

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: THE CHARGE D'AFFAIRES A.I.,
CANADIAN LEGATION, VIENNA

Reference: Our despatch No. 392 of August 5 and
your letter No. E.318 of August 31

Subject: Woodcot Estates Ltd. (Robert Bentley
et al.): Brucker Zuckerfabrik Clemens Auer

Security: RESTRICTED

No: 427

Date: September 14, 1955

Enclosures: 1

Air or Surface Mail: Air

Post File No: 6-2-W

Ottawa File No.	
9156-ED-40	L
136	11

References

*To see: State Secy
Economic + file
+ file
+ file*

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SEP 22 1955

Internal
Circulation

Distribution
to Posts

Ext. 182A (Rev. 2/52)

Enclosed is a copy of my despatch No. 392 of August 5, 1955, the original of which (according to the postscript to your letter under reference) has been mislaid in Ottawa. Details of the claims to ownership of the Brucker Zuckerfabrik Clemens Auer appear to be clearly set out in the memorandum, enclosed with your letter, which was presented to the Department by the Ottawa solicitors of the Woodcot Estates Ltd. and as far as I have been able to check here that aspect of the memorandum is reasonably accurate.

2. I had already received a copy of the memorandum referred to from Mr. Robert Bentley, the circumstances of whose visit to Vienna are set out in my despatch No. 392. As my discussion of this Canadian interest with Dr. Hans Coreth of the Austrian Foreign Department, referred to in paragraph 5 of my despatch, brought no result other than the suggestion that I should see State Secretary Bock about the matter, I had a further discussion with Mr. Bentley and the Vienna solicitor of the interest he represents and made arrangements to see the State Secretary in order to obtain as complete information as possible as to Austria's intentions as soon as possible.

3. Even before your letter No. E-318 was received I thought it desirable to discuss the matter with Dr. Bock and I called on him on August 26. He was, of course, fully familiar with the details of the case and appeared to be sympathetic to the suggestion that the Canadian claimants to the property concerned should have some representation in the administration of it until such time as the restitution proceeding was completed. I said that I fully understood that the former owners of the property had no legal right to demand representation in the administration either under Austrian law or under Article 26 of the State Treaty but I pointed out that the intentions of both the State Treaty and all Austrian restitution law were to restore properties which had been subject to "forced transfer or measures of sequestration, confiscation or control" to their rightful owners and that, in the spirit of those intentions, the claimants could reasonably expect to be given some representation in the

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administration of the property they claimed. Although the restitution proceedings, in this as in many other cases, will take some considerable time, I pointed out that the case of the Brucker Zuckerfabrik Clemens Auer had frequently been discussed in the negotiations on the State Treaty as a good example of "forced transfer" which would be the subject of restoration proceedings. I said, therefore, that while I was not making official representations or demanding that a legal right either under Austrian law or under the State Treaty be recognized, I felt it would be difficult to understand if a representative of the rightful claimants to the property were not accorded some formal status in the administration of the property until such time as formal restitution could be effected.

4. Dr. Bock undertook to re-examine the case with the view to giving the claimants representation in the administration of the plant. He must act on the advice of, or at least in consultation with, a specially appointed committee of the National Council composed of three members of the Socialist Party and three members of the People's Party. He seemed to think that the fact that I had raised the matter with him would help him in dealing with this committee and he asked specifically whether I thought the Canadian interests would be satisfied if the present order appointing Herr Karl Rigal (of the Beet Growers Association) and Herr Labak (Director of the wholesale purchasing organization of the Austrian Cooperatives) as Administrators were allowed to stand and a further order appointing Mr. Robert Bentley as a third and co-equal administrator were issued. I said that such an arrangement seemed to be satisfactory and that I hoped that he would be able to make appropriate arrangements to put it into effect.

5. Meanwhile, however, Dr. Gustav Rinesch, the Vienna solicitor for the Woodcot Estates Ltd., has been seeking to enlist the support of Finance Minister Kamitz (to whom State Secretary Bock is directly responsible) and has put forward an alternative plan which Dr. Kamitz, with the advice of his legal advisers, is reported to have accepted. This plan requires a brief explanation of the present corporate form of the Brucker Zuckerfabrik Clemens Auer. As stated in paragraph 2 of your letter under reference, the form of the corporation was changed under German law to a "Kommanditgesellschaft," a peculiar form of partnership in which one or more of the partners (in this case one, in the person of Clemens Auer) have the status of a limited company while one or more additional partners (in this case one, in the person of Karl Rigal) have the status of the outwardly responsible partner with full powers to act in the name of the partnership and with unlimited liabilities. The purpose of this particular arrangement was to attempt to establish the corporation with Austrian personality (Rigal is an Austrian) and it has certain advantages under taxation regulations. Dr. Rinesch's proposal was that the order appointing Rigal and Labak as administrators of the Brucker Zuckerfabrik should be rescinded and that a new order covering the administration of the interest of Clemens Auer only should be issued, while at the same time an interim restitution, pending the completion of

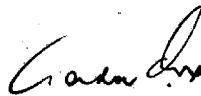
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formal restitution proceedings, should be made to Rigal himself in respect of his interest. This would enable Rigal to obtain some status in the interim administration of the property and would also make it possible for the Minister of Finance to appoint two administrators in respect of the German (Clemens Auer) interest, one of whom would continue to be Herr Labak and the other Mr. Robert Bentley. Under the State Treaty, of course, the entire property, as one "held or claimed" as a former German asset, has been transferred to Austrian administration. However, there is apparently no reason why, under the relevant Austrian legislation, the administration cannot be dealt with in the manner suggested. On the face of it, the arrangement appears to be unnecessarily complicated but I can only accept the advice of Dr. Rinesch as the solicitor of the Canadian interests.

5. State Secretary Bock has not yet acted on this suggestion although I am told that it has been approved by the Minister of Finance as mentioned above. It is likely that Dr. Bock is still having difficulties with the committee of six members of the National Council. In any case, I think it would be desirable if I had another discussion with him early next week as a further expression of interest by the Legation on behalf of the Canadian claimants would undoubtedly help him in dealing with the political interests represented on the committee.

6. In summary, I consider that the Canadian interests involved have a clear enough case, without prejudice to the restitution proceedings, to be accorded some official status in the interim administration of the property in question and State Secretary Bock was inclined to agree with this view. In the absence of any legal status, however, either under Austrian law or under the relevant provisions of the State Treaty, it is clearly impossible to demand that these claimants be given representation in the administration of the property and I think that I can go no further than to suggest to Dr. Bock and, if necessary, to Dr. Kamitz, that it would create a very bad impression in Canada if the administration of the property were to be left entirely in the hands of those who represented interests other than those of the rightful owners. In this connection I have been careful, of course, to avoid any criticism of the two administrators already appointed.



Chargé d'Affaires a.i.

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DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(FILE COPY)

NUMBERED LETTER

Canadian Charge d'Affaires,

TO: Canadian Legation, Vienna.

Security: UNCLASSIFIED

No: E-318

Date: August 31, 1955.

FROM: THE UNDER-SECRETARY OF STATE FOR EXTERNAL AFFAIRS, OTTAWA, CANADA.

Enclosures: 1 REGISTERED AIRMAIL

Air or Surface Mail:

Reference: Canadian Interest in Beet Sugar Plant at Bruck.

Post File No:

Ottawa File No.	
9156-ED-40 "L"	
124	11

References
Internal Circulation
Distribution to Posts
Ext. 191B (Rev. 2/52)

I enclose a copy of a memorandum we have received from Clark, Macdonald, Connolly, Affleck and Brocklesby, Ottawa solicitors of Woodcot Estates Limited, of Vancouver, B.C., concerning the administration of a beet sugar plant in Austria.

2. In addition to a number of other interests in Austria, Woodcot Estates Limited were before the war substantial shareholders in Oesterreichische Zuckerindustrie A.G., which owned and operated a beet sugar plant at Bruck, Lower Austria. Following the Anschluss a German named Clemens Auer, a prominent Nazi, acquired the majority of shares in the company. (These are said to have come into his hands at far less than their true value, owing to the discriminatory laws enacted by the Nazi regime). Auer had the joint stock company dissolved and transferred its substance to a new firm, Brucker Zuckerfabrik Clemens Auer, of which he was the sole owner. When the war began to go against the Germans he changed the form of this company to a kind of partnership in which an Austrian, Karl Rigal, became the outwardly responsible partner, with Auer appearing only as a sleeping partner.

3. At the end of the war this company, including the plant at Bruck, was taken over by the Soviet occupation authorities. In 1950 there were reports that the latter were considering leasing the plant and with this aim were negotiating with the Beet Growers' Association of Lower Austria, in which Karl Rigal was a leading spirit. On this occasion we asked the United Kingdom Minister (in a despatch dated April 5, 1950) to discuss with Dr. Gustav Rinesch (Austrian attorney for the Woodcot Estates and trustee for the dissolved Oesterreichische Zuckerindustrie A.G.) what steps might be open to protect the Canadian shareholders. The Soviet negotiations with the Beet Growers' Association came to a standstill, however, and the Soviet authorities continued to administer the plant.

4. Meanwhile Dr. Rinesch on behalf of the former shareholders of Oesterreichische Zuckerindustrie A.G., had instituted proceedings before the Austrian Restitution Commission for the restitution of the substance

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of the firm from the partners of Brucker Zuckerfabrik Clemens Auer, i. e., Karl Rigal and Clemens Auer. These proceedings were interrupted by an order of the Administration for Soviet Property in Austria on July 20, 1951.

5. The rest of the story is told in the enclosed memorandum from Woodcote Estates Limited. The problem facing the shareholders now is to try to ensure that, during the period that elapses before restitution can be expected, the plant is administered in the long-term interests of the shareholders rather than in the interests of outsiders.

6. You will notice that in paragraph 16 of the memorandum it is suggested that we protest against the exclusion of Mr. Bentley (or any other representative of the restitution claimants) from the administration of Brucker Zuckerfabrik Clemens Auer. We would not wish you to go that far at this stage. (Nor, incidentally, could we subscribe to the rather strong opinions in paragraph 15 without a good deal more information).

7. Nevertheless, it is apparent from this memorandum that for whatever reasons the interests of the Canadian shareholders are not being given reasonable representation under the present arrangements. I should be grateful therefore if you would draw to the attention of the Austrian authorities the Canadian interest in the administration of this company and enquire about their intentions with respect to appropriate representation for the former shareholders. I do not think it would be appropriate to mention Article 26 of the Austrian State Treaty; this bears on the question of restitution but makes no reference to the interim administration of property.

(Signed) A. E. RITCHIE.

photo
Under-Secretary of State
for External Affairs.

P.S.—Before approaching the Austrian authorities, I would be grateful if you could verify whether our present instructions conflict with the contents of your letter No. 392 of August 5 which, unfortunately, has been mislaid here. In any event, I would like to have a copy of this letter for our file at your early convenience.

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Economic/J.F.Grandy/S

File: 9156-ED-40

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Ottawa, August 31, 1955.

Dear Senator Connolly,

Canadian Interest in Beet Sugar Plant
at Bruok, Austria

With reference to your letter of August 23, 1955, we have written today to the Canadian Charge d'Affaires in Vienna, asking him to draw to the attention of the Austrian authorities the Canadian interest in the administration of this company and to enquire about their intentions with respect to appropriate representation for the former shareholders.

Yours sincerely,

W. A. Ritchie
for Under-Secretary of State
for External Affairs.

Hon. John J. Connolly, Q.C.,
Clark, Macdonald, Connolly, Affleck & Brocklesby,
Barristers and Solicitors,
56 Sparks Street,
Ottawa.

per/

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9156-EB-40

Clark, Macdonald, Connolly, Affleck & Brocklesby 9152-416-40
Barristers & Solicitors

TELEPHONE 2-3734
CABLE ADDRESS "CHASMUR"

STANLEY M. CLARK, Q.C.
ALASTAIR MACDONALD, Q.C. HON. JOHN J. CONNOLLY, Q.C.
R. W. DONALD AFFLECK R. E. BARON BROCKLESBY
GREGORY J. GORMAN ROBERT C. McLAUGHLIN

Ottawa Electric Building
56 SPARKS STREET

Ottawa, CANADA

August 23rd, 1955.

*Mr. Dwyer
Mr. Bennett
Mr. George*

*file
Mr. Bentley
for action
in spoke
C.S.N.*

Secretary of State for External Affairs,
Room 175,
East Block, Parliament Buildings,
Ottawa, Ontario.

9156-ED-40
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Attention: Mr. A. E. Ritchie

Dear Mr. Ritchie:

This will refer to my discussion with you this morning in connection with Woodcot Estate Limited and their interest and the interest of other North Americans in the appointment of Mr. Robert Bentley as one of the managers of the Beet Sugar Plant at Bruck, Austria.

As you know the request is that the Department asked Mr. Cox in Vienna to intervene with the appropriate Austrian authorities on behalf of Mr. Bentley's appointment. From information supplied to me I understand that a request of this kind would not be handled lightly in Austria and would assist greatly in safe guarding the operation of the plant for the owners.

I am sending you herewith two signed copies of the memorandum. If you require more would you kindly let me know as I have another copy here from which they can be made.

Yours truly,

CLARK, MACDONALD, CONNOLLY, AFFLECK & BROCKLESBY,

Per *John Connolly*

JJC/sw
Encl.

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MEMORANDUM REFERRING TO THE INTEREST OF WOODCOT ESTATES LIMITED,
MR. ROBERT B. BENTLEY, AND MRS LOUISE GATTIN, ALL OF VANCOUVER, B.C.,
IN THE BEET SUGAR PLANT AT BRUCK A.D. LEITHA, AUSTRIA.

Reference is made to the information submitted to the Department of External Affairs by the solicitor of Woodcote Estates Limited, Hon. John J. Connolly, Q.C., of Messrs. Clark, Macdonald, Connolly, Affleck & Brocklesby, Ottawa, Ont., and in particular the Memorandum submitted on February 2nd, 1946, listing the Austrian interests of Woodcote Estates Limited, and the Memorandum submitted on March 3rd, 1950, reporting the institution of restitution proceedings and an (abortive) scheme of the Beet Growers Association of Lower Austria to lease the beet sugar plant at Bruck a.d. Leitha from the Soviet Administration.

1.) In the Memorandum submitted on February 2, 1946, it was stated in point 6) that the equity of Woodcote Estates Limited, represented by a shareholding of 20.187 shares in Oesterreichische Zuckerindustrie A.G., amounted to 25 $\frac{1}{2}$ %. In order to overcome a minor discrepancy in the overall shareholding in that company Woodcote Estates Limited has recently reduced its claim to 20.154 shares or..... 25.19%

As a result of probates of the estates of two former shareholders in that company, Mr. Ferdinand Bloch-Bauer and Dr. Gustav Bloch-Bauer, the equity of Canadian residents in that plant has since been increased as follows:

The equity of Mr. Robert B. Bentley of 3924 Pine Crescent, Vancouver, B.C., represented by 2.624 $\frac{1}{4}$ shares	3.28%
Mr. Bentley is a British subject (Canadian citizen) since 1944.		
The equity of Mrs. Luise Gattin of 405 West 29th Avenue, Vancouver, B.C., represented by 7.380 shares	9.22%
Mrs. Gattin immigrated to Canada in June, 1950, and has since been living in Vancouver. (She is a sister of Mr. Robert B. Bentley, and the shareholder and Director of Woodcote Estates Limited, Mr. L.L.G. Bentley). On completion of her five years residence in Canada Mrs. Gattin applied for naturalization as a Canadian citizen, which is in progress.		

Total Canadian interest in the beet sugar plant at Bruck is, therefore, 37.09%.

Mr. Robert B. Bentley is at present in Austria acting on behalf of the above mentioned shareholders. He will confirm his agreement with the statements and request contained in this Memorandum to the Canadian Minister in Vienna if required. Mrs. Luise Gattin has confirmed her agreement by signing this Memorandum.

2.) As is known to the Department the plant at Bruck was seized by the Soviet Occupation Authorities in Austria in 1946 as "external German asset", because the majority of the shares in Oesterreichische Zuckerindustrie A.G., which company had operated the plant at the time of the Nazi occupation of Austria in 1938, had been acquired during the Nazi regime by a German, Clemens Auer, and the Soviet authorities at that time did not recognize the invalidity of this acquisition, effected under duress.

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3.) In the Memorandum submitted on March 3, 1950, it was reported that Austrian legislation had been passed enabling the rightful owners to start preliminary Restitution Proceedings. Before these proceedings could progress to any degree they were interrupted by an order of the Administration for Soviet Property in Austria (abbreviated USIA) dated July 20, 1951, requiring consent of the Allied Commission for Austria under the Control Agreement for Austria of June 28th, 1946. This consent, which had to be unanimous, was blocked by the Soviet Element of the Allied Commission.

4.) In the same Memorandum it was reported that the Beet Growers Association of Lower Austria (Nieder Oesterreichischer Riebenbauernbund) under the leadership of Herr Karl Rigal, the unlimited partner of the firm Brucker Zuckerfabrik Clemens Auer, which operated the plant during the last years of the Nazi regime, was negotiating with USIA for a lease of the plant. As is known to the Department USIA subsequently turned down this scheme.

5.) On May 15th, 1955, the Austrian State Treaty was signed by Austria and the four Occupying Powers. It has since been ratified by all signatories. Article 22(6) of the Treaty stipulates the release of "German external assets" seized by the Soviet occupation authorities. In Article 25 the Austrian Government has undertaken to restore to the United Nations and its nationals all property, legal rights and interests as existed at the time of the outbreak of war. In Article 26 the Austrian Government has undertaken to return and restore all property, legal rights and interests in Austria which, since March 13, 1938, have been the subject of measures of sequestration, confiscation or control on account of the racial origin or religion of the owners. The case of the beet sugar plant at Bruck falls under Article 26, as it was put under the control of a "Kommissar" soon after the occupation of Austria on March 13, 1938, and as the shares of Oesterreichische Zuckerindustrie A.G. were sold under the direction of the notorious Property Transfer Office (Vermögensverkehrsstelle) between March 13, 1938, and the outbreak of war.

6.) So far the Austrian Parliament has not yet passed the Law, required for the implementation of these clauses of the State Treaty, which was postponed until after the summer recess. Even if and when this Law will have been passed, it will take considerable time until restitution will be effected. As the Department knows from Woodcot Estates Limited's claim for restitution of its shareholding in Beet Sugar Plant Ltd., Enns (Enns Zuckerfabriks A.G.) it took more than four years after the passing of the relevant Austrian Law (Third Restitution Law) before this matter was settled. It would have taken even longer if Woodcot Estates Limited had not agreed to a compromise. The case of the Bruck plant is rather more complicated, as the company in which we claim a shareholding (Oesterreichische Zuckerindustrie A.G.) no longer exists, and, therefore, has to be reconstituted, whereas in the case of Enns the company still existed.

7.) In view of the above the question of management of the Bruck plant during the period before restitution will be effected is of utmost importance. The management will be in the hands of a Public Administrator, to be appointed by the Austrian Ministry of Finance as successor to the (dissolved) Ministry for Safeguarding of Property and Economic Planning. As is known to the Department that Ministry had in 1945 appointed Herr Alfred Wanke, an employee of long years standing. Owing to the seizure by the Soviet Occupation Authorities, however, Herr Wanke could not exercise any influence on the Bruck plant. Herr Wanke died in 1954 without a successor being appointed.

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8.) Under the Austrian Administrators Law (Verwaltergesetz) of July 26th, 1946, (Nr. 157/46), the nominee of the rightful owner as of March 13, 1938 - irrespective of his nationality - has to be given preference when an Administrator is appointed for property subject to restitution for the same reasons as now stated in Article 26 of the State Treaty (Para. 15(4)). Dr. Gustav Rinesch, solicitor for Woodcot Estates Limited, is the attorney of all Canadian claimants referred to in 1.) above, who are entitled to an equity of 37.09%

He is furthermore the attorney of Mrs. Maria Altmann of Beverley Hills, California, (another sister of Mr. Bentley), entitled to an equity of 3.28%
Dr. Bruno Graetz of New York, entitled to an equity of 20.57%
and the family of Patzenhofer, Siegendorf, Austria, entitled to an equity of 5.55%

Total 66.49%

Dr. Emmerich Hunna, President of the Vienna Bar Association is the attorney of the family Low of New York, entitled to an equity of 27.04%

Dr. Rinesch and Dr. Hunna together, therefore, represent the rightful owners of an equity in the Bruck plant of 93.53%

9.) Soon after the signing of the Austrian State Treaty Dr. Rinesch and Dr. Hunna jointly nominated for Public Administrator Dr. Fritz Habig of Vienna. Dr. Habig comes from an old Austrian family, is Director of Hohenauer Beet Sugar Plant (Hohenauer Zuckerfabrik), the owners of which have been friends of our families for many years. He has all the qualifications for the management of the Bruck plant which he was prepared to undertake out of friendship to our families.

10.) However, this did not suit the plans of the aforementioned Beet Growers Association of Lower Austria, and their Secretary, Herr Rigal. At first they attempted the same manoeuvre as reported in the Memorandum of March 3, 1950, by trying to lease the plant from USIA before the latter would hand it back to the Austrian Government, with the pretended argument that the beet growers had a legitimate interest of being assured that they sugar beet they were raising for the sugar campaign of 1955 would be taken over and paid for. The manoeuvre failed because USIA was not interested and because the Association of Sugar Industrialists guaranteed the taking over and payment of all sugar-beet required for the campaign of 1955, in case Dr. Habig would be appointed.

11.) Thereupon the Beet Growers Association of Lower Austria concentrated their efforts, directed towards the taking over of the Bruck plant, on the appointment of Herr Rigal as Public Administrator. They alleged that the appointment of Dr. Habig would lead to a monopoly of a few families, controlling the Austrian sugar industry, apparently referring to the relationship of Dr. Habig to the owners of Hohenauer Zuckerfabrik. To counteract this argument it was decided that Mr. Robert B. Bentley would fly to Austria to take over the management of the Bruck plant. Mr. Bentley has no family ties with the owners of any other sugar plant. Mr. Bentley had worked as Secretary to the President of Oesterreichische Zuckerindustrie A.G., his late uncle Ferdinand Bloch-Bauer, from the late nineteen-twenties until the annexation of Austria in 1938. He is well qualified for the management of the plant. Upon Mr. Bentley's arrival Dr. Rinesch and Dr. Hunna withdrew the nomination of Dr. Habig - with the latter's consent - and nominated Mr. Bentley for Public Administrator.

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12.) When the Austrian Minister of the Interior, a member of the Socialist Party, expressed the wish that the present manager, Herr Rosner, who enjoys the confidence of the employees and workers of the Bruck plant, should remain in a leading position and be appointed Public Administrator, Mr. Bentley agreed that Herr Rosner should be appointed Co-Administrator. In order to counter the argument that he was not an Austrian citizen (although as mentioned above this is immaterial under Para. 15(4) of the Administrators Law), Mr. Bentley was also prepared to withdraw his nomination in favour of Dr. Viktor Pfeifer, a former employee and signing officer (Prokurist) of Oesterreichische Zuckerindustrie A.G., who had been dismissed by the Soviet Administration because of his loyalty to the rightful owners. However, the Beet Growers Association insisted upon the appointment of Herr Rigal and used all its political influence towards this end. The Austrian Socialist Party, for reasons unknown to us, switched their support from Herr Rosner to Herr Labak, a Director of the Wholesale Purchasing Organisation of Austrian Cooperatives (Grosseinkaufsstelle Oesterreichischer Consumvereine, abbreviated GOEC).

13.) In order to settle the matter of the Administrator's appointment quickly in the interests of the sugar campaign 1955, Mr. Bentley agreed to share the office of Public Administrator with two Co-Administrators, and an agreement was reached on July 22nd to the effect that Herr Rigal would be appointed as nominee of the Austrian People's Party (one of the two Coalition parties forming the Austrian Government); Herr Labak as nominee of the Socialist Party (the other Coalition party), and Mr. Bentley as nominee of the rightful owners, entitled to restitution. On August 1st a document confirming the appointment of Herr Rigal and Herr Labak only, was received by Dr. Rinesch. The rightful owners, therefore, have no representative in the administration of the Bruck plant.

14.) In all fairness we want to state that, as far as we know, the Austrian Minister of Finance and also the Austrian Minister of the Interior, showed considerable understanding of our point of view that the administration of an industrial enterprise should lie in the hands of those immediately interested in the successful operation of such an enterprise: i.e. the rightful owners and the employees, and consequently supported the appointment of Mr. Bentley and Herr Rosner respectively. But they are apparently powerless against the influential pressure groups within their respective parties, the Beet Growers Association and the Co-operatives. These organizations will by nature prevail upon their nominees, Herr Rigal and Herr Labak, who will presumably be running our plant for years to come, to buy the chief raw material, the sugar beets, at as high a price as conceivable, and to sell the product, the sugar, as cheaply as possible. It is difficult to see how an enterprise which is already badly handicapped by nine years of Soviet administration during which hardly any investments have been made and the equipment has become sadly antiquated compared with the rest of the Austrian sugar industry, can survive this kind of administration by two representatives of outside interests.

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15. If these outsiders, the Beet Growers and the Co-operatives, only want to protect their justifiable interests, i.e. to secure the purchase of sugar-beet and the delivery of sugar by the Bruck plant, the agreed co-administration by Herr Rigal, Herr Labak and Mr. Bentley would have provided ample scope for such protection. That the representative of the rightful owners has been excluded indicates some ulterior motives of certain circles in Austria, directed towards another forced sale of our interest in the Bruck plant. These circles apparently want to engineer a repetition of what happened after the Nazis came to power in Austria in 1938, when valuable property of those who had fled from the Nazi terror could be acquired for next to nothing by anybody who had the right connections. The method is very similar to that employed in 1938; first a manager is appointed by the Government without regard to the wishes of the rightful owners (called Kommissar in 1938; Public Administrator in 1955), and after a certain period of management against the interests of the rightful owners it is expected that they will again be softened up sufficiently to sell their equity in the plant for a pittance. This looks very much like the "measures of sequestration, confiscation and control" against which Article 26 of the Austrian State Treaty wants to give redress.

16.) We, therefore, respectfully request the Department of External Affairs to protest through the appropriate channels against the exclusion of Mr. Robert B. Bentley or any other representative of the restitution claimants from the administration of Brucker Zuckerfabrik Clemens Auer and in particular the beet-sugar plant at Bruck a.d. Leitha, as being prejudicial to the Canadian claimants to an equity of 37.09% in the assets of that firm, and as violating Article 26 of the Austrian State Treaty.

Luise Gattin

 LUISE GATTIN

WOODCOT ESTATES LIMITED

per. *J. J. Ventral* President
 per. *H. J. Murray* Secretary

005395

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

DESPATCH

THE SECRETARY OF STATE FOR
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Security: RESTRICTED

No: 392

FROM: The Chargé d'Affaires, et al.,

Date: August 5, 1955

Canadian Legation, Vienna, Austria

Enclosures:

Reference:

Air or Surface Mail:

Subject: Bruck Zucker Fabrik... Rights of

Post File No:

Canadian Owners

Ottawa File No.
9156-ED-40
120 26

*seen by Economic Division
for info*

References

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8 SEP 1955

Diff. in separate FD for circulation

Another Canadian property-right in Austria has now come to our attention in the shape of the Bruck Zucker Fabrik, the Bruck Sugar Refining Company at Bruck an der Leitha, Lower Austria. This interest may have an even greater claim on our time than that of Colonel R.K. Van Sickle, as more than 40 per cent of the share interest in the property is claimed by a group in the Vancouver, British Columbia area who are not only Canadian citizens but who expect to remain as residents of Canada where they have now established themselves and have built up a new business in the form of the Canadian Forest Products Limited. Unlike Colonel Van Sickle, therefore, they will continue to make an important contribution to the Canadian economy and to pay considerable taxes of various kinds in Canada.

Internal Circulation

2. According to our information, which has been substantially confirmed by Mr. R.J. Blair of the United Kingdom Embassy, approximately 41 per cent of the shares of the Bruck Zucker Fabrik were owned in March, 1938 by Mr. Robert Bentley, now Treasurer of the Canadian Forest Products Limited and other members of his immediate family. Another 47 per cent were then owned by other members of the Bentley family who are now resident in, and citizens of, the United States. Ownership of the remaining 12 per cent was scattered among persons who are now nationals of various other countries. After the Anschluss the ownership of the shares in the company was forcibly sold (Aryanized) to a German national who was reputed to be a friend of Herman Goerring. All the former owners have instituted restitution proceedings in accordance with Austrian law and are adequately represented by counsel here in that respect. Although the Restitution Court has not yet decided upon their claim, largely because the property in question was seized and is still held as a German asset by the Soviet Occupation element, it is generally recognized that their claim is authentic and no one to whom I have spoken, including the Austrian officials concerned, has the slightest doubt but that the property will in due course be restored to the former owners in accordance with Article 26 of the State Treaty and in accordance with the appropriate Austrian restitution legislation.

Distribution to Posts

Berne

3. The former owners have no problem in respect of the eventual restoration of their property, although it is

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expected that this will take some time. Meanwhile, however, as the company in question is a very valuable property and as its operations are very lucrative, the claimants feel, and I consider that they are justified in this, that they should have the right to participate in some way in the administration of their property until it can be legally restored to them. Any reasonable interpretation of the spirit of Articles 25 and 26 of the Treaty would support this aspiration. As one of the properties to be transferred to Austrian control under Article 22 of the State Treaty, this property will be transferred to the control of Administrators appointed by State Secretary Bock in the Ministry of Finance on August 13 next. The appointment of Administrators for all such properties (and several hundred have been appointed in the last few days) is a very hot political issue at the moment. I have learned that claimants to similar properties to be returned to Austrian jurisdiction by the Soviet element have been able to have representatives named as Administrators by State Secretary Bock. In anticipation of similar treatment Mr. Robert Bentley came to Austria all the way from Vancouver and he has had several conversations with officials in State Secretary Bock's Department, all of whom led him to believe until Thursday, August 4, that he would in fact be appointed as an Administrator. (Incidentally, he has also had several offers from other sugar processing interests here to buy out the interests he represents. This is in itself an added indication that the claims he represents will be upheld by the Courts.) In respect of the former owners' aspirations to have a representative named as administrator, Mr. Bentley not only represents the 41 per cent share interest held by the Canadian members of his family, but he states that he also represents the 47 per cent interest held by his relatives in the United States. In the event, however, two Administrators for this particular property were named in a decree signed on August 4 on behalf of State Secretary Bock. Mr. Bentley was not included. The two Administrators, in fact, represent other sugar processing interests, on the one hand, and the Anschluss-period owners, in the person of an Austrian who collaborated with them, on the other.

4. While Mr. Bentley has no legal right to be named as an Administrator, he immediately made inquiries and was told that State Secretary Bock (who incidentally is now on an extended vacation although the properties are to be transferred to his jurisdiction next week) had merely said that the appointment of Mr. Bentley as an Administrator would be "postponed". There is no doubt, however, that there is no reason for the postponement other than an attempt to put him off, as the properties will be transferred to the jurisdiction of the Administrators on August 13. Mr. Bentley feels sure - and judging from the way these matters are apparently being handled here, I think he is not far wrong - that he is being discouraged from taking an active interest in the hope that he will go home and sell out his interests in this valuable business. He will make objection to the decree but I think it unlikely that he will get very far without some representations from us as he can establish no legal right to be named as an Administrator but only hope to persuade the Austrian authorities concerned to recognize the political desirability and indeed their moral obligation to accord him a status which reasonably recognizes the interests of those he represents.

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5. In order to open the door to such representations, I spoke to Dr. Hans Coreth, the Acting Head of the Political Section of the Foreign Department today and after explaining the circumstances (which he, of course, well understood) I said that I considered that Mr. Bentley and the interests he represents were not being given as much consideration as they could reasonably expect in accordance with the spirit of Articles 25 and 26 of the Treaty. I asked him to let State Secretary Bock's Department know that I had spoken to him in this way in the hope that they would review the situation immediately and I also said that I would like to be able to speak to State Secretary Bock about the matter when he returned from his vacation in about two weeks time. Dr. Coreth privately agreed that he thought the consideration given to Mr. Bentley was very poor and in fact I think he felt so strongly about it that he will take the matter up with the Department of Finance quite forcefully. I also spoke to Mr. Blair of the United Kingdom Embassy who used very strong language in condemning the treatment accorded to Mr. Bentley and said that, with regard to five similar cases in which British claimants had at first been disregarded in the matter of the appointment of Administrators, the British Embassy had already made strong representations. He said that in four of these cases they were successful in having the claimants represented as Administrators while in the fifth they were still fighting hard. Mr. Blair added that State Secretary Kreisky (in the Foreign Department) had specifically mentioned the Bruck Sugar case to him and had said that he was "thoroughly ashamed" of the treatment accorded to Mr. Bentley.

6. I fully realize that any attempts we may make to support Mr. Bentley's interests will have to be carefully handled, particularly in view of the political entanglements in the administration of properties being returned to Austrian jurisdiction. (An attempt is being made to see that both parties in the Coalition are more or less equally represented in these appointments.) I think, however, that we should help the Canadian claimants as much as possible and I should appreciate your advice about how far I should go in discussing their interests with the Austrian authorities concerned.



Chargé d'Affaires, a.i.

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