The Ministry of External Relations (Ministerio de Relaciones Exteriores) does not assume any responsibility whatsoever for the contents of this document. There are the appropriate seal and stamps." .... "Mr. President of the Judicial Power (Presidente del Poder Judicial): I, *Karl Heinz Nottebohm*, 36 years of age, married, a business man, a Guatemalan and resident in this district, giving as my address for the receipt of communications the Office of my Chief Lawyer (Abogado Director) Licenciate (licenciado) Carlos Rafael López Estrada, situated at number 20, Fourth Avenue South, of this city, respectfully present myself and declare: that in conformity with clause (g) of Article 4 of Decree 1862, I have come attentively to request that you be pleased to give legal sanction to the document which I take the liberty of enclosing and which is duly authenticated by the Secretariat of External Relations (Secretaria de Relaciones Exteriores), and translated from German into the official language of the Republic. Guatemala, 13th. of July, 1946. (signed) Karl Heinz Nottebohm.

Assisting him: (signed) C. R. López E.—There is a Lawyer and Notary's Stamp." . . . "Presidency of the Judicial Body (Presidencia del Organisme Judicial): Guatemala, fifteenth of July, one thousand nine hundred and forty-six.—Give the legal sanction requested to the enclosed certificate referring to the citizenship of Mr. *Federico Nottebohm*, issued in Vaduz by the representative of the Government of the Principality of Liechtenstein (Gobierno del Principado de Liechtenstein) who signs himself Frick, and dated the sixth of May of the present year. —Issue the corresponding Notarial certificate.—Article 4 of the Governmental Decree number 1862.—(signatures) Prado. . . . . Juan Fernández C.—In my presence: Juan Fernández C.—"

This is the *First Affidavit* which has been duly collated with its original, and in order to hand it over to Mr. Karl Heinz Nottebohm Stoltz, I issue it in two effective sheets, in the city of Guatemala, on the seven-

teenth day of the month of July, one thousand nine hundred and forty-six. The first sheet is to the value of one *quetzal* and bears the number A—032048 Registered 032170 and the present sheet to the value of five *centavos*, bearing the number A—2586640 Registered 2587165, both of the present quinquennium. (signed) Juan Fernández C.— There is a stamp which reads : Judicial Body Secretariat of the Supreme Court of Justice (Organismo Judicial Secretaría de la Corte Suprema de Justicia) Guatemala, Central America. In the city of Guatemala on the eighteenth day of the month of July there appeared in the Office of the Public Ministry (Despacho del Ministerio Público) Mr. Leopoldo Aschkel, who, legally placed on cath for this purpose, declared that he would tell the truth, and stated that he was sixty-two years of age, married, a Doctor and Surgeon, of Guatemalan nationality and Russian by birth, resident in this city and living at Number 3, *Callejón de Luna*/Number eleven, *calle poniente*, and, in answer to the questionnaire proposed by Federíco Nottebohm on the fifteenth of July of the present year, he stated :

(1) State whether you have known Mr. Federíco Nottebohm for several years, having maintained social and business relations with him.

(2) He answers that he has known him since one thousand nine hundred and twenty-four and that he has maintained social relations with him.—2—State whether, from your personal knowledge of the Mr. Nottebohm referred to, and from your dealings with him, you know and are aware that he never belonged to the German National Socialist Party, nor to any group of a political nature belonging to the countries at war with Guatemala ? He answers, that it is certain that he never belonged to any group of a political nature belonging to the countries at war with Guatemala. 3—State whether it is certain and you are aware that Mr. Federíco Nottebohm was not present at the ballots which were held on the steam-ship Cordillera and that he did not go to vote for any purpose on any other ship ? He replies, that he is aware and certain that he did not go to vote on any ship because he did not belong to the National Socialist Party. 4.—State whether it is certain and you are aware that Mr. Federíco Nottebohm was never present at meetings of the German National Socialist Party and that he never cooperated directly or indirectly with the aims of that political part ? He answers : He is absolutely certain.—5.—State whether you know and are aware through the relations you have always maintained with Mr. Federíco Nottebohm that the said gentleman has never undertaken trading activities of any kind or nature with any private persons or corporations included in the promulgated lists (listas proclamadas) ? He replies that he is aware that he has not undertaken them in either case.—6.—State whether it is certain and you are aware that Mr. Nottebohm has not cooperated in any way with the enemies of Guatemala ? He replies that it is absolutely certain.—7. State whether, on account of the close ties you have cultivated with Mr. Federico Nottebohm, you are aware that he has always shown and felt affection and friendship towards Guatemala ? He replies, that Mr. Nottebohm has never shown feelings other than those mentioned for his affection and friendship towards Guatemala are apparent to the witness, who has never had close ties with Mr. Nottebohm, although they are friends. That he is aware of all the foregoing due to his knowing Mr. Nottebohm for more than

twenty years, that he has no personal interest in making the declaration and that moreover he is not a relation nor an intimate friend of the person referred to.—When that which had been written was read to him, he ratified it, and signed.— Certified by me.—(signed) Manuel Méndez Montenegro.—(signed) Illegible.— (In my presence.—F. Saavedra T. There is a stamp which reads: "Public Ministry (Ministerio Público), Republic of Guatemala.—" In the city of Guatemala, on the eighteenth day of the month of June, one thousand nine hundred and forty-six, Mr. Carlos W. Elmenhorst being present in the Office of the Public Ministry (Despacho del Ministerio Público), he, legally warned that he was on oath for the purpose, said that he would tell the truth and stated: that he was 36 years of age, a business man, a bachelor, a British subject and a resident in this capital city with his dwelling in the villa Guadalupe Chalet, which has no number. In respect of the questionnaire proposed by Mr. Federíco Nottebohm on the fifteenth of July, one thousand nine hundred and forty-six, he replied as follows:

(1) State whether you have known Mr. Federíco Nottebohm for several years, having maintained social and business relations with him. He replies that he has known Mr. Federíco Nottebohm for more than ten years and has maintained social and business relations with him. (Secondly) State whether, from your personal knowledge of the Mr. Nottebohm referred to and from your dealings with him, you know and are aware that he never belonged to the German National Socialist Party, nor to any other group of a political nature belonging to the countries at war with Guatemala? He answers that he is aware that Mr. Nottebohm never belonged to the German National Socialist Party nor to any other group of a political nature belonging to the countries at war with Guatemala.

(3) State whether it is certain and you are aware that Mr. Federíco Nottebohm was never present at meetings of the German National Socialist Party and that he never cooperated directly or indirectly with the aims of that political party? He answers that he is aware and certain that Mr. Federíco Nottebohm was never present at the meetings of the German National Socialist Party and that he never cooperated directly or indirectly with the aims of that political party.

(4) State whether it is certain and you are aware that Mr. Federíco Nottebohm was not present at the ballots which were held on the steamship Cordillera and that he did not go to vote for any purpose on any other ship? He answers that he is aware that Mr. Federíco Nottebohm did not take part in the ballots which were held on the steam-ship Cordillera, neither did he go to vote for any purpose to any other ship.

(5) State whether you know and are aware through the relations you have always maintained with Mr. Federíco Nottebohm that the said gentleman has never undertaken trading activities of any kind or nature with any private persons or corporations included in the promulgated lists (listas proclamadas)? He answers that he is aware and certain, especially on account of his knowledge of the business activities of Mr. Federíco Nottebohm, that the said gentleman at no time and in no case has had business relations of any kind or nature with private persons or corporations included in the promulgated lists (listas proclamadas).

(6) State whether it is certain and you are aware that Mr. Nottebohm has not cooperated in any way with the enemies of Guatemala? He

answers that he is aware and certain that Mr. Nottebohm has never cooperated in any way with the enemies of Guatemala.

(7) State whether, on account of the close ties you have had with Mr. Federíco Nottebohm you are aware that he has always shown and felt affection and friendship towards Guatemala ? He answers that he has not cultivated ties which could be called close with Mr. Nottebohm, and that the relations he has had were principally of a business nature, but I wish to point out that he has never shown any feelings towards Guatemala but those of affection and friendship.—By virtue of questions put to him, he declared that he is not related to Mr. Nottebohm nor is he his intimate friend, and that he is not motivated by any interest in making this declaration. When what had been written was read to him he ratified it and signed, together with the Procurator General of the Nation (Procurador General de la Nación), and the authorising Secretary. Certified by me.—(signatures) Marcial Méndez Montenegro. Carlos W. Elmenhorst.—In my presence : F. Saavedra T. —There is a stamp which reads : Public Ministry (Ministerie Público).

Republic of Guatemala.—"The under-signed Secretary of the Public Ministry (Ministerio Público), *certifies :* that he has had before him the document which, literally copied, reads : "Mr. Procurator General of the Nation (Procurador General de la Nación) : Subject : Federíco Nottebohm Weber.—I, Karl Heinz Nottebohm, a Guatemalan by birth, whose particulars are known in the Public Ministry (Ministerio Público) under your esteemed direction, and whose office address for the receipt of communications is No. 31, Eighth Avenue South, attentively present myself to request that you be pleased to recognise my power of attorney as the General proxy of my uncle Federíco Nottebohm Weber, according to the general power of attorney enclosed, consisting of document No. 54 of the seventeenth of March, one thousand nine hundred and thirty-nine, issued by the Lawyer Mr. Federíco Salazar Gatica.—I request you be pleased to order this document to be returned to me leaving a certified copy of it at my expense in the file of my uncle Mr. Federíco Nottebohm Weber. Thanking you in anticipation for this favour, I sign myself your attentive servant. Article 108, Decree 1862.—(signed) Karl Heinz Nottebohm.—" 1.—Secretariat of the Public Ministry (Secretaría del Ministerio Público) : Guatemala, Central America.—Received July 11th. 1946.—At 11 hours 55 minutes.—By Licenciate (licenciado) R. López.—5027.—"Public Ministry (Ministerio Público) : Guatemala, thirteenth of July, one thousand nine hundred and forty-six.—Let the petitioner be held as the proxy of Mr. Federíco Nottebohm Weber by reason of the enclosed power of attorney which will be returned leaving a certified copy in the records at his expense. (signature) Marcial Méndez M.—F. Saavedra T."—There is a stamp which reads: "Public Ministry (Ministerio Público), Republic of Guatemala."

Insertion : Federíco Salazar, Carlos Salazar junior, lawyer and notary, public deed of general power of attorney granted by Mr. Federíco Nottebohm Weber in favour of Karl Heinz Nottebohm Stoltz.—Guatemala, 17th. of March, 1939.—*Instrument number 54.*—Authorised by Federíco Salazar, Notary.—*Number fifty-four :* In the city of Guatemala, on the seventeenth of March, one thousand nine hundred and thirty-nine, before me, the Notary, and the witnesses, competent according to the law, known to me and residents of this city, which I certify, Mrs. Elisa Borges de Alvarez and Mr. Ramón Alvarez, appeared Mr. Federíco

Nottebohm Weber, fifty-eight years of age, a bachelor, a business man, German, who speaks and writes Spanish, who is a resident of this city and is registered in the Civil Register (Registro Civil) of this capital city as a resident foreigner, according to a certificate of the said office which I certify to have had before me. I certify that I know him, that I have had before me his travel permit (boleto de vialidad) corresponding to the present half-year, that he states that he is in enjoyment of his civil rights, and that, proceeding on his own behalf, he stated : that he hereby confers his general, full, complete and sufficient power of attorney upon Mr. Karl Heinz Nottebohm Stoltz, a resident of this city, so that he may represent him in any matter in which the mandator might have interest, whether judicial, extra-judicial, commercial, administrative or of voluntary jurisdiction. Wherefore, the proxy will have all the general powers of the mandate for judicial powers of attorney and for the following special powers of attorney: to buy, sell, mortgage, compound, lease and dispose in any way of the property of the mandator : to ratify all kinds of contracts, to renew them, to draw up, endorse, accept and protest bills of exchange, cheques, I.O.U.s, drafts, or any other credit document : to grant any kind of deed whatsoever ; to be present at meetings of creditors (juntas de acreedores y de concursos), and any other kind of meeting, both with authority to speak and with a vote ; to approve liquidations and accounts, to receive sums of money, to remit debts ; to transfer any certificate or bond (título), to lend sureties ; to appear before any judicial or administrative authority ; to originate and answer questions of interrogatories ; to submit any matter to the decision of arbitrators, juries or referees, to nominate and propose them ; to recognise signatures ; to denounce offences and to accuse criminally ; to extend jurisdiction ; to waive judgments, claims, appeals, incidental judgments, exceptions and recusations, as well as to renounce them ; to carry out transactions and agreements with relation to any litigation ; to apply for and to accept adjudications of goods in requital ; to confer special powers and to revoke them and to substitute this power of attorney in whole or in part, reserving or not reserving the exercise of it, and to revoke the substitutions.—I read what had been written to the mandator in the presence of the witnesses referred to, and informed of its contents and legal effects, he approved it, ratified it and signs. Certified by me, Federíco Nottebohm.—Elisa B. widow of Alvarez.—Ramón Alvarez. In my presence : Federico Salazar.—This is the original affidavit, which, after collation and so that I may give it to the proxy, I sign and seal in the place and on the date of the granting on this single sheet.—(signed) Fed. Salazar.—There is a stamp which reads : "Federíco Salazar. Lawyer and Notary." Notice : the present written affidavit was registered, under series number 8126, folio 290 of book four of the Register of Mandates (registro de mandatos) existing for that purpose in the General Archive of Protocols (Archivo General de Protocolos).—Guatemala, twenty-first of March, one thousand nine hundred and thirty-nine. —(signed) Juan José Muñoz.—There is a stamp which reads : General Archive of Protocols (Archivo General de Protocolos)—Guatemala.

And in order to add it to the respective decisions, I issue, stamp and sign the present certified copy on two effective sheets duly collated with its original, in Guatemala, on the seventeenth day of the month of July, one thousand nine hundred and forty-six.—(signed) F. Saavedra T.—Approved. Méndez M. Procurator General of the Nation (Procurador

General de la Nación.)—Head of the Public Ministry (Jefe del Ministerio Público). There are two stamps reading: Secretariat of the Public Ministry (Secretaría del Ministerio Público) Republic of Guatemala, and Public Ministry (Ministerio Público), Republic of Guatemala.—"And to add it to the respective file, I issue the present certified copy, duly collated with its original, in thirteen sheets of paper stamped to the value of ten *centavos*, bearing the following series numbers: B—9135174, B—9135175, B—9135177, B—9135178, B—9135179, B—9135180, B—9135181, B—9135182, B—9281329, B—9492527, B—9492528, B—9492529 and the present sheet which bears the number B—9492530, all of the present quinquennium, in the city of Guatemala, on the seventh day of the month of April, one thousand nine hundred and fifty-one.—(signed) J. J. García Manzo.—Approved. Charnaud Mac-Donald."—There is the respective stamp.—*Folio 38.*—"00784.—*Department for German Affairs of the Ministry of the Treasury and Public Credit (Departamento de Asuntos Alemanes del Ministerio de Hacienda y Crédito Público):* Guatemala, third of July, one thousand nine hundred and fifty-one. *Subject:* Proceedings expropriating and excluding Messrs. Federico Nottebohm Weber and Karl Heinz Nottebohm Stoltz.—Hearing for three days of the Ministry of External Relations (Ministerio de Relaciones Exteriores). Article 43 Decree 630 of the Congress of the Republic.—(signed) Reyes Cardona.—O. Toruño O.

There is the stamp of the Department for German Affaire of the Ministry of the Treasury and Public Credit (Departamento de Asuntos Alemanes del Ministerio de Hacienda y Crédito Público).—*Folio 40.*—*Subject:* The Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) grants a hearing to the Chancellery (Cancillería) with respect to the proceedings of exception being pursued by Messrs. Federico Nottebohm Weber and Carlos Nottebohm Stoltz.—*Ministry of External Relations (Ministerio de Relaciones Exteriores):* Guatemala, ninth of July, one thousand nine hundred and fifty-one.—No. 8480.—Giving previous notice to the emergency office (oficina de emergencia), give a hearing to the Juridical Department (Departamento Jurídico).—Replace the paper with paper stamped according to the law.—(signed) Marroquín O.—Adrián Gil Pérez.—There is the stamp of the Ministry of External Relations (Ministerio de Relaciones Exteriores).

Folios 41, 42 and 43:—Memorandum of information for the Under Secretary. Subject: The Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) grants a hearing to the Chancellery (Cancillería) with respect to the proceedings of exception being pursued before that Ministry by Messrs. Federico Nottebohm Weber and Karl Nottebohm Stoltz.—Mr. Under Secretary: In conformity with the foregoing decision, I have the honour to give you the following information: *Federico Nottebohm Weber.*

(1) Mr. Federico Nottebohm Weber was born in Hamburg, Germany, on the 16th. of September, 1881, entering Guatemala in the year 1905.

(2) In the "Register of Resident Foreigners" ("Registro de Extranjeros Domiciliados") carried by this Ministry, Mr. Nottebohm Weber was registered as a German national on folio and in entry number 1968 of book 20 corresponding to the Department of Guatemala, from the 16th. of April, 1928, up to the 31st. of January, 1940, on which date this Ministry, by virtue of decision Number 174, authorised the change of

nationality of the said gentleman on account of his having presented passport Number 702 issued by the Governor of Vaduz in which it is stated that he opted for the nationality of the Principality of Liechtenstein ;

(3) With respect to the preceding point, the report of the Department of Immigration and Emigration (Departamento de Migración) of this Ministry and that which led up to the note directed to the Swiss Consul is here reproduced and reads : "Department of Immigration and Emigration (Departamento de Migración).—Memorandum number 61.—Ref. : Request for a certified copy of the registration of *Federíco Nottebohm* as a national of Liechtenstein.—Mr. Under Secretary : The interested party was originally registered as a German national on the 16th. of April, 1928, in book 20 of Guatemala, folio and number 1968.—Fifty-one days after the second world war broke out with the invasion of Poland by Germany, Federíco Nottebohm obtained the nationality of Liechtenstein and passport number 702 signed in Vaduz by the Governor of the said State. It has already been established on different occasions that the brothers Nottebohm worked in Guatemala as members of the Nazi party and that the firm Nottebohm Brothers functioned as a banking agency for the Hitler Government, in order to support financially propaganda and activities either secret or ostensibly on its own behalf in Central America. If Federíco Nottebohm, being a German, acquired the nationality of Liechtenstein and afterwards displayed so definite a loyalty to the Reich, it is clear that his nationalisation was no more than an expedient to allow him to act with greater liberty. Moreover, it should be considered that the original registration, as also the note showing him to possess the nationality of Liechtenstein, have both expired, since the registered person has been absent from the country for more then two years (Article 55 of the Law of Alienship (Ley Ext.)).—Guatemala, 20th. of December, 1944.—signature illegible.—Head of Immigration and Emigration (Jefe de Migración).—Guatemala, 20th. of December, 1944. —Mr. Consul . . . . As for Mr. Nottebohm, I must point out to you that, although, to accomodate him, a note to the effect that he had adopted the nationality of Liechtenstein was entered on his certificate, in view of the passport which he produced, the power of any government to naturalise foreigners resident in another State is inadmissible in International Law ; and, therefore, this government can not recognise that Mr. Nottebohm, a German subject resident in Guatemala, can have obtained the nationality of Liechtenstein, without having changed his place of residence."

(4) The names of Mr. Nottebohm Weber as also that of the firm Nottebohm Brothers of which he forms part, are included on the lists of blocked nationals (nacionales bloqueados) :

(5) The name of Mr. Nottebohm Weber does not appear in the lists of persons who were present at the ballots of overseas Germans which were held in the month of April, 1938, on board the steamships Patricia and Cordillera ;

(6) The following occurs in a report of the United States Embassy : *Confidential. Nottebohm (Weber), Federíco.*

This individual was a partner of the powerful German commercial and financial firms of Nottebohm Brothers in the city of Guatemala, City of New York, and Hamburg, Germany. He was the last important figure of this firm to leave Guatemala. Persons worthy of confidence

declare that he was an active Nazi and there exists evidence showing that the firm Nottebohm Brothers acted as a fiscal agent and as a depositary of Nazi German political funds. It is known that members of the Nottebohm family were members of the NSDAP in Guatemala and that other members in Hamburg, Germany, occupied high positions in the Nazi hierarchy. Federíco Nottebohm served the Nazi cause in order to protect his own financial interests in Guatemala and in Germany. This individual originally possessed German nationality, which he later changed for that of Liechtenstein. Nottebohm tried to obtain Guatemalan nationality and once wrote to Kurt Nottebohm & Co., Guatemala, from Hamburg, Germany, saying: "On account of the situation in Europe, it is better for us to adopt Guatemalan citizenship. For us it is a matter of financial as well as personal security, for no one can oblige us to adopt the sentiments of those people and in reality we are Germans and we always fight for the greatness of Germany and her cause". The fact was also stated that Federíco Nottebohm had spoken to Dr. Reienebeck, German Minister in Guatemala, and that the latter was in favour of this change of nationality and had even asked Nottebohm to speed up the business;

(7) Mr. Nottebohm Weber was deported from the country on the 23rd. of October, 1943, and interned in the United States.—*Karl Heinz Nottebohm Stoltz.*

(1) Mr. Karl Heinz Nottebohm Stoltz was born in this capital city on the 13th. of June, 1910, being the legitimate son of Mr. Fernándo Teodor Arthur Nottebohm of German nationality and of Mrs. Elisie Juliane Helen Stoltz; his birth therefore occurred during the period when the Treaty of Friendship, Commerce and Navigation (Tratado de Amistad, Comercio y Navegación) concluded between Guatemalan and the ex-German Empire and known under the name of "Montufar-Von Bergen", was in force;

(2) In the "Register of Resident Foreigners" (Registro de Extranjeros Domiciliados) carried in this Ministry, Mr. Nottebohm Stoltz was registered as a German national on folio and in entry number 6103 of book 67 corresponding to the Department of Guatemala from the 17th. of December, 1934, up to the 24th. of November, 1939, on which date the said registration was cancelled since a government agreement had been issued recognising his status as a Guatemalan by birth in conformity with Governmental Decree number 2153;

(3) The Governmental agreement to which reference is made in the foregoing point was automatically annulled by virtue of the publication of Decree 281 of the Congress of the Pepublic;

(4) The name of Mr. Nottebohm Stoltz is included in the promulgated lists (listas proclamadas) of blocked nationals (nacionales bloqueados);

(5) In the list of visas for German passports held by this office, the following are registered in favour of Mr. Nottebohm Stoltz.—23rd. of October, 1933, with a passport issued on German authority in Hamburg; 2nd. of January, 1934, with a passport issued by the Police of Hamburg, Germany; 23rd. of April, 1937, with a German passport issued by the German Legation in Guatemala and 12th. of September, 1939, with a German passport issued by the Legation referred to; on this last occasion he appears to have left for the United States, pointing out, however, in the visa that his nationality is German; on later dates he has also made trips to the United States, with special exit permits;

(6) The name of Mr. Nottebohm Stoltz appears among those who, in the month of April, 1938, were persent at the ballots of overseas Germans which took place in April, 1938, on board the steamships "Patricia" and "Cordillera".

(7) He was deported from the country on the 16th. of January, 1943, and interned in the United States;

(8) In a report of the United States Embassy, the following was stated: "Nottebohm, Karl Heinz.—This man, the only son of the late Arthur Nottebohm, was born in Guatemala and regains possession of Guatemalan citizenship;

(1) He was one of the active partners of Nottebohm Brothers, who acted as bankers of the German Legation in Guatemala up to December, 1941, when Guatemala declared war on Germany.

(2) Although strictly he should always have been a Guatemalan, he voted as a German in the German plebiscite of 1938.

(3) In 1941, Karl Heinz Nottebohm and his sisters, as the heirs of Mr. Arturo Nottebohm, presented documentary evidence in their defence against the decision of the Government of Guatemala against the Nottebohms, in order to show that, although certain properties in Guatemala were registered in the names of the Nottebohms, the real owners were a certain number of German firms in Germany, mostly the same firms. Specifically, these German firms were the Comerz-und-Privat-Bank A.G. of Berlin and Hamburg; L. Bhrens & Sons; Benedict Schoenfeldt & Company; Hardy & Heinrichson; and Schroeder Brothers & Company; all of Hamburg, Germany. Guatemala, 19th. of September, 1951. Attentively (signed) J. Humberto Rodas. Secretary of the Juridical Department (Departamento Juridico) and in charge of Emergency Affairs (Encargado de Asuntos de Emergencia)." There is a stamp which reads: Ministry of External Relations (Ministerio de Relaciones Exteriores). Guatemala, Central America. Emergency Office (Oficina de Emergencia).—*Folio No. 45.*—"No. 01508. .... Guatemala. 30th. of November, 1951.—Mr. Minister: I have the honour to address myself to you, in order to inform you that: on the 8th. of November of the present year, I despatched an official letter bearing the No. 01387 to the Office (Despacho) under your esteemed direction, with the object that you might be pleased to give your esteemed orders to the effect that file No. 109 concerning Messrs. Federico Nottebohm Weber and Karl Heinz Nottebohm Stoltz, which was passed to your Ministry for the purposes of a hearing by decision No. 00784 dated the 3rd. of July of the present year, be returned. As up to the present date, the said file has not been received in the office under my direction, I respectfully repeat to you the tenor of my previous official letter, to the effect that the file concerning Messrs. Nottebohm be returned to this Department, in order that the definitive judgment may be issued, as also in order that a complete certified copy of the file, requested by Karl Heinz Nottebohm Stoltz, be issued. Thanking you in anticipation for the attention due to the present letter, I am pleased to sign myself, with all respect and esteem, your most attentive servant. (signed) J. A. Reyes Cardona."

Julio Antonio Reyes Cardona, Head Assessor of the Department (Jefe Asesor en el Depto.). Mr. Minister of External Relations (Ministro de Relaciones Exteriores), National Palace. There is the stamp of the Department for German Affairs (Departamento de Asuntos Alemanes). . . . *Folio No. 47.*—Mr. Minister of External Relations (Ministro de

Relaciones Exteriores) : *Subject :* Expropriation file pursued against Federíco Nottebohm. I, Carlos Nottebohm, whose particulars are known in your Ministry as the proxy of Federíco Nottebohm : attentively request : that there be issued to me in duplicate a certified copy of the expropriation file held in your Office (Despacho) being pursued against my mandator. Guatemala, 24th. of November, 1951.

At the request of the presenter who at the moment does not sign : F. J. Skinner Klée.—Ministry of External Relations (Ministerio de Relaciones Exteriores) : Guatemala, sixth of December, one thousand nine hundred and fifty-one.—20056. Let it be added to the papers which preceded it.—Marroquín O. Adrián Gil Pérez.—There is the stamp of the Ministry of External Relations (Ministerio de Relaciones Exteriores). —*Folios Nos. 48, 49, 50 and 51.*—"Juridical Department (Departamento Jurídico). Ministry of External Relations (Ministerio de Relaciones Exteriores). Guatemala. Central America.—No. 347.—*Judgment.*— Guatemala, 13th. of December, 1951.—Subject : The Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) grants a hearing to the Chancellery (Cancillería) in respect of the exception proceedings instituted by Mr. Karl Heinz Nottebohm Stoltz on his own account and as the proxy of Mr. Federíco Nottebohm Weber. . . . . Mr. Minister (Ministro) : In the file which is analysed appear the following facts :

(a) that on the 20th. of August, 1945, the Public Ministry (Ministerio Público), in conformity with article 5 of Decree 114 of the Congress of the Republic (a law in force at that time), indicated the term of three days, which might not be extended, in which the firm "Nottebohm Brothers" was to issue a deed transferring ownership in favour of the Nation in respect of the estates "Morazán" and "Guatalón" registered under numbers 1204 and 3928, on folios 108 and 140 of books 9 and 24 of the Department of Suchitepéquez, respectively, with the warning that it would be issued officially in the case of the non-compliance of the summoned firm, the corresponding publications having been made in the Official Journal (Diario Oficial) ;

(b) On the 28th. of September of the same year, the persons mentioned having refused, the body referred to ordered the issuing officially of the deed of ownership, an act which was carried out on the 22nd. of October of the year referred to ;

(c) The said public instrument was not registered in the Register of Immovable Property (Registro de la Propiedad Inmueble) owing to an error, consisting of the referring in the mentioned deed to the firm "Nottebohm Brothers" instead of to Messrs. Federíco Nottebohm Weber and Karl Heinz Nottebohm Stoltz ;

(d) On the 24th. of May, 1950, the Public Ministry (Ministerio Público) requests that the term of three days, which may not be extended, be indicated again in which the gentlemen last mentioned shall present themselves to issue a deed transferring the ownership of the immovables already referred to, and the object of the expropriation, with the warning that it will be done officially in case of the refusal of the other party, ordering the corresponding publications to be made ;

(e) On the 24th. of June of last year, the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) issued the decision referred to in the foregoing point, which was duly published in the Official Journal (Diario Oficial) ;

(f) On the 22nd. of August of the same year, Mr. Karl Nottebohm Stoltz interposes an appeal of exception in his own name and as the representative of Mr. Federíco Nottebohm Weber, before the Ministry of the Treasury (Ministerio de Hacienda), which was accepted by the said Ministry in decision No. 00671 dated the 24th. of the same month and year;

(g) In agreement with the evidence rendered by Mr. Nottebohm Weber and the affirmations entered in the file by Mr. Karl Nottebohm Stoltz, the nationality of the first of the persons named is Guatemalan, by virtue of the governmental agreement dated the 24th. of November, 1939, and that of the second, that of the principality of Liechtenstein, by virtue of his entry as a registered foreigner, number 1968. The juridical department (departamento jurídico) arrives at the following conclusions from its study of the file:

(1) that the petition interposed by Mr. Karl Nottebohm Stoltz, as the representative of Mr. Federíco Nottebohm Weber, has no effect, since it is presented by a person lacking legal powers to act in the present case, seeing that the justificatory document of the same is a certified copy of the certified copy lying in another file.

(2) That, since there exists no rule by which to determine in what way the declarations of the witnesses in the administrative case ought to be taken, it ought to abide by the considerations and regulations of the Code of the Institution and Prosecution of Civil and Mercantile Proceedings (*Código de Enjuiciamiento Civil y Mercantil*), in so far as they be applicable; that the said declarations in the nature of testimony ought to have been received before the authority charged with the substantiating of the present file; that in so far as concerns the other evidence adduced, since it is within the terms fixed by article 292 of Legislative Decree 2009, it does not stand as plenary evidence (no hacer plena prueba).

(3) That, in spite of the certificate presented by the interested party of his entry as a resident foreigner, bearing the number 1968 and being registered on folio 1968 of book 20, dated the 16th. of April, 1928, and modified on the 7th. of February, 1940, not standing as plenary evidence (no hacer plena prueba), the Juridical Department (Departamento Jurídico) is of the opinion: that, Mr. Nottebohm Weber, having exhibited up to the 13th. of October, 1939, his assets are expropriable, for he is included within the terms of clauses (a), (b), (c), (e) and sections (1), (2), (3), (4) of clause (e) and clause (g) of article 7 of Decree 630 of the National Congress.

(4) That, although the appeal interposed by Mr. Karl Nottebohm Stoltz is according to the law, he did not produce any kind of evidence, and if it be not true, as he affirms, that he was granted Guatemalan nationality by a governmental agreement of the 24th. of November, 1939, the said agreement is annulled by virtue of Decree 281 of the National Congress of the Republic.—Therefore the presenter continues to be a German and his assets to be subject to expropriation.—Attentively, (signed) J. Cáceres S.—Licenciate (Lic.) Jorge Cáceres S.—Head of the Department (Jefe del Departamento).—Mr. Minister of External Relations (Ministro de Relaciones Exteriores).—His office."—There is the stamp of the Juridical Department (Departamento Jurídico) of the Ministry of External Relations (Ministerio de Relaciones Exteriores). *Ministry of External Relations (Ministerio de Relaciones Exterio-*

res) : Guatemala, eighteenth of December, one thousand nine hundred and fifty-one.

Subject :—The Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) grants a hearing to the Chancellery (Cancillería) in respect of the petition of exclusion pursued by Mr. Karl Heinz Nottebohm Stoltz, on his own behalf and as the proxy of Mr. Federíco Nottebohm Weber.—20264.—With judgment No. 347 of the Juridical Department (Departamento Jurídico) which this Office (Despacho) approves, it attentively turns to the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) for appropriate action. —Let the paper be replaced by paper stamped according to the law.— (signatures) Marroquín O. Adrián Gil Pérez.—There is the stamp of the Ministry of External Relations (Ministerio de Relaciones Exteriores) and another stamp indicating its receipt which reads : "Department for German Affairs (Departamento de Asuntos Alemanes). Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público). —Delivered by : Con de Hda.—Received on the : 20th. December, 1951. At. 17/30 hours.—Registered under No. . . . . .

And at the petition of the interested party, the present certified copy is issued on thirty-five effective sheets of paper stamped to the value of ten *centavos de quetzal*, of the present quinquennium, bearing the serial numbers C—eight hundred and twenty-two thousand seven hundred and thirty-one (822731) to No. C—eight hundred and twenty-two thousand seven hundred and sixty-one, inclusive, and from number C—eight hundred and twenty-two thousand seven hundred and sixty-three (C—822763) to eight hundred and twenty-two thousand seven hundred and sixty-six, i.e., the present sheet ; duly collated with its original, in the city of Guatemala on the second day of the month of May, one thousand nine hundred and fifty-two.

(Signed) O. Toruño O.
O. Toruño O.
Secretary.

APPROVED :
(Signed) J. A. Reyes Cardona.

IN THE LEFT-HAND MARGIN :

COLLATED :

(Signed) A. Muñiz F.
Below this another signature which is illegible.