

THE EIZENSTAT REPORT AND RELATED ISSUES  
CONCERNING UNITED STATES AND ALLIED  
EFFORTS TO RESTORE GOLD AND OTHER ASSETS  
LOOTED BY NAZIS DURING WORLD WAR II

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HEARING

BEFORE THE  
COMMITTEE ON BANKING AND  
FINANCIAL SERVICES  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

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JUNE 25, 1997  
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# **THE EIZENSTAT REPORT AND RELATED ISSUES CONCERNING UNITED STATES AND ALLIED EFFORTS TO RESTORE GOLD AND OTHER ASSETS LOOTED BY NAZIS DURING WORLD WAR II**

**WEDNESDAY, JUNE 25, 1997**

**HOUSE OF REPRESENTATIVES,  
COMMITTEE ON BANKING AND FINANCIAL SERVICES,  
Washington, DC.**

The committee met, pursuant to notice, at 9:12 a.m. in room 2128, Rayburn House Office Building, Hon. James A. Leach, [chairman of the committee], presiding.

Members Present: Chairman Leach; Representatives McCollum, Lazio, Bachus, Campbell, Fox, Kelly, Ryun, Snowbarger, Riley, Sessions, Foley, Vento, Kennedy, C. Maloney of New York, Gutierrez, Velázquez, Watt, Bentsen, Jackson, Kilpatrick and J. Maloney of Connecticut.

Chairman LEACH. The hearing will come to order.

This city of Federal monuments is replete with sayings chiseled in stone. But none is more eloquent and apt than the words on the portals of the National Archives Building: "The Past is Prologue."

The purpose of this, the second hearing on the subject in the House of Representatives, the people's body, is to remind us all that the past must never be forgotten, and it is often more controversial than issues of the present.

In every society there is a Santayana, a historian, or a philosopher to remind us that failure to heed the lessons of history condemns us to repeat past mistakes. While unusual, it must never be considered inappropriate for a legislative body to review the past to gain a perspective on the present.

This hearing is a continuation of such a review begun by the committee in its hearing of December 11, 1996. That hearing focused on the theft of assets from Jewish people in Europe and how the Nazis laundered these assets through the world banking system in an effort to gain an edge in the war, how the Third Reich financed its war machine with gold seized from central banks in occupied countries, and the postwar attempts to negotiate and carry out agreements to recover and restore to the rightful owners public and private assets plundered by the Nazis, or placed in non-German banks for safekeeping.

It is always difficult for people to come to terms with moments in their past when extraordinary events threaten lives within, and the sovereign existence of, their countries. Moral judgments are



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difficult to apply retrospectively. Nevertheless, we should not avoid moral considerations simply because years have passed and circumstances have changed.

Indeed, it might be argued that the years immediately following World War II, when everyone was so futuristically intent on reconstructing Europe and so concerned with not repeating the punitive model of the post-World War I era, represented a less appropriate time to review the broad scale of societal, as contrasted with individual, accountability that is provided citizens of the world six decades later.

In this current review no country stands alone. While Nazi Germany precipitated the Holocaust, every country, belligerent and neutral, involved in the War is haunted by the ghost of Auschwitz, Buchenwald and Maidanek.

Despite our leadership, for instance, in bringing the War to an end and despite the sacrifices of millions of Americans who, like my father, walked ashore at Omaha Beach and fought with General Patton from St. Lo to the Bulge to the Elbe, the United States' record is not without stain. The United States stayed on the sidelines of the European Conflict until December of 1941, two years after Poland was bloodied and battered as a nation-state and two years after its Jewish citizens, who for centuries had found safer sanctuary there than in Russia or many other European states, were herded into boxcars. In the years preceding our direct involvement in the War, the United States refused entry to tens of thousands of refugees, including the passengers, most of whom were Jewish, of the ill-fated liner *Saint Louis*, who might have found safety in the United States, but instead were returned to Europe to suffer or perish at the hands of the Nazis.

Today, we will review in particular, steps the Swiss Government and private Swiss bankers are taking to reveal the full nature of their wartime actions and provide redress where redress might be due. In this regard, I am pleased that Paul Volcker will shortly report major progress to the committee on the dormant accounts issue with a simultaneous announcement he made in Switzerland.

We will also hear what happened in other countries during and after the War. Such a review is useful, not only because World War II was a protracted conflict involving many nations. It is necessary because crimes like the Holocaust defy human comprehension and we begin to understand actions taken during this period only by seeing them from a number of geographical and cultural perspectives. For this we have the help of a distinguished panel of historians and other experts who have come from as far as Europe, South America and the Middle East.

Two major war participants, the Germans and the French, were unable to provide experts for this hearing. A third country, Turkey, has indicated that it is voluntarily considering an initiative of its own and expressed an interest in cooperating at a later point with this committee's inquiries.

A German official said that a representative historian could not be sent due to bureaucratic inflexibility and travel costs. The French Ambassador explained in a letter I received on Monday, that the French Ministry could not find a suitable historian for

this hearing, but graciously invited the committee to come and conduct its own investigation in Paris.

[The documents referred to can be found on page 304 in the appendix.]

In making judgments we should not lose sight of our objectives: to plumb the depths of the history of this century, to review the Holocaust from a number of countries' perspectives, and to provide a measure of relief for the remaining victims of what is the greatest crime in man's memory.

We are honored to have with us a distinguished group of witnesses from our Government, several foreign governments and universities, including those of Argentina, Portugal, Spain, the United Kingdom, Sweden, Israel, and Switzerland, Jewish organizations and American academia. I would like to express my thanks to all of them, especially those who came from so far away to take part in the process.

Mr. Vento, would you like to make an opening statement?

[The prepared statement of Hon. James A. Leach can be found on page 124 in the appendix.]

Mr. VENTO. Thank you, Mr. Chairman. I don't have a prepared statement. I certainly welcome the review of this topic, especially based on the type of work and effort that has been done by Mr. Volcker and the Administration, Stuart Eizenstat, and the Senator from New York, the Chair of our counterpart committee, Senator D'Amato. I welcome all the witnesses today.

I think in our service none of us anticipated that we would be dealing with topics necessarily of this nature. I think it is important to reflect on the process and the period of time in history and the neutrality and what that meant and how it was exploited at that time, at the passive actions, certainly, of Switzerland and other countries in Europe, and our own country, as we maintained some neutrality at times in this process. I think there is much to be learned from it, and hopefully some equity in settlement with regard to these issues, especially as they affect dormant accounts on a global basis as this process has evolved into the manifestations that we have today in financial institutions.

I welcome the hearing. Obviously we understand, and all our witnesses understand, Mr. Chairman, it's a very busy day. So, I'm certain that the Members' absence this morning and our itinerant behavior at this particular hearing will not reflect on the gravity and the interest of the matter. I think we are interested, but we are dealing with some of the more important issues of the calendar.

Thank you, Mr. Chairman, for the hearing. I welcome the witnesses.

Chairman LEACH. Thank you, Mr. Vento.

Mr. Lazio.

Mr. LAZIO. Thank you, Mr. Chairman. I want to begin by thanking you and thanking Senator D'Amato, whose dogged efforts on behalf of Holocaust victims has really been remarkable and has helped to drive this inquiry to the point that we are now.

Mr. Chairman, more than six months have passed since the first hearing you held on this subject. In that time there has been considerable discussion and media coverage, but I think Senator

D'Amato would agree with me, and certainly the Chairman, not enough action on the part of the Swiss Government.

During our hearing last December, Ambassador Borer told us how grateful he was for the opportunity to testify. He said at the time, "Nothing is more important to the people and the Government of Switzerland than establishing the complete truth in this matter as swiftly and humanely as possible." Unfortunately, the actions of the Swiss Government have not matched the Ambassador's words.

Since those lofty promises, the situation in Switzerland has deteriorated. One neutral has failed to show the courage to confront its own history—Switzerland. We have seen obscene outbursts of anti-Semitism from the highest levels of their government and their banking industry. We have seen their promises of assistance for aging and dying Holocaust survivors go unfilled, and we have heard threats that if criticism of Switzerland continues, even the promise of money will evaporate.

I'm afraid that at this point the Government of Switzerland's credibility is beginning to resemble their country's famous namesake—cheese.

The President of Switzerland has accused Jews generally, and Edgar Bronfman, the President of the World Jewish Congress, in particular, of "ransom and blackmail." They have said that they and other critics were trying to "demolish Switzerland as a financial center." Robert Holzack of the Union Bank of Switzerland said that the banking scandal was really a war that involved a "Jewish conspiracy to take over the world's prestige financial markets."

Mr. Chairman, I want to know how much money has been returned since the Ambassador testified here? In the last two years, Switzerland announced that \$32 million in dormant Holocaust-era accounts had been found. The three largest Swiss banks contributed 100 million Swiss francs. Swiss National Bank has pledged, but has not produced, an additional 100 million francs, and we hear that an additional 70 million francs would be pledged by other Swiss companies. But the problem remains. All the promises to Holocaust survivors are empty, because they haven't seen the first franc.

I want to know where the money actually is? I certainly hope that this money is not in a Swiss bank. I hope we will learn today that the actual cash is on deposit right here in the United States, or in Israel and still not in the hands of Swiss bankers. They are the problem and not the solution.

I want a detailed accounting of the disposition of those funds, to know how much of that money has been returned to the lawful owners or heirs of those accounts, and what is being done now to locate others who are due money.

Mr. Chairman, I am greatly dismayed by the viciousness of the attacks from all quarters in Switzerland, attacks on Secretary Eizenstat and on Senator D'Amato personally, attacks on this Report, on this Government, and on the Jewish people. It is intolerable behavior for a country that calls itself neutral and considers itself civilized.

ture that will let Holocaust survivors know that the world has not forgotten their horror.

I am aware that from the Swiss President on down, there are accusations of greed, blackmail, conspiracy, and worse. Our goal is justice, justice for those who trusted the Swiss bankers, justice for those who survived the Nazi hell and were there and then treated like criminals, not like customers. Justice for those who were victims of both the Nazis and the Communists, justice for the ever-dwindling number of Holocaust survivors.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Rick Lazio can be found on page 130 in the appendix.]

Chairman LEACH. Thank you, Mr. Lazio.

Mrs. Kelly.

Mrs. KELLY. Thank you, Mr. Chairman. I really thank you for calling this hearing today on the Eizenstat Report and Senator D'Amato for his energy in focusing on the issue.

After reviewing the findings of this Report, I am deeply concerned about the holdings of Swiss banks in Nazi gold and the heirless assets left behind by the victims of the Holocaust. In my mind it would seem that these assets would be considered blood money in the worst sense of the phrase. I believe it should be turned over immediately to organizations to assist victims.

After reviewing the sheer amount of these assets, I can see where greed would come into the picture. It's important to note that the Eizenstat Report is the product of work of a United States Commission set up to study the issue. We will need also to study the findings of the Swiss Government and see whether their reflections are actually what we are finding here with our commission.

My highest priority here today is to push for the truth and resolution as soon as possible since the survivors of the Holocaust have been waiting over 50 years for some small token of justice. These assets in question will never make up for the horrors that the victims of the Nazi death camps have experienced. If we are to believe that we live in a world community that values justice, we must do everything possible to ensure that these questions raised by the Eizenstat Report are resolved with all deliberate speed.

I appreciate the time that the members of the various panels have taken to join us here today and share their views with us, and I look forward to working with all interested parties to put the issues at rest.

Thank you, Mr. Chairman.

Chairman LEACH. Thank you, Mrs. Kelly.

Ms. Kilpatrick.

Ms. KILPATRICK. Thank you, Mr. Chairman. I too wanted to say thank you for calling this hearing. I've done a little reading on it and have known since October that the President did appoint the Under Secretary to look into the matter. I think it's a very important situation and we do need to take a closer look at it. I am anxious to hear the Report and what the Under Secretary has uncovered and thank Mr. D'Amato for his work.

With that, Mr. Chairman, I look forward to the testimony.

Mrs. MALONEY OF NEW YORK. Thank you, Mr. Chairman. I too would like to thank you for calling this hearing and to thank Stu Eizenstat and the U.S. Holocaust Memorial Museum, Edgar Bronfman of the World Jewish Congress, the Simon Wiesenthal Center, the Anti-Defamation League, and all the other fine organizations that have worked with the Senator to bring a just and moral conclusion to this dark chapter and an even darker period of human history.

What was most astonishing to me in the reports that I read that absolutely destroyed my belief that Switzerland was an independent banker was that the reports clearly show that they aided and abetted the Nazi war criminals, probably prolonged the war, and after the war acted in a despicable fashion, not honoring just claims which they held in their banks.

I wanted to bring to the Senator's attention a bill that I passed last year with Senator Moynihan's assistance and Senator D'Amato's, called the Nazi Crime Disclosure Act. It called for a release after 50 years of all the documents of people in America and that the American Government had on activities during this dark period. I intend to expand it to cover information that could be disclosed that would help us find and aid American citizens to discover and prove their just claim to these assets that are still held there.

Even though it seems like a larger amount of money, it still is not, when you think of the number of people that are supposed to be helped by it, particularly some of the people that were behind the Iron Curtain and suffered even more, a double suffering. I hope that we can expand it to hold Germany more accountable for their deeds. The papers have disclosed that they are now giving out huge pensions to the German veterans of the war, yet not aiding in a substantial way the victims that the veterans assaulted, killed, and unjustly murdered.

I thank everyone for their hard work on this and the Clinton Administration for having made it a priority and I thank the Senator from New York for his leadership.

Chairman LEACH. Thank you, Mrs. Maloney.

I would now like to turn to Senator D'Amato, who has not only shown enormous leadership on the issue but has employed techniques that are novel in the Congress and for which I think he should be congratulated in orchestrating a group of young historians to study these issues and press singularly for the declassification of American documents.

Senator D'Amato.

**STATEMENT OF HON. ALFONSE M. D'AMATO, UNITED STATES  
SENATOR FROM THE STATE OF NEW YORK**

Senator D'AMATO. Mr. Chairman, thank you so very much. Let me commend you for holding these hearings and the manner which you are pursuing the trail of the money and ascertaining the facts, getting the facts, because that is an obligation that we have. We are privileged to have that opportunity and that obligation.

Little did I know back on December 7, 1995, when Edgar Bronfman, Israel Singer, Elan Steinberg, and World Jewish Congress people came to me that we would have come to this point.

In finding what I believe to be, if I might characterize it as the greatest robbery in the history of mankind, made even more dark and sinister as it related to the plundering of the assets of those people who turned them over and trusted them to the great fiduciary, to those who said, "Come to us and we will guarantee you by way of secrecy,"—secrecy—"no one will ever know that you have opened accounts here. You will be protected. Your families will be protected." And isn't it ironic that the very system that encouraged people to come and open accounts, the secrecy was then used to deny the people themselves, and their heirs, their legacy, their right? It was perverted, twisted, distorted. How dare for all these years hiding behind that curtain which was a curtain to protect the very people, the heirs and their families of those who opened those accounts against the governments who might persecute them and indeed had passed stringent laws against taking money out of their countries and depositing them in Swiss banks or any other institutions. That has been the canard over the years, a canard that exists until this very moment.

Hopefully today we have an encouraging announcement, and I am given some heart. I must say that Ambassador Borer, the special representative from Switzerland, has worked tirelessly in an attempt, I believe, to educate, to bring about a change in attitude with respect to his government and with respect, more importantly, to the powerful banking institutions that indeed, I believe, have an almost monopolistic, coercive total power stranglehold over the Swiss Government. They may not like that, but I'm not here to be a diplomat.

The fact of the matter is, when talking about diplomacy, we now see attacks upon everyone and anyone who dares come forward and point to the facts, which may be in some cases very, very, very distressing. And because they are distressing, because they talk about taking and the plundering of assets from homes, from national banks, from the death camps, gold watches and bracelets and eyeglass frames and the fillings from people's teeth, and the fact now that we have even traced that down to the smelting plants that smelted this "non-monetary gold." What a nice way of saying the gold that came from people's bodies from the death camps, we call it "non-monetary," because after all, we don't want to think about that. The fact of the matter is that now those who come forward find themselves ridiculed, find themselves being accused of being in the employ of the Jewish world, of some kind of conspiracy that the Jews of the world, or of America, or of New York, have created. Incredible.

One bold, courageous man who has done an incredible job and not allowed his integrity or the integrity of the Report that the President commissioned, finds himself under that kind of attack. And I want to tell you something. We owe a great deal to Ambassador Stuart Eizenstat for not having permitted the truth to be subverted from the altar of diplomacy. For it was diplomacy and the lack of this Nation, as well as our Allies, that contributed to this canard and the concealment of the facts for 50-plus years. It wasn't just the French and the English and the Swiss who were intransigent back in 1946 when they came to the Washington Accords and they divvied up the loot and the plunder and the monies

that had been taken from their national treasuries as the Nazi killing swept across Europe. It was this country as well.

Read the facts. Read the reports. We read the documents, the documents not only alluded to in Stuart Eizenstat's Report, but the actual documents which said that our own negotiators said they have closer to \$800 million, the equivalent of \$8 billion. After the Swiss Government said, "Well, we'll give you \$60 million," the equivalent of \$600 million, they waited six years, waiting us out, and wound up giving \$28 million. What happened to the rest of the money?

We hear about restitution; we hear about claims; we are going to X, we're going to Y, we're going to Z. We've got Paul Volcker, eminently qualified, looking in for lost accounts, and finally today I think he is going to make an announcement, an important one, an important step.

I spoke to Ambassador Borer, wrote to him, urged him many, many times: See if you can't get your government to put forth the report as it relates at least to those dormant accounts that still exist since 1945. Their response I believe is going to be a good one. But that's the tip of the iceberg.

Mr. Chairman, I'm going to ask that the full text of my remarks be placed in the record as if read in their entirety.

Chairman LEACH. Without objection, so ordered.

Senator D'AMATO. Because they are kind of boring.

[Laughter.]

Senator D'AMATO. But let me say this. You've got to follow them for the historians. Let them read the record. But the fact of the matter is if that Commission does not have the ability to look into all of those accounts that go back to that period of time—I think it's from 1943 to 1945—and not only look at the dormant accounts but the active accounts to see what took place, you're not going to find anything.

Many of these accounts were opened by middlemen, by lawyers on behalf of the various families. Not only Jews, Jews and non-Jews who saw the Nazi killing machine coming across Europe. So their lawyers opened them; their accountants opened them; and after they did not hear from these people for a period of time, what do you think they did, some in collusion with bankers, some on their own? Many of them obviously withdrew those monies. No more client. No more accountability.

So it becomes imperative to look into those accounts.

Now, we've been told about all these great promises and we are going to set up a \$4.7 billion fund. Isn't that nice? Isn't that nice? But, we are almost told that we are going set this up, but you have to keep quiet. Don't rock the boat. Because if you say anything that may rock the boat, if you ask for a further accounting, if you say we want to examine how it is that the Washington Accords came about, how much money was there really? Was this distribution proper and equitable? If you press to see where did the gold go, where did the other assets go, well, you are undermining the basic agreement that we are going to make these funds available to those who were victimized and to help those in need. If you do anything, then you are going to have a backlash, and a backlash in a way that would preclude this from taking place.



The fact of the matter is, Mr. Chairman, Mr. Blocher, our representative in Switzerland, has challenged this agreement. He has said repeatedly that it will not take place, that he is going to push for a referendum, and everyone knows that that is exactly what is going to take place. It will be a referendum in Switzerland. The likelihood of the Swiss people approving, in the climate that Blocher and company have and will create—and he will not let this go, even if we are quiet like little church mice over here—it will be defeated. There will be no payment of \$4.7 billion.

And so we will wait how many years? Two years? Three years? Four years? Mr. Bergier, the man who is going to make this great study, is on the board that receives its support from one of the great banking institutions. He sees no conflict. Mr. Bergier says, "We're going to have a report in two to three years." Now he says five to ten years. How many of us will be here, let alone the survivors, who are in their 70's, 80's? Did you ever hear of running out the clock? That's what this is, running out the clock.

Yes, we have a new attitude, an enlightened one. That's what we hear. We want the facts, and indeed we are going to protect those people who call for the facts. I'd like to get a copy of a little something to show the committee. The fact of the matter is we are not getting the facts.

I want to say that the State's Senate Banking Commissioner to Switzerland, in his investigation, revealed that the enormous accounts that were opened during the wartime between the three major banks, Swiss Bank Corp., Credit Suisse and Union Bank of Switzerland, that he was informed that the Swiss have no records whatsoever relating to their business in New York during that time. To quote Commissioner Levin, he says that it is "Difficult, if not impossible to accept." We still have some of those records in New York, but none in Switzerland.

Mr. Chairman, I think we have a situation where people say one thing and do another. Let me tell you about saying one thing and doing another.

The Swiss passed a law, and the law said that you cannot destroy historical documents or documents relating to that period of time. A young bank guard, Christophe Meili, came across the shredding of historical documents. I believe it was in January. He took a handful of those documents to the Jewish Historical Society and they then turned them over to the local police. They made no copies; they did not go to the press with them, nor did this young man ever go to the press.

Christophe Meili was suspended from his job. I made an inquiry on his behalf. After all, a law had been enacted that said these documents should be protected; there is going to be no destruction of records; we are going to get the facts.

I was assured no action would be taken. Local prosecutors would simply investigate to ascertain what was his motive, and so forth, what did he see? That is understandable.

Well, we come to learn that not only was he suspended, but he was terminated, fired, blackballed, and that indeed the ensuing publicity around this young bank guard who found this situation, who stumbled across it and who took these documents eventually that were turned over to the authorities, he did not reveal this in-

formation to the press. That indeed it was the local authorities, and it was the Union Bank itself, in an attempt to somehow cast him as a conspirator with others, with the Jewish community.

Let me tell you what has taken place. This young man has been threatened, coerced, received death threats. His children have been threatened with kidnap. He has not been able to get a job. He has been branded as a traitor, as a pariah.

What help did he receive from the local prosecutors? Just two weeks ago we were informed by his lawyer in Switzerland that he should not come back there, that the state prosecutor is threatening him with prosecution for the taking of these documents and revealing them. Imagine that.

Again, intent of the law. The same game that was played upon hundreds of thousands of people: "Come and open your numbered account." Secrecy. That law obviously was passed so that people would not destroy things, and there is obviously another law that says that you cannot reveal documents, and so forth, of this kind. Christophe didn't reveal them in any sense. Yet he is being threatened with prosecution.

What about the gentleman who ordered the destruction of those documents, documents that went back to the 1930's and 1940's, documents that talked about transactions and the forced sales of Jewish properties? What about the archivist who said he just destroyed these hundreds and hundreds of pounds of documents by accident that just so happened to be with respect to the forced sales of Jewish properties? Was he investigated? Was he threatened with prosecution? Was he forced to flee his country?

Mr. Chairman, sometimes we undertake things and they get tough and they get difficult and we find various pressures taking place. Ambassador Eizenstat now stands in some quarters accused of—I don't know what. Why? Because he had the courage to stand and not become the politician like usual, like so many of us who oftentimes succumb to the pressures of the day? Because he had the courage to say "These are the facts, the Swiss aided and abetted the Nazi killing machine," in terms of their banking and other things as well? How much longer was the war conducted as a result of that?

These are uncontroverted facts. They are there. They are in the record. They are ugly. They are disturbing. But then do we attack the person who found the information or those who come forward? In some cases it's almost funny.

Let me conclude by saying when I asked this 28-year-old young man, Christophe—and I had no idea what he was going to say—I was compelled to say, "Christophe, why did you do this?" He's not Jewish. "Why did you take these documents?"

Listen to what he said. He said, "Two months earlier, I saw 'Schindler's List' and I knew that I had to do something."

Mr. Chairman, we have an obligation to do more than just say, "Oh, how terrible that was," but to seek redress, to seek a full and proper accounting and to seek justice.

If Christophe Meili, a young man with little education, but a righteous person who had the courage to stand, and who is now an outcast in his own country and who is awaiting sanctuary, which I know that the House will give to him in passing legislation that

is now pending, an opportunity to raise his family here and support them and work in this country. If he had the courage to stand, then I would say that each and every one of us should be ennobled and empowered and inspired by his example.

I want to commend the Chair for holding these hearings, and more importantly, for pursuing the various avenues that must be pursued as a result of the facts that you continue to find and come to your attention.

Thank you for this opportunity, Mr. Chairman. I wish I could stay with you. I have a vote right now, they tell me, and they are trying to get me out of here.

On a lighter side, two of the representatives from Switzerland came and presented me with this little cartoon that appeared in a Swiss magazine. It's pretty good. There is a mother and a father, and here is a very frightened young man, and beads of perspiration are coming off his head. It says, "Eat your soup. Otherwise we are going to call Senator D'Amato."

[Laughter.]

I find that inspiring. I find some of the other charges that are made mean-spirited, nasty, but they will not dissuade us from doing that which we are called upon to do.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Alfonse M. D'Amato can be found on page 139 in the appendix.]

Chairman LEACH. Thank you, Senator. I assure you that on this side the legislation you have cited will, and will continue to receive support. If you need to leave—

Senator D'AMATO. Believe me, Mr. Chairman, I would love to stay. I probably missed the first vote. I think we have 40-some-odd stacked votes starting at 9:30 and they told me to get there by 9:50. So they probably have not held it open. I probably missed the first one.

Chairman LEACH. Thank you very much.

Senator D'AMATO. I thank the Chairman and I thank my colleagues.

Chairman LEACH. Thank you.

Mr. GUTIERREZ. Mr. Chairman.

Chairman LEACH. Yes.

Mr. GUTIERREZ. Senator D'Amato, I just want to say thank you.

Chairman LEACH. That's very appropriate and I appreciate that, Mr. Gutierrez.

Senator D'Amato mentioned the name of Neil Levin who is the Chairman of the New York State Commission on the Recovery of Holocaust Victims' Assets. We had hoped that Mr. Levin might be able to testify in person, but the press of business in New York has not allowed that to happen this afternoon. I would like to ask unanimous consent that the written statement of Mr. Levin be included in the record. Without objection, so ordered.

[The prepared statement of Mr. Neil Levin can be found on page 143 in the appendix.]

Chairman LEACH. I might point out that his statement does make an announcement regarding the creation of a new claims processing office to act as the voice of claimants in New York to the Swiss banks. It also raises some concerns with regard to the

accessibility of Swiss bank documents pertaining to Holocaust victims' accounts which may have been transferred to New York banks during the war.

I would also like to announce that the United States Ambassador to Switzerland, Madeleine Kunin, is with us today. We honor her presence. Ambassador Kunin is an extraordinary representative of the American people, having served as the governor of a State.

Ms. VELÁZQUEZ. Mr. Chairman, I ask unanimous consent that my opening statement be entered into the record.

Chairman LEACH. Without objection.

[The prepared opening statement of Hon. Nydia M. Velázquez can be found on page 135 in the appendix.]

Chairman LEACH. Our next witness is the distinguished former chairman of the Federal Reserve Board of the United States, Paul Volcker. Paul, we welcome you and look forward to your testimony.

**STATEMENT OF HON. PAUL A. VOLCKER, CHAIRMAN,  
INDEPENDENT COMMISSION OF EMINENT PERSONS.**

Mr. VOLCKER. Thank you, Mr. Chairman, Members of the committee. I first of all want to express my personal appreciation to you, Mr. Chairman, for arranging this hearing. In doing so, you have again provided a forum for clarifying issues and assessing progress in the international effort to reach final settlement of the important questions related to Nazi Germany persecution before and during World War II. My particular role today is to bring you up to date on the work of the Independent Committee of Eminent Persons and the latest developments in the effort to identify dormant accounts in Swiss banks that rightfully belong to victims of the Holocaust or refugees.

Before getting in to the substance of our work, however, I also want to especially acknowledge the impetus that Senator D'Amato has given to these efforts, as well as to other areas of investigation. In particular, he pointed out and emphasized some months ago the wisdom of publication of the names associated with dormant accounts in Swiss banks as one means of facilitating the recovery of these funds by the accountholders or their heirs. As I will relate in a few minutes, that approach has now been carried forward into a concrete plan for publication. In addition, special procedures are being established for matching accounts with claimants.

You may recall the Committee, the ICEP, was established last year by agreement between the World Jewish Restitution Organization and allied Jewish groups and the Swiss Banking Association. Each founding organization appointed three members and two alternates to the committee. Those members in turn invited me to become Chairman.

Late in 1996, the Committee started its work by appointing three large international accounting groups with substantial forensic capability to plan and conduct an investigative audit of all Swiss banks. The aim is to determine the existence of dormant and "heirless" accounts in Swiss banks that originated with refugees or persecuted persons before or during World War II. The search will include both deposit accounts and other funds or valuables placed in the banks for safekeeping, including accounts opened by Swiss nominees or intermediaries on behalf of persecuted persons.

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Considerable time has been spent in the planning for the detailed audits, as well as in dealing with perceived legal and financial risks to those conducting the audits. That phase is now concluding. Pilot audits now underway of a sample of five Swiss banks, including one of the three largest, a private bank, and cantonal and regional institutions. An additional five banks are also being audited specifically to assess and test document retention practices and policies, and to help assure relevant records are maintained. On the basis of this work, full scale audits will be undertaken of all relevant Swiss banks, beginning in the fall and probably extending through most or all of 1998. I expect hundreds of auditors will be drawn from the three firms involved.

All of this, as you will be aware, is quite unprecedented in terms of normal banking practices, and I think that is particularly so in the case of Switzerland that has, of course, been especially sensitive to the privacy of its banks. In recognition of the extraordinary circumstances surrounding our inquiry, we have had the cooperation of the Swiss banking authorities and the Swiss Banking Association, as well as of other Swiss officials. In particular, our investigation will have the full force of officially sanctioned audits and will be able to penetrate Swiss banking secrecy. As a result, there will be no legitimate place for the audited banks to hide from our investigation.

Your hearing is especially timely because just this morning in Berne the Swiss Federal Banking Commission has agreed to a framework for facilitating the reconciliation of claims against dormant accounts.

First, the names and addresses, when available, of all dormant accounts originating before 1945 in Swiss banks will be published. In the interest of assuring full disclosure, the account names will be revealed whether or not there is any presumption that the account is in fact related to Holocaust victims or other persecuted persons. We expect that there may be thousands of such dormant accounts, many of purely Swiss origin and of small amount.

Second, names will be added to the list as the audits sponsored by the ICEP identify such names. Our understanding is that refugee accounts may frequently have been in the name of a Swiss agent or nominee, presenting difficult problems of identification. Our auditors will be especially sensitive to the need to find evidence bearing on that question.

Third, entirely new arrangements to facilitate receiving and reconciling claims are being established. The account names will be widely circulated by paper and electronic means. Simple claim forms will be readily available. To deal with inquiries, contact points by means of 800 numbers or otherwise will be established in Israel, in New York, and elsewhere, as well as in Switzerland.

You mentioned earlier, Mr. Chairman, Mr. Levin has volunteered to work with us to make user-friendly facilities available in New York.

Claims already made through the Swiss Bank Ombudsman have already been placed in a database by our accountants and claims presented through Israeli authorities will also be processed.

The administrative resources of another large accounting firm will be called upon to assure that claim forms are widely distrib-



evidence that it's valid, and that will have a finality to it, even though technically there may be some risk that another claimant comes up later, and all the kinds of worries that lawyers worry about and bankers worry about. But I think we have a procedure that can produce results. The challenge will be to match up plausible claims with the existence of an account.

I will repeat what you said. I think the most difficult part of this whole thing is the extent to which nominees were used and the nominees may have, licitly or illicitly, drawn down the account, and how do you trace that 50 years later—or 40 years later, or 30 years later—if that's when they withdrew the account?

Chairman LEACH. I appreciate that. One follow-on question. There is a lot of concern that many of these records have been destroyed, particularly of closed accounts. Have you found that in your preliminary inquiry?

Mr. VOLCKER. I think we will find that. The pilot audits are designed to help elicit that and how can we get at that. I suspect the experience will be different in different banks.

As I understand it, Swiss law permits the destruction of an account ten years after it is closed. If the account is still dormant, still present, they shouldn't have destroyed records, but if in fact an account was closed 20 or 30 years ago, there is no requirement of law that the records be maintained.

We expect that some banks will have maintained the records. Other banks may not in any direct sense, and that is what we will find out. These banks would have moved from manual records to electronic records probably 20 years ago, and at that point it's possible that quite innocently some account records were not carried forward into the electronic means. If not, we will look to see whether there are any records anyplace that reflect these accounts. But it is a major challenge.

Chairman LEACH. Will you make efforts to extrapolate from one bank to another? For example, two similarly situated banks. One might have records and one might not. Does that imply that the one that might not may be liable for at least charitable giving—

Mr. VOLCKER. I think that is speculating into the future. We will obviously be able to draw inferences of that sort. I hope we have enough evidence to do that.

I might say we have commissioned another investigation from a quite different angle to look at what the wealth, and financial wealth in particular, was of the Jewish community in Germany and in some other countries to get some idea of how much money they might have had to place abroad in Swiss banks or other banks, and channels that they might have used to place those funds. This is all very difficult at this stage, but we are trying as many different angles as we can think of.

Chairman LEACH. I appreciate that, Mr. Volcker.

Mr. Vento.

Mr. VENTO. Thank you. I guess there is a whole question of expropriation of property beyond this in Germany and generally that had occurred. I don't know what the resolution of that is.

Mr. VOLCKER. That is not in our area. I want to make that clear.

Mr. VENTO. I understand that.

With regard to the Swiss bank accounts, the audit function that you are just now undergoing, and you suggest you are getting an extraordinary amount of cooperation and even the funding from the financial institutions, that will be concluded at some particular point. I have the feeling, Mr. Volcker, that we are going to go through this for a year, and I think there is sort of a sense that we would like to bring it to resolution. My guess would be that if they find significant numbers of shortfalls, that some will be perhaps satisfied at that particular point. My concern is that they will find very little and that then this particular audit will be somewhat discredited because it didn't produce what some had anticipated as the results.

In my judgment, there ought to be an open-ended process where they could plug into this audit. New information might be found in terms of records or books from other banks or from other individuals. Once this audit or this framework is in place, then information could or should be reconciled with the work that had been done with this—what I look at as sort of a baseline audit—for this particular purpose. This audit is not just a bank audit as such, but it has a specific purpose.

Could you articulate on the specific purpose of this and how it differs from some of the other audits and whether or not there would be a capacity to reconcile other information where we might be integrating information from, for instance, New York banks, or from other financial documentation?

Don't we have sale of accounts in Switzerland as we have here so that a bank that didn't exist could very well have purchased deposits and accounts from other institutions?

Mr. VOLCKER. It's complicated, because we have to trace the existence of particular banks during the pre-1945 period with banks that exist today. I would be surprised if many Swiss banks went out of business in the sense that their assets and liabilities were not sold or acquired by another bank. Some of them may have been in financial difficulty and some may have failed and passed out of existence.

Mr. VENTO. It makes sense then to look at all 400 banks. Even though some didn't exist, they may well have the assets and accounts.

Mr. VOLCKER. That has been part of the preliminary work. We have sorted through what banks existed then, or the accountants have, and what banks exist now; what happened to the banks that existed in 1945 but no longer exist now; which present bank would have taken over their assets and liabilities. Presumably the auditors have been asked to look at that, and I think they have pretty well sorted that out now. That will help guide audit priorities.

The more general question of getting information outside the audits of the banks, outside of going in the banks themselves is, of course, very relevant. Anybody can produce information. Our auditors are making inquiries and we have people other than the auditors making inquiries, which might cast some information on the flow of deposits and where it went.

The Swiss Historic Commission has legal authority to make investigations outside the banking system. We can make inquiries, but we don't have legal authority outside the banking system. They



have pledged repeatedly to work with us, and if we have particular areas that we want them to look into, I think they will do so.

Mr. VENTO. I kind of rattled off a lot of questions. The methodology, as you point out, in this audit is different. My concern, and I think the concern generally that will emerge here, is that after these audits are complete, will there be a framework where we can then take new information on that so-called baseline audit of this particular subject and proceed to reconcile that information?

Mr. VOLCKER. It may be premature to make that judgment. What I have assumed to this point is there will be unclaimed deposits; there will be other inferences to be drawn perhaps. This will give rise to some amount of funds, as I say in my statement, that will be available and can be held to satisfy Holocaust victims generally or those that are in particular need, or held for those who come up subsequently and have a legitimate claim on the deposits. I don't think we will leave this scene, so to speak, with no pool of money available.

Mr. VENTO. Or framework in order to resolve the discrepancies. I think that's the part I am most concerned about.

Mr. VOLCKER. At that point we can make a framework to further resolve it. We plan to work on some kind of a framework as to what to do with the presumed funds available then.

Mr. VENTO. In terms of developing accountability and some sort of discipline in this, I think the message should be that this isn't going to go away. I think that's the concern.

Mr. VOLCKER. In some sense I would like it to go away. I thought that was my purpose. Go away in the sense that we can be satisfied that the investigation of the banks 50 years after the fact is as complete as we can make it. So we stop the investigatory process in that sense, I hope, but that you have funds available to satisfy the kind of legitimate claim that arises afterwards.

Mr. VENTO. Mr. Chairman, thank you for permitting me to go on for a moment.

I think the issue is whether there are discrepancies. You do the audit, you have it, but if there are discrepancies with it, we should be building on that and saying if that is inaccurate, then there has to be a resolution or a reconciliation of that particular new information with that audit that has been done, and that has to proceed for some time, I think. In the absence of that, I think if you get done with the audits in 18 months, whatever the period of time is, then we are back where we were in 1946 again.

Mr. VOLCKER. We will see where we are 18 months from now. I don't know whether to worry about finding too few accounts or too many accounts or in between. All we are going to do is find everything we can find, and it's difficult.

Chairman LEACH. Thank you, Mr. Vento.

Mr. McCollum.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

It is always good to have you back here, Mr. Volcker.

Mr. VOLCKER. Thank you.

Mr. MCCOLLUM. I remember when you appeared regularly up here on other subject matters.

Mr. VOLCKER. On uncontroversial subjects?

Mr. MCCOLLUM. Absolutely. Never a controversy at the Fed.

I just wanted to get you to respond to a couple of the criticisms Senator D'Amato had leveled. You already have with respect to the question of the middlemen and the non-dormant accounts, but he suggests that perhaps the audit timetable is much longer than it need be, that the pilot audit is already indicative of how slow the start is, and he asked the question in his testimony as to whether the current target completion date of 1998 is realistic. Is that realistic? Is that indeed what the target is?

Mr. VOLCKER. The target is certainly 1998. If anybody has been concerned about the length of time this process takes, it's me. It's a little longer than I counted on in undertaking this assignment, and it is a reflection of how complicated it is, how many legal, practical, financial questions arise that have, among other things, concerned the accountants.

In terms of the general speed of it, we have, as you know, hired three of the Big Six accounting firms in the world. We did that partly to make sure that we have enough resources, partly to avoid conflicts of interest. But we are going to have hundreds of auditors crawling through these banks, and I don't know if we can do more than that.

There is a certain amount of forensic accounting experience in the world. It's a little more now than it was a few years ago, before we had enough banking problems that gave rise to more need for forensic accounting. We interviewed all the accounting firms. We picked some. They all made good presentations. We picked the ones that we thought were prepared to go ahead with the maximum forensic capability. We got half of the universe.

Mr. MCCOLLUM. Let me ask you this. Is there any reason to believe that with the complexity of this and the fact that you are now looking at these non-dormant accounts, the middlemen, and the nominees, if you will, that it might take longer than 1998 to complete this audit?

Mr. VOLCKER. A lot of people think when I say 1998 that I am being optimistic, but I want to be optimistic. I think with the amount of manpower that these firms can put on the job we ought to be able to do it in 1998. I first thought maybe the middle of 1998.

I think in the end the answer is going to depend upon how complicated it is. I know it's complicated, but how complicated we don't know. If we've got to go back and reconstruct some hidden records, search out records that might not have been destroyed when other records were destroyed in major banks, it's going to take time.

Mr. MCCOLLUM. Let me ask you the other criticism that is not directly with respect to you and your effort. Senator D'Amato suggests the Historical Commission that the Swiss have set up is scheduled now to take five to ten years to complete. He said originally it was only supposed to take two to three. Is it disturbing to you that they would take five to ten years to complete?

Mr. VOLCKER. I certainly wish they could go faster. They have an enormously wide mandate. It is a commission heavily weighted, maybe entirely, with historians that are used to moving with great care.

What I really hope, and I speak from my committee's little part in it, is when we have some need to, in effect, call upon their help

in areas where we don't have direct authority but it's relevant that they will be able to marshal resources to work with us as promptly as possible. That hasn't been tested yet, but they have reassured me repeatedly that they would welcome inquiries from us as to how they could help. So we will be making some.

Mr. MCCOLLUM. I want to thank you again for what you are doing. It does seem strange not to be asking you about interest rates or something. It's nice to have you here.

Mr. VOLCKER. I don't know anything about them.

[Laughter.]

Chairman LEACH. Thank you, Mr. Volcker. We hope you once did.

Mr. Kennedy.

Mr. KENNEDY. Thank you. Welcome again, Mr. Volcker.

I want to try to get a better understanding of your sense of the motivations of these institutions that potentially participated in what appears to be a coverup of where this money went. I would like your sense of whether or not there was an attempt by the banks in particular to essentially steal this money.

If that is the case, what leads you to believe that with the kind of modernization of banking records that somebody couldn't just push a couple of buttons, knowing that you or some other organization are coming down the pike here and going to be investigating them, and just punch out all of the data and eliminate the records? Who potentially has used this money over the course of the last 30 to 50 years and who would stand to lose if, in fact, you find these funds?

Mr. VOLCKER. The kind of suspicions that you are expressing, which I have no evidence for one way or another, would of course be gross violation of, I'm sure, Swiss law, and it would certainly be violation of American law and any sound banking practice. These various institutions range from being in a state of shock where they can't contemplate that kind of accusation, how they would ever be involved in that kind of thing, to a desire to get this behind them and encourage the investigation to develop whatever facts we can develop. So there is a whole range of reactions and emotions involved.

The fact is, by law and I'm sure by much institutional practice, you don't maintain records of closed accounts indefinitely. Repeating what came up earlier, I think our major problem will be finding accounts that should be there that aren't there that may not have been stolen, to use your word, by the bank itself, but by a nominee.

Mr. KENNEDY. I appreciate that. I just want to deal with making certain that the scope of your investigation is going to cover all possible motivations here. I'm just trying to suggest to you that if we go into this thinking that every banker that we meet is a fine upstanding individual who is just shocked and dismayed over the fact that they might have found there might have been \$8 billion stuck in their accounts that they didn't know about, it seems to me that we are not covering at least some of the issues that you certainly testified in this committee before, Mr. Volcker.

Mr. VOLCKER. We will not go on any presumption that a feeling of shock will deter us from the investigation. We certainly will look at all those avenues. When you use the figure of \$8 billion, I think

the total size of the Swiss banking system in 1945 or 1940 was \$5 billion.

Mr. KENNEDY. I was using the figure that Senator D'Amato used. I think he was just updating in terms of the present value of that.

Mr. VOLCKER. He was talking about gold.

Mr. KENNEDY. I don't want to get into an issue of whether it's \$4 billion or \$8 billion, or whatever it is. I think the point is that there is at least the potential that someone other than just individuals that were representing the Jewish families that ended up having these losses used those funds. I don't know whether it was the institutions. I have no idea. All I am trying to suggest to you is the fact that there is an opportunity here that somebody was using these funds in a way that was tantamount to just outright stealing them. I'd like to hear what your sense is of the various different opportunities that people had and that you are going to anticipate investigating in terms of what the ICEP would be taking on.

Mr. VOLCKER. I assure you we are aware of those kinds of possibilities and it is one of the things we will look for. If a branch manager closed an account somehow and pocketed the money—

Mr. KENNEDY. What about the owners of the banks? I don't know, Mr. Volcker. I'm just asking the questions. I'm just trying to understand what could happen.

Mr. VOLCKER. The owners of the banks are varied. If there was a concerted effort, cooperative effort to close these accounts and pocket the money, I'm sure we will find it, but I don't think it's that simple. The question would be whether some individuals in some banks some of the time took advantage of easy pickings that they saw and dealt with some of these accounts. It's difficult to find that kind of thing, but it's the kind of thing we are looking for. Ideally we would have a record of all the bank accounts opened during this period and try to trace what happened to them. I'm not sure how many banks will have records that are that complete.

Mr. KENNEDY. In conclusion, what I am trying to suggest is that there would be a way to set up this investigation where you are trying to find individual accounts and you are trying to basically do an audit that says these individuals were representing the Jewish families that were pillaged during the conflict and during the war. There is another set of circumstances that raises the possibility that these funds were accumulated institutionally. It seems to me that it is an issue that we ought to at least have our eyes open to and be making certain, as best you can, that there wasn't something more sinister in the sense of having a coordinated attempt to try to actually take these funds. That's a lot of money.

Mr. VOLCKER. We don't know how much money it is. That's what we will try to find out. The kind of possibilities you suggest are why we have hundreds of auditors looking at this thing. I think they are well aware and we keep telling them they are not just accountants; they are detectives. We use this fancy word "forensic." But they are investigators, and that is what they are supposed to be investigating.

Mr. KENNEDY. Thank you, Mr. Chairman.

Chairman LEACH. Thank you, Mr. Kennedy.

Mr. Bachus.

Mr. BACHUS. Thank you.

Chairman Volcker, I'm trying to determine in my mind how much money there was in Swiss banks at the end of the war in German assets, or Nazi gold, or whatever. I've read varying accounts. I know the Allies at one time estimated between \$185 million and \$289 million. The German records seem to indicate as much as \$400 million was transferred to Switzerland. Am I correct in saying that when we first inquired as to the Swiss, the Allies after the war, they denied that any assets at all were deposited and then admitted some?

Mr. VOLCKER. I don't think they ever denied they had some assets. I think you are referring to a different aspect of this whole situation that we are not directly involved in. We are concerned with the assets of the refugees themselves, that they voluntarily put, one way or another, in safekeeping in Swiss banks. There is a whole other set of problems involved with what are generally called "looted assets."

Mr. BACHUS. Let's talk about that a minute. The Swiss and the Allies made an agreement in 1946 that those would be returned.

Mr. VOLCKER. That dealt with largely looted assets and other assets that Germany had in Switzerland, yes. That did not deal with dormant accounts, which is our concern.

Mr. BACHUS. They were to return 50 percent of that amount. At that time they returned \$58 million.

Mr. VOLCKER. There are people here who are more expert in those negotiations than I.

Chairman LEACH. Will the gentleman yield briefly? Mr. Eizenstat, who has reviewed some of this, will be testifying later. In addition, we have one of the original negotiators for the United States, Mr. Rubin, on a later panel.

Mr. BACHUS. From reading it, it appears fairly obvious that there are several hundred million dollars of unaccounted for funds. Would you agree?

Mr. VOLCKER. There were discrepancies in the accounting, without doubt. The amount at this stage with further investigation, I really would refer you to Mr. Eizenstat. That was the principal focus of his investigation.

Mr. BACHUS. You've hired accounting firms to go in and audit the Swiss banks. These accounting firms have employment agreements today with the Swiss banks; is that correct?

Mr. VOLCKER. Some of them do, some of them don't. Well, I guess they all have some accounts with Swiss banks, but in varying degrees of intensity. That is part of the reason we have three, so that people are not auditing for this purpose banks that they would audit in the ordinary course of their business.

Mr. BACHUS. You don't have accounting firms that are employed by banks auditing those same banks?

Mr. VOLCKER. I am told recently that there are so many auditing or consulting arrangements—we are only dealing with basically six worldwide firms that are capable of doing this, and there are a variety of arrangements with Swiss banks—that I only promise to avoid that kind of conflict to the maximum degree. I won't promise you that some bank is not audited by some firm that may at one point have had some relationship with it, but by and large we are trying to avoid that.

Mr. BACHUS. You mentioned that we will need specialized detective work when you are talking about tracking these accounts down, and you mentioned the word "forensic." Are these firms and the auditors which go into these banks going to be trained in forensic science?

Mr. VOLCKER. Certainly the people who are managing the audit will be experienced forensic accountants. I can't tell you that of all the hundreds who are actually doing some of the grunt work in the banks. I don't know, but they will be very carefully—it's part of what is taking so much time—developing the framework for the audit. They will be operating under the direction and control of senior people in those firms who are directly responsible for forensic work and are experienced in forensic work.

Mr. BACHUS. There is an appreciation that if they are not skilled in forensic science they are going to be very limited in what they can find?

Mr. VOLCKER. All I am simply saying is that I don't think a lack of forensic knowledge is going to limit this investigation. The people directing the investigation, reviewing the work, assigning the auditors to particular banks, working with those auditors, are going to be experienced forensic accountants.

Mr. BACHUS. This isn't the usual job of an auditor, to go back and reconstruct?

Mr. VOLCKER. Historically not, but they have increasingly in recent years gotten into—not exactly this problem, but they have had a certain amount of experience with BCCI, for instance.

Mr. BACHUS. But this is called forensic accounting?

Mr. VOLCKER. It is forensic accounting, no doubt.

Mr. BACHUS. I just wanted some assurance from you that these auditors will be skilled in forensic science.

Mr. VOLCKER. They are as skilled as we could find. That was a major criteria by which we chose them.

Mr. BACHUS. In general, how would you characterize the Swiss reaction to your investigation?

Mr. VOLCKER. To say they are pleased would be an overstatement, although as I said, some of the banks say, "We're clean, we have nothing to hide, the quicker you come and investigate us, the happier we will be," to, in effect, get a Seal of Good Housekeeping. I don't know whether all those managers know what happened 50 years ago, but we will examine them closely anyway. There is a certain amount of disbelief that their honesty and probity are being challenged in many cases. I suppose you can understand that, and it leads to a certain amount of resistance.

Mr. BACHUS. Can they understand that in 1946 they weren't forthcoming and in 1962 they weren't forthcoming?

Mr. VOLCKER. I think all I can say is some yes, and some no.

Mr. BACHUS. Thank you.

Chairman LEACH. Thank you, Mr. Bachus.

Mr. Bentsen.

Mr. BENTSEN. Thank you, Mr. Chairman.

First of all, Mr. Volcker, let me say I appreciate the fact that you have undertaken this assignment that I'm sure cuts into your work you do in the private sector. It gives me a great deal of comfort

Mr. BENTSEN. It's a horrible problem. It's a horrible situation to begin with, this sort of dirty little secret that has come out. What you have to deal with, I have a great deal of sympathy with how you are going to define this. On the one hand, you are right. People are going back generations trying to develop a historical line. At the same time there has got to be some fear of those who may come in and try and defraud what is otherwise trying to correct a terrible situation.

Mr. VOLCKER. Let me emphasize we will set up some kind of facility for receiving this information. If somebody knows something about the channels by which this money was deposited, or if somebody thinks they know that a bank was cheating or an intermediary was cheating, they could tell us. But if they want to tell us just innocently that they know that their family or other families were using Mr. X as an intermediary, that would be extremely valuable information to us, because then we can trace down Mr. X's name in all these accounts, whether or not they still exist. We really would encourage people that have some real information about who the intermediaries might have been to come forward.

Mr. BENTSEN. In your press release, if I'm correct, you said a 6-month time period in which claims may be filed. I appreciate that you want to move this quickly. Is there a concern that that may not be long enough? After this terrible war people are spread across the world. You are talking about many generations. Families were split apart. Do you think that's enough time to disseminate the information worldwide?

Mr. VOLCKER. That's obviously a very valid question and one we have wondered about. I don't remember the exact language of the press release. I think it's obviously a relevant question. I think we do mention here that there might be some extraordinary procedure after the six months. As Mr. Vento raised too, people coming in and having a perfectly legitimate case, missed the deadline for reasonable reasons, there ought to be some way of taking care of that. Mr. Bradfield, who has done enormous work here singlehandedly as the only staff of this committee, says specifically the language is "provision should be made as a matter of equity for honoring meritorious cases of claims filed out of time or other situations requiring an equitable result."

Mr. BENTSEN. Thank you. Thank you, Mr. Chairman.

Chairman LEACH. Thank you, Mr. Bentsen.

For the last questioning of Mr. Volcker, Mr. Fox.

Mr. FOX. Thank you, Mr. Chairman.

Chairman Volcker, thank you for joining us today and for your leadership. Acknowledging that there is no representation from the Swiss Banking Association here today, and that the Swiss Banking Association needs to answer these questions as well, from your perspective do you find the Swiss Banking Association has made good, or is substantially in the process thereof, on its pledges to this committee in December, 1996?

The pledges made by the Chairman of the Swiss Banking Association were as follows:



that you are involved in this and I would imagine gives a number of Members of this panel a great deal of comfort.

To be clear, the ICEP's role is strictly to deal with the dormant accounts and not with the question of looted gold and others?

Mr. VOLCKER. That is correct. If we in the course of these intensive audits come across some evidence of malfeasance or misfeasance in other directions, including looted gold or looted other assets, we then will cooperate with the Swiss Historical Commission where that directly comes under their mandate and say, "Look, we found something here you may want to look into further," and give them what information we have. But our mandate is directed toward dormant accounts.

Mr. BENTSEN. This is not where I was going, but having said that, is it conceivable with the audits that you all are undertaking that you would be in a position to find evidence of deposits and how they were used and to address some of the issues raised in the Eizenstat Report? Or are your audits strictly tracking the dormant accounts?

Mr. VOLCKER. Our audits are directed toward dormant accounts. We might incidentally run across something. The Eizenstat Report was very heavily involved in gold. I don't think those banks were active in the gold market at that point, but I can't say that with full assurance either. I'm sure if we ran across something that seemed relevant, we would report it.

Mr. BENTSEN. In your testimony you state, "the international panel will be authorized to definitively and equitably decide claims operating under liberal rules of evidence." Can you expand upon that?

Obviously the banks are going back 50 years, at a time when things were done mostly on paper. You said the various Swiss banking laws probably don't require, or didn't require, that records be kept past a certain period of time. In addition, when you are dealing with agents and nominees who may or may no longer exist and their files no longer exist, how do you put that together?

Mr. VOLCKER. I can't tell you with specificity what those rules will be. That will be the first thing that this tribunal will have to decide upon. In the extreme, it is easy to say people are not going to have to produce death certificates and that kind of thing, or conclusive evidence of death, or absolutely conclusive evidence that they were the heirs. They are going to have to make a plausible case. They just can't walk in and say "Someplace in a Swiss bank we think we have a deposit of some unknown name from some unknown place." I think the rule is going to have to provide a little more substance.

We are going to list all the names. We will list the names and different spellings, I understand. That's a tricky thing too. If somebody comes in and says, "Look, that is my name or that is the name of my father or mother or whatever, and you have the address and that's where we used to live," that's pretty conclusive in my mind in terms of the relaxed standards. That assumes you have an address or you have a city or you have a bank. If you have some evidence of the name of the bank and the name of an account, that it is going pretty far.



To resolve in an open, equitable and professional manner all outstanding questions regarding any assets held in Swiss banks that may have belonged to Holocaust victims;

To support and cooperate with the Volcker Commission;

To provide the Volcker Commission auditors will full access to all relevant information;

To consider the results of the Volcker Commission conclusive;

To support the work of the Swiss Bankers Ombudsman;

And to distribute, finally, all assets that could have belonged to Holocaust victims to either the rightful heirs or to an appropriate charity.

Mr. VOLCKER. Yes. I think generally that has been reflected in their cooperation.

Having said that, I don't want to underestimate the difficulty psychologically that the Swiss have in kind of a sense of disbelief about some of this and the kind of offended sensitivity of many people, which maybe is understandable, which, when you get into the details, requires a lot of work and negotiation.

You did mention there the Swiss ombudsman. That facility has been in place for some time, but I think the fact of the matter is—and this is no criticism of the gentleman himself—the process lost credibility, and it was a process of the Swiss Banking Association. So we felt it was very important, and they finally agreed, to set up a process that did not involve the ombudsman for this final resolution.

However meritorious he was or the procedure was, we wanted something that was clearly acceptable to the Jewish groups and general public opinion in terms of credibility. Understandably, that kind of thing is a little hard for them to understand. They thought it was a legitimate, reasonable approach, but in the end they agreed. That kind of problem you run into all the time, and it reflects a difference in perception. But the basic cooperation is there.

Mr. FOX. Wasn't there a duty by the Swiss Government or Swiss banks to come forth earlier with evidence of this misappropriation?

Mr. VOLCKER. Earlier than the events of 1995 or 1996?

Mr. FOX. Right.

Mr. VOLCKER. Maybe so, but I think this probably hit them out of the blue. They thought this had all been taken care of a long time ago and there was no particular event prior to that that I know of that kind of forced response. One of the questions that I and other people have is, why has it come up now, 50 years later? I think there are reasons for that, but I don't think the Swiss expected it to come up and they hadn't been thinking about it.

Mr. FOX. I appreciate your leadership in helping us get to the bottom of it. Thank you.

Mr. VOLCKER. Thank you.

Thank you, Mr. Chairman.

Chairman LEACH. Thank you, Mr. Volcker.

Our next witness will be Stuart Eizenstat. Stuart, I apologize. This is a day of potentially a large number of votes on the floor and the committee is obligated to recess pending the vote.

The hearing is in recess.

[Recess.]

Chairman LEACH. The hearing will come to order again.

Our next witness is Under Secretary of State Stuart Eizenstat. In the fall of 1996, Under Secretary Eizenstat was asked by the President to coordinate a review of the United States and Allied efforts to recover and restore gold and other assets stolen or hidden by Germany during World War II. His report, based on official U.S. documents, many declassified for the first time, was released in May. As those of us who have read it with care understand, this was a very thoughtful endeavor. We are all in your debt, Stuart. Please proceed as you will.

**STATEMENT OF HON. STUART EIZENSTAT, UNDER SECRETARY OF STATE FOR ECONOMIC, BUSINESS AND AGRICULTURAL AFFAIRS**

Ambassador EIZENSTAT. Thank you, Mr. Chairman. If may just for a moment recognize the presence behind me of our very fine Ambassador to Switzerland, Madeleine Kunin; and Dr. William Slany, who is the real hero of our Report. His patience and his wisdom and his judgment and his insistence on finding the truth as we went through literally millions of pages of documents was an inspiration to all of us, and I think too often, Mr. Chairman, the people who really do the work don't get the credit they deserve.

For the record, I would like to have both my full statement submitted and a statement by Dr. Slany, the chief historian who directed the report submitted.

Chairman LEACH. Without objection, so ordered.

[The prepared statement of Dr. William Z. Slany can be found on page 165 in the appendix.]

Ambassador EIZENSTAT. I would like to thank you for your personal leadership and your personal interest and that of the committee permitting me to testify on this important and frankly agonizing set of issues.

I want to express my appreciation for the committee's efforts to encourage us to establish the facts surrounding what is commonly referred to in shorthand as "Nazi Gold." I am especially appreciative of your personal efforts, Mr. Chairman, as well as those of Senator D'Amato, to encourage steps which will bring a measure of justice and compensation to surviving victims of the Holocaust and achieve as complete a reconciliation as we can within and among the countries involved in the tragic events of the Second World War.

Our common goal is the pursuit of justice and reconciliation. This is one fully shared by the President, and that's why he asked me to undertake this study.

The findings of the Report are well known. Instead of reviewing them, I would like to focus on the significant progress that has been made in the past six months on the further steps that are now being taken to assure justice for Holocaust victims and as a perpetuation of their memory and a more complete understanding of the lessons to be drawn from our report. I view this in a way as a sort of 6-month report to you and the committee, Mr. Chairman, because it has been that amount of time since I last testified before you.

Let me begin by calling attention to the many positive steps taken in recent months by the Swiss Government and by the Swiss

private sector. To review their past actions and to compensate Holocaust victims, Switzerland intends to publish its first interim historical report by December.

Consistent with their tradition of humanitarian action and their commitment to restitution, the Swiss have established two funds to assist victims of genocide and catastrophes.

The smaller Special Holocaust Fund is made up of private and public sector contributions and pledges now totaling \$185 million dollars. Seventy million of that total has been pledged by the Swiss National Bank and will therefore require legislative approval. We are told that the Swiss Parliament may take this matter up in its September session.

It is our hope, Mr. Chairman and Members of the committee, that this private sector Special Holocaust Fund will be substantially augmented and bolstered by contributions from the Swiss private sector.

The larger fund, the proposed Solidarity Fund, would be an endowment of over \$4.7 billion from the revaluation of gold reserves, which would then throw off interest of about \$200 million each year, money that we hope will go to needy victims of humanitarian crises, including Holocaust survivors. This will require legislative approval and may be subject to a referendum in Switzerland.

In addition, there are also private sector funds of a smaller nature which have been established on the initiative of concerned Swiss citizens, from students to members of the Parliament. I met one of the parliamentarians who has established that fund, a senator. These are, frankly, enormously inspiring acts of generosity. Kids are giving in school to these funds. They demonstrate the very best in the long tradition of the Swiss people's sensitivity to suffering.

Let me also commend the special and excellent work of the independent Volcker Commission established by the Swiss Banking Association in cooperation with the World Jewish Congress, whose work—Israel Singer is here—has been seminal. We would not be here today without the work of the World Jewish Congress. Paul Volcker has made an important announcement on a comprehensive claims resolution process for dormant accounts in Switzerland. We believe that this will help make it possible for survivors and their heirs to claim their rightful assets in Swiss banks, and it is yet another positive development.

Before I turn to other positive developments in the last six months, I want to comment on what I understand to be the current political atmosphere in Switzerland as it bears on these issues. Recent public opinion polls in Switzerland show a decline among Swiss voters for the Solidarity Fund, a fund which would be so much in Switzerland's humanitarian tradition, compared to earlier this year when it was first courageously announced by the Swiss Federal Council. Swiss voters are understandably concerned about whether such Swiss endeavors are appreciated and whether they can lead to closure within a reasonable period of time on these issues.

There is a great misperception, not unrelated to the statements of some Swiss public officials and the Swiss press, that somehow Switzerland has been unfairly singled out for criticism by the Unit-

ed States and world opinion. Nothing could be further from the truth. President Koller of Switzerland himself called for a "merciless search for the truth." It should not be surprising that these and other issues are being so vigorously debated right now in Switzerland.

Let me emphasize, Mr. Chairman and Members of the committee, that our report focused not only on Switzerland, and in particular its actions after the war, but on all neutrals—Sweden, Portugal, Spain, Turkey. Our report also recognized, I think in a very specific and objective way, the limitations of American, British and French leadership after the war with respect to recovering looted Nazi gold and other German assets.

This kind of debate we know is not easy for Switzerland or any other country to undertake, on these or on any other traumatic period or incident in its history, especially on periods or incidents that reopen old wounds and raise new questions that touch on a nation's whole self-image.

Country after country, however, Mr. Chairman and Members of the committee, is reexamining its past, from the reborn democracies of Central and Eastern Europe reviewing the excesses of their Communist past to Australia with its review of its treatment of its aboriginal population; from South Africa's new Truth Commission looking at its apartheid era, to the United States which seems constantly to be critiquing our own past conduct. It's a healing process for a country to go through.

Our country has faced difficult facts and enduring legacies which we have been late to confront. It took us decades to come to grips with the way we treated Japanese-Americans whom our own Government placed in internment camps after Pearl Harbor. It wasn't until the beginning of this very decade that you in the Congress authorized the payment of \$20,000 for each eligible individual to deal with this injustice. Even more recently we learned the full dimensions of the so-called "Tuskegee Experiments" on African Americans in the 1950's, and only last month, President Clinton apologized on behalf of the entire Nation to those who were left untreated.

It is in this context that Switzerland's current soul-searching should be seen by Americans and others around the world. We hope that Switzerland will demonstrate the courage to take on these kinds of excruciating issues, as it is beginning to do in the full glare of the world's attention.

We have done our best to analyze from United States documents, in an admittedly preliminary and incomplete way, the United States, Allied and neutral positions with regard to Nazi gold, the express mission President Clinton gave us. It is now up to the Swiss and other neutrals, in ways they choose, to come to terms with their own conclusions about their role in World War II by objectively analyzing their past and by drawing lessons from it for the future. Nothing, nothing is more important.

We are confident that Switzerland's robust democracy will ensure a full national debate that will lead the Swiss people in their own way to face their past honestly and make difficult choices, and we believe, Mr. Chairman, that the other neutrals and other countries

who are going through their own self-examination will likewise engage in a similar open debate.

Let me comment very briefly on several other positive steps that other countries have taken since I last appeared before you. In the wake of British and American historical studies—and the British study deserves great credit; the director of that will be testifying later—not only Switzerland, but nine other countries—this is remarkable—nine other countries: Argentina, Belgium, Brazil, France, the Netherlands, Norway, Portugal, Spain, and Sweden—have all recognized the importance of refocusing on this period and have set up their own historical commissions which will review some important aspects of their relationship with Nazi Germany, either as victim or commercial trader, with regard to looted assets. As they come to terms with their own history, these countries will contribute to the positive healing process that I hope will gather momentum.

Let me say that the Swiss have set an important example. They are not only looking at looted assets through the Bergier Commission, but their entire relationship with Nazi Germany, and we hope that the other neutrals will do likewise and not just focus on gold, but their whole relationship.

Next let me turn to the efforts underway on the part of the United States and our World War II Allies, Britain in particular.

Britain and the United States have agreed to work together to hold an international conference of historians to deepen our understanding of these issues, both during and after the war. France also has expressed support for the conference, as has Switzerland.

Britain will host the conference later this year in London, and we are working together to develop a program that in the words of Secretary Albright and British Foreign Secretary Robin Cook, “would allow interested parties and governments to establish a common understanding of the facts surrounding Nazi misappropriation of assets.” The conference would also pave, in their words, “the way to a resolution of the overall problem that reconciles the legitimate interests of all the victims of Nazism.” We hope the maximum number of countries will participate in this conference and share the information they have available.

While much has been accomplished, Mr. Chairman and Members of the committee, much more needs to be done if the surviving victims of Nazi persecution are to gain justice, particularly the “double victims” residing in Central and Eastern Europe who have gone through Nazism and communism and remain largely uncompensated. Time and their life is running out. Many of the survivors are very elderly. They will never benefit from our efforts unless governments move forward immediately to provide justice.

The Administration is calling for the speedy final distribution of the remaining gold held by the Tripartite Gold Commission, the body established by the U.S., Britain and France following the Second World War, to restore the gold looted from the central banks of countries occupied by Nazi Germany. Some \$70 million remains in this gold pool for distribution to 15 claimant countries. We favor asking those 15 claimant countries to make available a substantial portion of the remaining monies for Holocaust survivors, particu-

larly the "double victims," and for other purposes such as education.

The Commission's gold pool was intended to be made up of purely monetary gold to be returned after the war to the governments from whom it was taken. However, as demonstrated in our report, the Commission's gold pool was tainted by inclusion of some non-monetary gold taken from individual victims and re-smelted into gold bars indistinguishable in appearance from the monetary gold bars looted from central banks. Voluntary action would avoid the extraordinarily difficult task of reaching a consensus among all claimant countries through renegotiation of the 1946 Paris Reparations Agreement.

We hope in the coming weeks to reach an agreement with the United Kingdom and France on how TGC governments will approach this issue.

Mr. Chairman, in the interest of time, I will not describe in detail other progress, but permit me just to conclude very briefly.

We are focusing on ways to do a better job of accounting for the disposition of heirless assets in banks located here in the United States since unclaimed accounts generally reverted to the States after the war.

We are working closely with Germany on the question of the double victims in Central and Eastern Europe who have largely again been uncompensated.

We are working and making important progress in seeing the State of New York searching for dormant accounts—and we want to applaud them for that work—in branches of Swiss banks in New York during the war.

We are examining what position, if any, the Administration should take with respect to the class action suits pending in the U.S. District Court for the Eastern District of New York.

Let me add, Mr. Chairman, my view that efforts by a variety of State and local officials around the United States, however well intentioned, to impose various economic sanctions on Swiss banks or other Swiss institutions are inappropriate and counterproductive, particularly given the initial positive steps the Government of Switzerland has taken in recent months. These would only complicate our ability to develop a healing and reconciliation process, hurt the United States, as well as Swiss, economic interests, and increase strains in U.S.-Swiss relations.

Finally, let me mention one area of action for you and the Congress, if I may. This committee may wish to review the decisions that Congress made in the 1950's and 1960's on the disposition of German assets seized and subsequently vested by the United States during World War II. Congress provided for a lump sum settlement of only \$500,000, although a substantial amount of seized German assets in the United States were owned by Holocaust victims.

As Seymour Rubin, the deputy chief negotiator of the 1946 Allied-Swiss Agreement, recommended in a letter to me, this \$500,000 sum is inadequate and should be increased. U.S. war claims, as legitimate as they were, should not have been satisfied out of properties vested as German, but actually belonging to the victims of the Holocaust.

Our task now is to maintain the momentum from our Report, and especially the positive steps taken by Switzerland and other then-neutral governments in recent months. Ultimately, I believe that we will all be judged not so much by the inaction or action of the United States, of our Allies, and of neutral countries in a previous generation, but rather by our own generation's willingness to face the past honestly, to right the wrongs as best we can years later, and to deal with the suffering of the victims of this century's most traumatic events.

I want to conclude my testimony by thanking you and the entire committee once again not only for holding this hearing, but for helping to focus our own efforts on the concrete steps that we all hope will be taken in the coming months. I have no doubt that the progress I have reported to you is in significant part a result of your efforts and those of Senator D'Amato in continuing your interest in this matter.

[The prepared statement of Hon. Stuart E. Eizenstat can be found on page 156 in the appendix.]

Chairman LEACH. Thank you, Mr. Eizenstat, for a particularly thoughtful presentation.

I would like to probe again your suggestion that is tied to the suggestion of Mr. Rubin, who our committee has talked with as well and who will be testifying later. The Congress did cut back initial recommendations in the early years from, I believe, \$3 million to \$500,000. Do you visualize this as public accountability or private bank accountability?

Ambassador EIZENSTAT. I think that is a good question. I think that it is both. I think that private banks, particularly through the efforts that Governor Pataki and the controller are making, which again I wish to commend, will deal with the issue of private bank responsibility. This was an appropriated amount by the U.S. Congress as a public responsibility, and I would view this part of it as part of a public responsibility by the United States.

Chairman LEACH. You recommend that the State governments pursue the issue of heirless assets that may have been in the United States. But, isn't there a Federal responsibility here too? We have certain banks that are overseen by Federal, instead of State, regulatory authorities, and partly because the United States itself took command of these assets. How do you differentiate between those two responsibilities?

Ambassador EIZENSTAT. I agree with you fully. It is a combined Federal and State responsibility. We mention the States because it was generally the practice that accounts which were unclaimed after the war in whatever State, under State law reverted to the State in which they were located.

Frankly, it is unclear the extent to which heirless assets of Holocaust victims may have been claimed by those States or whether these assets were turned over to organizations for the benefit of surviving victims of Nazi oppression. We think it would be very useful if each and every State went through the kind of examination New York State has done.

But you are quite right. That wouldn't be the end of it, because you as Chairman of this committee, the Banking Committee, and the Members of this committee have a jurisdictional responsibility



over Federal banks, albeit located, of course, around the 50 States. So I think it would be a dual responsibility and I frankly think it would be an excellent activity by this committee to encourage that action, because you have a natural jurisdiction.

Chairman LEACH. Thank you very much.

Mr. Lazio.

Mr. LAZIO. I want to thank you, Secretary, for your work in the area. One of the concerns that I have is that the Report, as helpful as it has been and is, ought not to be the end of our public involvement. It ought not to stop here, but we should sustain our efforts and see this through at a leadership level to ensure that there is justice.

I wonder if you could outline for me, sort of post-Report, what actions you particularly expect to undertake and what actions you think that in the aggregate the Federal Government ought to be pursuing henceforward?

Ambassador EIZENSTAT. Thank you. That is precisely the right question to ask, and I would like to try to be as responsive as I can.

The first is we called our Report, Congressman, a preliminary study. We didn't pretend in seven months that we could go through each of 15 million pages. As you know, we declassified close to a million. It was the biggest declassification of documents in American history, but nevertheless there is still a lot to do. Dr. Slany, bless him, is continuing his efforts with his colleagues to go through more papers. We are looking at more issues. So that is one issue. Just more research by ourselves.

We want to broaden this, because there is still only so much we can do with our own archival materials. The Army materials still need more work and the like. That's why we want to work with the British in forming this conference of historians, and we hope that that will be a process by which all the countries I've mentioned who have their own historical commissions will be able to pool and share information and we'll have a much broader look at this whole field than we can do ourselves.

Third, Ambassador Borer, who is here and will testify later, and I exchanged letters several weeks ago. We will be sharing our own records with each other, and that will also give us a broader look.

All of those are simply in the area of refining and further defining the issues we looked at the preliminary study.

Second, on the financial side, we want to work as rapidly as possible with our TGC co-trustees, the British and French, and then with the other claimant countries to see if we can develop a way in which they will voluntarily relinquish their claims to a substantial portion, and perhaps they will do it with all, of the gold they would otherwise have, that \$70 million.

Why do we say this? For two reasons. The first because of moral reasons and the second, factual. Three hundred and thirty-seven metric tons of looted gold were collected after the War by the Allies from neutral countries and from Germany and put into this gold pool. Of that 337 tons, over 40 years, 329 metric tons have been distributed back to the countries from whom that gold was taken. But since we have established that some part of the gold pool included victim gold, since there are only 5.6 metric tons left, then



It is factually a strong case that that should go to victims and not back to those countries, because they have already received the great bulk, some of which, frankly, is victim gold.

In addition, we want to work to encourage the Swiss to substantially bolster their Special Holocaust Fund, which is already in the process of being set up, and we believe, as Israel Singer will testify later today, they will hold their first meeting, perhaps in July, to begin to talk about the distribution of that fund, and we think that fund should be augmented.

We also are working on the issue of the class actions. There are three class actions. The relationship, Congressman and Members of the committee, of those three class actions with what Mr. Volcker is doing and with the need to come to closure on this issue with the Swiss is an important one. We are looking very closely at that issue, and we hope to come to a judgment one way or the other of what our position will be on that.

Last are this whole series of issues that the Chairman just raised, the question of what heirless assets are in the United States, what the U.S. should be doing about them, and how we pursue those.

I want to assure you we see the Report as only a beginning of a process, not the end. We want to come to that closure as quickly as possible because of the age of the victims and the need to get the issue behind us in terms of our relationship to Switzerland and to other neutral countries.

Mr. LAZIO. Thank you. I just want to emphasize from the House standpoint what you already accept, and that is the fact that time is working against us because of the age of the survivors. I am all for having investigative purity, but not to the point where it becomes an obstacle to ensuring that the money gets to the victims while they are still alive. Time is of the essence. The United States needs to use all of its diplomatic resources to ensure that the Swiss Government expedites not just the capital accumulation in the funds, but the distribution of the money.

Lastly, I have a question about the gold that had been shipped to America in 1948 as part of the TGC, but also there was a report in the *Times* back in 1940 that Swiss gold had been shipped to the Federal Reserve. I am just wondering if at this point either the 1940 case—or the 1948 case—if any of the gold that is currently on reserve in the Federal Reserve vaults is actually tainted as being victims' gold?

Ambassador EIZENSTAT. Thank you.

First, in terms of the need for action, I assure you that the last thing we want is reports for the sake of reports. What we want is action; we want prompt action; we want the Special Holocaust Fund to distribute money as quickly as possible; we want it to be substantially augmented and bolstered with more contributions from more Swiss institutions. Each month it goes by there are fewer recipients. We don't want this issue to be resolved in a biological way.

Second, with respect to the issue of whether any of the gold we hold is tainted, may I divide that into two parts very quickly?

First, undoubtedly, as a matter of normal transactions, we may hold some gold in each other's central banks. That is one set of issues.

The second is that in the Federal Reserve Bank of New York and in the Central Bank of England is the 5.6 metric tons of gold from the 1946 era. However, that gold has been swapped in and out so many times that it is almost certain that none of that gold would contain tainted gold. Likewise, if there are in mutual accounts that the Central Bank of Switzerland and Central Bank of the United States have with each other any gold—and I can't certify that there is—it almost certainly would not involve any tainted gold. That tainted gold has basically been given back to the claimant countries who believed that they were only getting their old gold back but in fact were getting teeth and fillings and jewelry that had been smelted down into bars and given disguised markings by the Reichsbank.

Mr. LAZIO. Thank you.

Chairman LEACH. Mrs. Maloney.

Mrs. MALONEY OF NEW YORK. First of all, I would like to compliment you very much on your hard work.

Earlier today Chairman D'Amato called attention to the case of Christophe Meili, a Swiss bank guard who reportedly exposed the shredding of documents from the Holocaust period by the Union Bank of Switzerland. Chairman D'Amato said these were important documents and that Mr. Meili was fired, harassed and subjected to hundreds of death threats. Chairman D'Amato also said that the Swiss district attorney in Zurich has insisted on prosecuting Christophe Meili.

Could you give us any further details of what our Government is doing to protect Mr. Meili, what type of protection is being given to him in view of these threats, and what in the world is the nature of the charges that are being brought against him, and your opinion on the effect on other potential Swiss witnesses coming forward with information from this period, in light of the treatment that Mr. Meili received?

Ambassador EIZENSTAT. My personal view is that he should have been given a ribbon of commendation rather than a potential indictment. He presumably was dismissed because he reported the shredding of documents, which may or may not have had any evidence of the particular bank's involvement. He was presumably dismissed by the bank because he reported this to a third party, a Jewish organization, rather than to the authorities. He obviously acted out of genuine concern. No one has misused this information.

And may I say that at the time, Congresswoman, that the shredding was occurring—again, it may have been routine; we don't know at this point—but at that time the Swiss Parliament had already passed a law which made it a violation of their law to shred documents which would interfere with the investigation that Mr. Volcker and the Bergier Commission were doing. So he was acting out of a legitimate impulse.

Since his action, the Swiss Government has endorsed a parliamentary initiative to protect persons such as Mr. Meili who provide information to the Bergier Commission. Such an approach

would in the future provide a channel for reporting incidents of this sort and forestall the need to consider criminal charges.

There is also a private bill that has been introduced by Senator D'Amato to give him asylum. I understand that the prosecutor hasn't dropped the case against Mr. Meili but has never pressed charges. I understand also that Mr. Meili may be in this country, and certainly we will do everything we can to make sure that he is treated in an appropriate way.

Mrs. MALONEY OF NEW YORK. I certainly applaud your efforts in that endeavor.

As was stated earlier, what we are seeing is probably just the tip of the iceberg. What other steps have been taken, if any, to recover other assets such as art works and other treasures that the Nazis stole? Not just the gold, but the other art treasures.

Ambassador EIZENSTAT. I appreciate that question. If I may just broaden the answer a little bit. First, Mr. Chairman, when we talk again about your committee's jurisdiction, one of the issues yet to be looked at is the insurance issue. There is no question but that insurance policies were either cashed by people who were really not the beneficiaries. Nazis, for example, who may have pressured companies, or more systemically, claims were denied for the absence of death certificates and the like. I think this is an important area that I suggest again is worth looking at.

I mention insurance policies because these are other assets as well. With respect to art treasures, what the Government of France is doing sets a very positive example. The French Historical Commission is called the Maliolle Commission. The Maliolle Commission was given the directive by President Chirac and then-Prime Minister Juppe, and we certainly hope this will be continued by the new government—we have every reason to believe it will be—not only to examine France's whole role during the Vichy period and its relationship with Nazi Germany, but specifically that if, as they now believe and have indicated, there are art works looted by the Germans from Jewish and other French families that now are in French museums, and we know this to be the case and they know it to be the case, including the Louvre—they are hanging there as we speak—the French Government has indicated its willingness to reconstitute those back either to the families, if they can be found, to the Jewish community, or some other appropriate use can be made of them. This is a very good example, I think, that the French Government should be commended for, and we hope that other countries will follow a similar example.

Mrs. MALONEY OF NEW YORK. As was stated earlier, this is just the tip of the iceberg, and there have been many articles about how restrictive they have been in granting accommodations to sufferers. I read one article where they were not going to even look at claims—I'm talking now about the German Government—until 1999, and that they have very ridiculous guidelines such as if you spent one day less than a prescribed amount of time in a torture chamber, then you are denied benefits. Also there have been several published reports recently about the German Government giving very generous pensions and health benefits to Nazi guards, yet being very stingy in recognizing an obligation to many people who

suffer from illnesses as a result of the time that they spent in prison.

What could our Government do to bring about more accountability from the German Government?

I personally find it outrageous that they are paying billions of dollars in pension benefits and health benefits to the murderers of the Holocaust and yet the victims are not being supported or helped, many of whom around the world have no health care insurance and are suffering now from health conditions that are a result of the time they were in prison.

Ambassador EIZENSTAT. Thank you very much for that statement. I certainly have read the same articles that you have. We understand, first of all, the Germans have legislation before the parliament to drop pensions for those who were guilty of war crimes. That would include the very SS guards that you mention. By the way, this includes also some who served in other countries under German command, but who were under the SS rubric even though they are not German citizens. We would hope that that would be a favorable development that the parliament might follow through on.

Second, with respect to the German situation. Germany has paid somewhere on the order of \$60 billion since the early 1950's to survivors who fall into two categories:

Those who were in concentration camps for six months or more. You are accurate that those who were in for less than six months do not qualify. These are terms that have been agreed to by the Jewish Claims Conference—or what they decided they would pay and administered by the Claims Conference, rather.

A second category is those who were in enforced ghettos for 18 months or more.

With respect, however, to one group, those we call the "double victims", there has been no direct compensation or pension at all even if they fit into that 6-month or 18-month category. These are survivors who were trapped behind the Iron Curtain after World War II and could not get out. The argument of the German Government was they did not want to pay hard currency, German deutsche marks, to Communist governments for fear that the money would never get to the victims, and that is an understandable argument.

Of course the Wall fell eight years ago. While there have been bilateral agreements between Germany and some of the countries involved—Germany has entered them with Poland, with Russia, with the Ukraine, for example—there have been no individual payments made, and most of the monies to the governments I have just mentioned have not gotten to these survivors.

We have raised this issue with the German Government on several occasions. We continue to do so. I know that the World Jewish Restitution Organization and World Jewish Congress has done so. It is a matter we continue to raise with them.

Mrs. MALONEY OF NEW YORK. Thank you. In closing, I would like to thank you and the Administration for your support of my legislation, the Nazi War Crimes Disclosure Act, and for the implementation of it. Thank you.

Ambassador EIZENSTAT. Thank you.

Chairman LEACH. Mrs. Kelly.

Mrs. KELLY. Thank you very much, Mr. Chairman, and I thank you, Mr. Eizenstat, for appearing before us this morning and answering all our questions.

One question that has occurred to me as I have been sitting here listening is, we are going to be looking at all these accounts. We have been. A number of these things, including the dormant accounts, are going to be looked at in a different light than we have before. But there is one thing that has not been asked, and that is, if you turn up evidence in some of these accounts of Nazi profiteering, what provisions have been made for dealing with that? Has anybody looked at that, thought about that?

Ambassador EIZENSTAT. Are you referring to those companies who may have deposited money into Switzerland from slave labor and so forth?

Mrs. KELLY. Not only that, but individuals who may have made money. Nazis who profited, put money in the accounts, and the money is there and has been there. They may be dormant accounts. Do you understand what I'm saying?

Ambassador EIZENSTAT. I understand. This is one of the categories of claims in the current class actions which are pending. Those class actions look at dormant accounts; they look at those Nazis who may have themselves deposited money in Swiss or other banks; and they look at the profiteering issue. So that is an issue.

On the other hand, it is exceedingly difficult for the Volcker Commission to try to track those accounts down because it would be difficult to know who the names were. Obviously if there was an account in the name of Herman Goering, that would be one thing, but even if there were, for sure it wouldn't have been left for 50 years unliquidated.

It is an important issue. I think it is one that we all need to go into in more detail, and perhaps this international conference of historians that we have talked about having later this year in London might begin to look at that issue. I think it's a useful avenue of endeavor but a very, very difficult one to look at.

Mrs. KELLY. The second issue I am interested in is the extorted ransom money. I notice that your Report talked about the fact that there was this money, that it was in some instances paid into Swiss banks and into Dutch banks. Have the Dutch cooperated with you on finding that money?

Ambassador EIZENSTAT. The Dutch have their own commission. I met just a few weeks ago with its vice chairman. I believe that they are going to do a very thorough examination of all issues and I hope that they will include this among them.

Mrs. KELLY. You are getting cooperation from all the other neutrals, but if you find threads of movement in the funds from the Swiss banks into other nations that were not neutral, are you going to pursue that as well?

Ambassador EIZENSTAT. We'll try to pursue the money wherever it can be found. Again, it is very difficult for us to have the capability of tracing individual accounts. Chairman Volcker is really the one that is looking at the individual accounts. We are looking more broadly at looted assets. That plus the Bergier Commission's own review may help.

The question of following the flows of money to other countries is very difficult. To the extent that we can do so or that the Volcker Commission can do so, obviously we would like to do it, but I would have to be candid in saying it would be exceedingly difficult.

Mrs. KELLY. Obviously my thought is that if you have a bundle of extorted money from Nazi victims, you can then go in and raid the account. I was just wondering if you were picking that up?

Ambassador EIZENSTAT. I don't know whether the Volcker Commission is looking at this. I know that they will be looking at these intermediary accounts. I frankly think that Chairman Volcker would have to answer the question as to whether he has the capability to look into it. I do think that it is nevertheless an important issue for someone to look into. If he is not doing it, someone else should.

Mrs. KELLY. I appreciate your answer. Thank you very much.

Chairman LEACH. Thank you, Mrs. Kelly.

Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman. If I might, before I ask a couple of questions, do a couple of things. First of all, I want to apologize to Under Secretary Eizenstat and to the panelists before him for not having been here to hear their testimony, and probably to the panelists subsequent to him also, because I am in the middle of another hearing on the subcommittee that I am the Ranking Member on, and I kind of have to be there for that hearing, even though I would rather be here, to be honest with you.

Ambassador EIZENSTAT. I very well know the drill around here, sir.

Mr. WATT. I particularly want to apologize to Professor Weinberg in case I don't get back for his testimony, because he's from my home State, and welcome him to Washington.

I want to thank Mr. Eizenstat for his kind call on China MFN. Even though I didn't do what he asked me to do, he provided a lot of information to me and at least made me focus on the issue.

Finally, I want to commend Mr. Eizenstat for the Report that has come forward. I am one of those people who firmly believes that it is much better to set policy in the context of knowing the facts and having researched them and having a real handle on the facts, as opposed to just setting policy when you just think you know the facts. This Report has certainly enlightened all of us to what was really going on and made a valuable contribution to informing us about what was going on.

Having said that, let me ask one or two questions.

The country of Switzerland seems to be moving very slowly in making good on a promise to audit dormant accounts and to provide funding for a fund for the victims of the Holocaust. Are there specific steps that you think the United States should be taking to try to move that process along quickly—or more quickly than it's moving now?

Ambassador EIZENSTAT. Thank you. On the China MFN issue, I suspect the way this issue goes you and I will be talking again next year at this time on this same issue.

Mr. WATT. I expect we will.

Ambassador EIZENSTAT. On the question of Swiss movement, it certainly would be an accurate statement to say that between 1946

and 1996 there had been very slow movement, tortuously slow movement, on the part of Swiss banks on heirless and dormant accounts. It would not be an accurate statement to say since that time. I think that they are acting with alacrity. It is a very difficult issue.

We know that, as Chairman Volcker said, the ombudsman that was set up did not work as the Swiss had hoped it would, but clearly they are being very cooperative now. They are moving quickly. The agreement that was reached this very day, announced this very day, by Chairman Volcker and the Swiss Banking Commission, I think is a landmark in cooperation by the Swiss Government and the Swiss Banking Commission, and we think that we will continue to see that kind of cooperation. The audits will proceed as quickly as these auditing firms will do their audit.

We think we will get full cooperation from the individual banks, and in terms of what we are doing, we are certainly, privately as well as publicly, urging the Swiss Government and the Swiss banking authorities to cooperate, and they are doing so. Chairman Volcker and I talk very frequently, and he keeps me up to date about his progress.

So, I think that frankly we are seeing a very different position and we are very pleased with the cooperation which the Swiss Banking Association and the Swiss banks and the Swiss Government are now giving this matter.

Mr. WATT. Thank you, Mr. Chairman, and thank you for having this hearing to edify the Members of the committee. Thank you.

Chairman LEACH. Thank you, Mr. Watt.

Mr. Bachus.

Mr. BACHUS. Thank you.

Secretary Eizenstat, I haven't heard any discussion today on the communal property and Eastern and Central Europe. I know in the past you and I have discussed that the United States press for its return. Have there been any attempts to talk with those governments in Eastern and Central Europe as to maybe the return of income producing property?

Also, I heard a question from the Democratic side concerning some of these "double victims." Any discussions with them on their role or their obligations in caring for the victims?

Mr. WATT. I wonder if I might get Mr. Bachus to yield to me for one second to do something that I was supposed to do?

Mr. BACHUS. Sure. I yield.

Mr. WATT. Mr. Vento wanted me to ask unanimous consent to put his statement in the record.

Chairman LEACH. Without objection, so ordered.

[The prepared statement of Hon. Bruce Vento can be found on page 137 in the appendix.]

Mr. WATT. I thank the gentleman for yielding.

Ambassador EIZENSTAT. Thank you, Congressman. I can't tell you how much I appreciate the interest that you have shown from the first in this and that you continue to bring it up. It's terribly important. Again, your leadership is most appreciated.

We have had since last we talked some significant breakthroughs in a couple of countries. Hungary has established, with the good work of the World Jewish Restitution Organization and ourselves,



a foundation which will be the recipient of all restituted communal property.

In addition, out of their own funds they are providing pensions of \$20 to \$40 per month for the rest of their lives for all of the survivors of the Holocaust who live in Hungary, and that is somewhere between 20,000 and 30,000; we believe around half, perhaps more, of all the surviving members of the Holocaust who live in Central and Eastern Europe.

This is a real model for other countries to follow in terms of caring for their citizens.

Theoretically the monies from the German Government in their bilateral agreements with Poland and Russia and the Ukraine could have been used for this purpose. I have to say, unfortunately, it has not.

There has been other progress. The Polish President, following landmark legislation by the Polish Parliament within just the last couple of months, has signed legislation. It is not perfect, but it is a step, and it will establish likewise a foundation for the restitution of property. We hope that that foundation will include the full involvement of the World Jewish Restitution Organization because of the very tiny remaining surviving community in Poland.

We are getting progress in other countries. The Czech Republic is beginning to return some, and so forth.

However, one would have to say with that progress having been mentioned that this is a painfully slow, disappointingly slow process. Most of the countries are bogged down. We are not getting the kind of return that we want on communal properties, and that includes church properties, Catholic Church, the Orthodox Church, as well as Jewish property.

With respect to personal property of U.S. citizens that was confiscated either by the Nazis or by the Communists, we are getting virtually no cooperation. With the exception of a few countries like Bulgaria and Estonia and one or two others, they all have limitations in their law that say that you have to be either a citizen or a resident or both to file a personal property claim.

So we are making progress in communal areas. It's slow; it's quite episodic; we need to do a lot more. These are countries that are coming into NATO. They are countries that wish to be members of the European Union. I think it is completely appropriate that they act in accordance with Western standards in this area as well, and perhaps a resolution to that effect might be very useful. And the same with respect to personal property. I think these kinds of limitations, which we do not have in this country and which most Western countries don't, requiring citizenship and so forth, could be addressed also by the Congress so we did not have the full burden on our shoulders.

Mr. BACHUS. I appreciate your responsiveness. In the interest of time, I'm going to yield back my remaining time.

Chairman LEACH. Thank you, Mr. Bachus.

Mr. Campbell.

Mr. CAMPBELL. Thank you, Mr. Chairman. Hello, Stu. Nice to see you again.

Ambassador EIZENSTAT. Congressman, how are you?

Mr. CAMPBELL. Fine. It's Tom. I was Tom when I worked for you. It's a pleasure to see you again in a different context.

I wanted to pursue just one aspect of the alien tort statute, the issue being, to what extent might we have a problem with getting the proper distribution of assets to victims from private suits?

In your prepared testimony there is reference to the class actions, particularly those pending in the United States District Court for the Eastern District of New York. As you are very familiar, more so than most, private action under the alien tort statute might lie, and it might then create a priority regarding assets that would otherwise be subject to distribution. That would have to be honored in United States courts.

To the extent that we wish an equitable settlement and we don't wish awards to go simply on the basis of first to file, I see this as a potentially serious problem, possibly calling for a legislative solution, possibly calling for an omnibus bill that would preempt alien tort claims in the context similar to the one that you and President Carter used regarding the hostages in Iran when once again there was a legitimate claim on behalf of individuals but had it been allowed to go ahead might have prevented a fairer distribution.

That interests me intellectually; it interests me as a practical legal problem that might call for a solution I could be of help in implementing. I would like to hear your comments on it.

Ambassador EIZENSTAT. That is frankly the kind of piercing question I would have anticipated. The alien tort statute is indeed one of the bases of the class action suit. I met only yesterday with some of the attorneys who are representing the defendants in that case. I have also met briefly and hope to meet in greater detail with the plaintiffs' attorneys.

We have to make a difficult judgment, and that is whether or not to state any position of the Administration with respect to these class actions, which would include the very question you mention. We have our Justice Department, the legal office at State, Commerce and others involved in looking at that very issue.

I would very much like, if I may, because I think it's extremely sensitive and we have not come to any judgment, to have the opportunity of talking with you about that and with the Chairman if he wishes. It is a very important issue. It has to be handled the right way so that if there is to be any disposition of these suits one way or the other, whether through eventual litigation or settlement or some other process, the distribution is done in ways which are appropriate.

Mr. CAMPBELL. I would like to pursue that with you. What I will do is call you and maybe we can have a private meeting.

Ambassador EIZENSTAT. Thank you.

Mr. CAMPBELL. Mr. Chairman, that might lead to legislation. I suspect it would be in the Judiciary Committee, but it would be something in which I would like to involve you, recognizing your leadership in holding these hearings and your deep concern with this issue.

I yield back the balance of my time. Thank you, Mr. Chairman.

Chairman LEACH. I appreciate that. There are certain issues on which, I think, we are going to work in concert with the Administration, and I would be very doubtful of pressing ahead without Ad-

ministration support in advance. There are a series of issues on the table today that strike me as subject to legislation of a comprehensive nature. I think at the end of this hearing we will commence a staff review and work with the Administration.

Ambassador EIZENSTAT. I appreciate that. May I say again, as I have emphasized in my opening remarks, we really have two goals.

The first goal is to do justice to the victims, U.S. citizens and non-U.S. citizens.

The second goal is to do so in ways which are consonant with maintaining good relationships with countries that are now our friends and allies, the Swiss and other neutrals. Particularly with respect to Switzerland, Swiss public opinion, the need to augment the special fund that I have referred to, the issue of finding closure, of giving some sense that there is an end to this process after justice is done in an appropriate way is, I think, a very important one, and I hope that as the Congress involves itself we will do so with the notion of reaching closure on this issue in ways that are just to all the interests.

Chairman LEACH. I think you are precisely right. The two words that have stuck out in my mind from our first hearing through this one are the words "truth" and "closure." To the degree that both can be managed, I think that would be in everybody's best interest.

Ambassador EIZENSTAT. Thank you, Mr. Chairman.

Chairman LEACH. Thank you. Let me thank you very much. As usual, you have embellished the hearing process of the United States Congress. Thank you, Mr. Eizenstat.

Ambassador EIZENSTAT. Thank you.

Chairman LEACH. On our next panel, we welcome Ambassador Thomas Borer. In December, Ambassador Borer became the first Swiss Government representative to testify before this committee in anyone's memory. Ambassador Borer heads his government's Task Force on Nazi Gold and Related Issues. He is back today to bring us up to date on what has transpired in the last seven months.

It is clear that Ambassador Borer has one of the most difficult diplomatic assignments in the world today. I recognize that these hearings in the United States have caused friction in Switzerland. While the committee has tried to be as fair as possible to all sides, this friction is nonetheless perhaps inevitable. But it should be understood that resolving issues of the century are more important than disposition of tensions of the moment. From an American perspective, we have no ethical choice except to proceed.

We recognize Ambassador Borer as a committed Swiss citizen and public servant. We respect and we welcome your testimony.

#### **STATEMENT OF HON. THOMAS G. BORER, HEAD OF THE TASK FORCE, SWITZERLAND—WORLD WAR II**

Ambassador BORER. Mr. Chairman, thank you very much for your kind words of introduction and encouragement.

Mr. Chairman, honorable Members of the committee, in response to your kind invitation, it is an honor for me today to update you and your distinguished committee on the progress made by Switzerland regarding heirless assets and other issues related to World War II. In my first appearance before your committee last Decem-

ber, I appreciated your balanced approach to such a complicated issue. Once again, my government welcomes the opportunity to inform the House of Representatives through your committee about the numerous steps we have taken.

Mr. Chairman, I ask you to put my full written testimony in the record.

Chairman LEACH. Without objection.

Ambassador BORER. Thank you.

Since the beginning of the controversy regarding Jewish and other heirless assets and the role of Switzerland during World War II, the Swiss people have been engaged in a broad, deep and sometimes intense debate. Beyond the questions that specifically affect our country, a deeper reflection is now taking place that sharpens our consciousness of the political, psychological and moral dimensions stirred by the horrendous reality of the Nazi regime. Today there are numerous manifestations of solidarity, striving through private initiatives to alleviate the fate of the most destitute among the survivors. The subject of Switzerland's role during the war has been addressed in countless publications, radio and television programs, as well as publications discussions. This attention clearly demonstrates the commitment of my fellow citizens to face these issues in a frank and open way.

At the hearing held last December by your committee, I stated that the Swiss are known to be "no-nonsense" people. It has been alleged this morning that the Swiss do not live up to our promises. Mr. Chairman, distinguished committee, this is not true. I am surprised that you might confuse intention, commitment, process and actions. Switzerland is a proud, direct democracy. We stand by our intention to pursue justice but do agree actions for democracy must follow the rule of law. We are rushing to action as fast as we can in respect of the needs of those that have suffered the greatest crime known to mankind, but by doing that we obey our constitution. We have to obey our constitution. We are no-nonsense people.

The progress made in the last six months proves this point. Please allow me to restate the measures taken in Switzerland since the end of last year. I reiterate that all of our initiatives and actions continue to be motivated by our commitment to achieve truth, justice and solidarity.

First, in order to shed full light on the role of Switzerland in the context of World War II, the Swiss Parliament unanimously approved on December 13, 1996, the creation of an Independent Commission of Experts chaired by Professor Jean-François Bergier that includes eminent Swiss and international historians.

To answer the question of Congressman McCollum, the Bergier Commission will issue its first interim report by year end on gold transactions with Nazi Germany.

A second report has been scheduled for the beginning of next year on Swiss refugee policy during the war years.

Second, no effort has been spared to intensify the research for heirless assets and to ensure full restitution to either Holocaust survivors, their heirs or to organizations representing the survivors of Nazi atrocities. Mr. Volcker explained this morning these efforts.

Let me also mention here that Federal *escheat* legislation is under consideration that would bring a lasting solution to the legal

difficulties arising from dormant assets. Even in the absence of such legislation, however, contrary to what has been alleged by some, it should be pointed out that relevant Swiss law does provide for the interest accruing to dormant accounts to be duly credited. Under Swiss law, the rights of the customer can never be disregarded, despite the all too frequent accusations about banks appropriating assets that remained dormant beyond a certain time limit. This is not true. Under Swiss law the rights of the customer can never be disregarded.

Third, Mr. Chairman, it is imperative to work as quickly as possible to relieve the suffering of needy survivors with actions that underscore the commitments that we have made. Thus, with a substantial contribution from the three major Swiss banks in particular, the Swiss Federal Council established a Special Fund on February 26, 1997. Mr. Bloch, the Chairman of the Fund, will give you more detailed information on this initiative.

Mr. Chairman, my government welcomes constructive cooperation with all concerned Jewish organizations, and I am confident that our spirit of openness will continue to bear results in the three areas I have just mentioned.

In accordance with your request, I would like now to expand somewhat on the report by the U.S. Government on Allied Efforts to Recover and Restore Gold Stolen by Germany During World War II.

First of all, I wish to reiterate my personal respect for Under Secretary Eizenstat and for the quality of the work accomplished under his guidance by the dedicated team of researchers. I welcome today's very constructive attitude and remarks of Mr. Eizenstat which put the Report and the whole discussion in the right perspective.

As we have stated and as can be inferred by its title, the Report is a preliminary study which necessitates further efforts and components that will ultimately ensue from international cooperation. The report contains a wealth of information from U.S. sources that were, until recently, classified and unattainable. On the whole, it confirms and completes already existing historical knowledge.

The Report includes some assertions that go beyond historical analysis and naturally give rise to some inaccurate interpretation. With that in mind, I shall limit my remarks to two such assertions.

To begin with, Swiss neutrality and the neutrality of other countries is referred to as having collided with morality. Such criticism is based on a premise that neutrality between those states defending what is good and those incarnating evil is immoral. It applies a later day moral judgment to positions taken in the midst of war that is alien to and inconsistent with the tenets of international law that applied at that time.

Significantly, all criticism of Swiss neutrality during the Cold War is avoided. I must stress that Swiss neutrality during World War II was aimed at protecting my country from conflict in order to safeguard the independence and survival of the Swiss population. These goals are the responsibility and priority of any sovereign nation. This policy also allowed my country to become a haven for tens of thousands of refugees. Literally an oasis of democracy and freedom in the midst of totalitarian Europe.

To be fair, the Report indicates that Swiss neutrality benefited the Allies on many occasions. For instance in the protection of tens of thousands of British and United States POWs. The media of that time clearly reflected the fact that the Swiss people never thought of neutrality as indifference or opportunism.

In this respect, Walter Lippman's report on Switzerland in the *New York Herald Tribune* on January 26, 1943, is eloquent. Let me quote Walter Lippman:

"The real news is not that her factories make munitions for Germany but that the Swiss have an army which stands guard against invasion, that their frontiers are defended, that their free institutions continue to exist and that there has been no Swiss Quisling, and no Swiss Laval. The Swiss remained true to themselves even in the darkest days of 1940 and 1941, when it seems that nothing but the valor of the British and the blind faith of free men elsewhere stood between Hitler and the creation of a totalitarian new order in Europe. Surely, if ever the honor of a people was put to the test, the honor of the Swiss was tested and proved then and there. How easy it would have been then for them to say that they must hasten to join the new order, and lick the boots of the conqueror of Europe. Their devotion must be strong and deep. For no ordinary worldly material calculation can account for the behavior of the Swiss. We must not forget it, now or in the future, how faithfully the Swiss Republic has borne witness to the cause of freedom."

It is also revealing, Mr. Chairman and distinguished committee, to read what the Third Reich thought of Swiss neutrality. In this context, General Hermann Böhme, who was given in 1943—after Stalingrad—the responsibility to elaborate upon plans to invade Switzerland, wrote the following:

"The defense against Allied flights over Swiss air space in view of the prevailing conditions is insufficient. The overwhelming majority of press and radio information is anti-German. Germany has no good press in Switzerland. The granting of asylum to so-called refugees, the residence of numerous Allied secret services seriously damage German-Swiss relations. Through the numerous connections of Swiss capital with the outside world, Switzerland is more and more oriented toward the Allies. And further, the fighting spirit of Swiss soldiers is very high and can be equated to that of the Finns."

When considered as a whole, neutrality elicited a delicate balance between the necessity to adjust to the new order of the time and to resist its abhorrent ideology. If Switzerland had not been neutral and, as a result, suffered the fate of France or Belgium, would anyone, including the Allies and Holocaust victims, been better off? The answer must be "no", and hindsight judgments about Swiss neutrality during the War would benefit from that perspective.

Similarly, perspective is gained from asking such questions as to why the whole Western world remained silent after Hitler's rise to power in 1933? Why the United States and Europe gave a clean bill of health to the Nazi regime by participating in the Berlin Olympic Games of 1936? And why, during that same Olympic year, the West tolerated the Italian invasion of Ethiopia?

Was morality a factor during the Evian Conference of 1938 when our democracies cowardly chose to ignore the anguishing fate of Jewish refugees from Germany and Austria in premonition of the Holocaust? Was it moral for the Allies to refuse to bomb the railway lines leading to concentration camps? Today, what democratic nation can boast of not maintaining political and commercial relations with states where human rights are daily trampled? How many wars have been fought, how many dictators propped up in the name of strategic and economic considerations hardly compatible with morality?

Even a quick glance at the history of mankind immediately points out its tragic absence of morality. However, Under Secretary Eizonstat rightly raises such fundamental questions because the necessity of moral imperatives is essential today in politics, but remains sadly lacking.

Naturally Switzerland has no wish to sit in judgment of those, who by their sacrifices saved it and the rest of Europe from Nazi domination. I would like to make that clear. We have no wish to sit in judgment of those who by their sacrifices saved Europe, saved Switzerland from Nazi domination. We seek neither justification nor exoneration, but in the moral court of the reason of state the defendants are too many for comfort and the states are very, very few that show the right profile to wear judicial robes. Furthermore, if history is made use of in a way detrimental to Switzerland, we consider it a legitimate right to correct excesses or errors. In our opinion, a frank and open discussion is the trademark of a true debate between sister republics.

A second and most serious reproach formulated against Switzerland and other countries in the Report touches on the alleged contribution of these countries to the prolongation of the war, thus causing the deaths of tens of thousands of civilians and soldiers. Yet, the Report contains no evidence of this allegation.

Allow me to recall some simple facts that put into true proportions the role of Switzerland, a country of only 4 million during the war years.

It is today estimated that the total cost of the German war effort approached \$850 billion. The share of Switzerland, including all financial and commercial transactions, amounted to .5 percent of this amount. Let us remember too that Germany, although bled white after Stalingrad, still could launch murderous offensives such as the occupation of Italy in September 1943, of Hungary in March 1944, and the Battle of the Bulge in December 1944. What made these last ditch efforts possible had nothing to do with Swiss deliveries of gold bars, but everything to do with the last throes of an insane and brutal regime. In contrast, in a daring effort of mediation, Swiss intermediaries negotiated the surrender of all German troops in Italy, numbering one million men, one week before the end of the war in Europe. A short time perhaps, but who counts the lives that were spared?

Even 52 years after the end of the war, it remains important and necessary to shed light on this dark page of our history, keeping in mind that the only way to do justice to the victims of the Nazis rests on truth, compassion and solidarity. Switzerland is looking at itself with determination and openness. Yet evaluating a bygone



time and context is an arduous task requiring time. Historical research must be allowed to establish the facts so that they can speak for themselves in a complete and appropriate context. Had the last chapter already been written, the committees of historians constituted in Europe and elsewhere would be an exercise in futility.

Time, however, is critical for the survivors of the Holocaust and all those who can claim assets still kept in Switzerland. We shall see to it that, as the studies proceed, solidarity and restitution will not incur further delays. Any difficulty that may arise now or later will be overcome. Our determination cannot be altered or reversed. I am grateful to President Clinton and to Ambassador Eizenstat for their repeated acknowledgement of that fact.

Mr. Chairman, as illustrated by the hearing you have called today, my wish is that the public debate on the history of the war and its consequences be conducted with dignity and integrity. Only in this way will we fulfill our obligation to the victims and the survivors, to anchor in the consciousness of mankind the memory of the Holocaust and the failings of our civilization, which bear tragic testimony to those dark potentials against which we must be ever vigilant.

Thank you for your kind attention.

[The prepared statement of Ambassador Thomas Borer can be found on page 166 in the appendix.]

Chairman LEACH. Thank you very much, Ambassador Borer. I see that there is another vote called on the House floor. Let me inform the audience that the House will be in session until 5:00 or 6:00 this afternoon, but there will not be a large number of votes. So I think that we will have a rather continuous hearing. But at this time the Chair is obligated to recess pending the vote, and we will probably resume, I would guess, around 1:20.

The hearing is in recess.

[Recess.]

Chairman LEACH. The hearing will reconvene.

I think everybody in this room recognizes that Ambassador Borer has given a very powerful defense of a very great country. That is to be respected by the committee. There are some issues that I think demand raising. Let me just go back a little bit on the issues before the committee.

In 1946, the Swiss Government first denied having received looted Nazi gold and only later acknowledged receiving \$88 million in Belgian gold from the Germans. Yet the Eizenstat Report and the supporting documentation makes it clear that in fact somewhere between \$185 million and \$289 million in looted gold remained in Swiss banks at the war's end.

Given the evidence that is now on the table, are you prepared to acknowledge that Switzerland did indeed receive more looted gold than the \$18 million acknowledged or the \$58 million actually paid to the Allies at the end of the war?

Ambassador BORER. Mr. Chairman, I know that the question of the looted gold is a very delicate one. Just let me first make clear that we are talking about monetary gold, that is, gold which belonged to national banks at that time. The Swiss Government, the Swiss National Bank took the position that under international law

Germany got this gold in a legitimate way. From today's moral judgment, we can argue that, but if you look at international law at that time, this was a fair assessment.

Switzerland made this case during the Washington negotiations and suggested several times when these difficult negotiations were on the edge to fail that this question should be put to arbitration, and the Allies, especially the United States, didn't want to put that to arbitration. One reason was, of course, the delay of time, but especially also—and this was made clear in Mr. Eizenstat's Report—that the Swiss had the law on their side.

As it also comes clear out of the U.S. report, the Allies at that time knew precisely how much gold Switzerland had received from Nazi Germany, precisely by every little amount of gold. This was absolutely known, because the Allies had the German archives, and even as we find out now, they listened to the instructions the Swiss delegation got in the Embassy. The Secret Service of the United States was very efficient. So one can say that there was no cheating involved.

Both sides were aware what happened during the war, and nevertheless they entered into the Washington Agreement. This was a political settlement, a compromise. The Allies declared in their name, and in the name of their banks, all claims against the Government of Switzerland and the Swiss National Bank in connection with gold acquired during the war from Germany by Switzerland. And that's the reason why my government thinks, coming back to this Washington Accord, renegotiation of this Accord is out of the question. The issue before us is dealing with the needs of Holocaust survivors and their families. The Washington Accord had nothing to do with the concerns of the victims, nothing.

We have now moved forward and we have come to a higher moral level. We should now look at what the Holocaust survivors need. We shouldn't look back into old negotiations about monetary gold which was stolen from national banks.

Chairman LEACH. Even if they are based on false premises? The Eizenstat Report suggests that there is a larger number involved than was the basis of the negotiations in 1946.

Ambassador BORER. The numbers the Eizenstat Report mentioned were already known 50 years ago. There was always a difference of opinion how much gold was really stolen from the banks. For example, the Belgian gold. You can make the case that France handed this gold, on behalf of Belgium, voluntarily over to Nazi Germany and Nazi Germany traded this gold with Switzerland. Switzerland didn't take that gold to store it for free. We traded this gold against merchandise, against food, against coal, against Swiss francs.

Besides that, we were forced into trade in a certain way, into gold trade with Nazi Germany, because the Allies, especially the United States, had frozen all Swiss National Bank assets in the United States. Switzerland had about 4 billion Swiss francs in gold in Washington and New York frozen by the Allies, and that's the reason why they had to deal with this amount of money. In this area, the Eizenstat Report doesn't bring up new figures. The figures were known 50 years ago; they were known in historical books written in Switzerland.

Chairman LEACH. In an article distributed by the Swiss Embassy Professor Antoine Fleury is quoted as saying that the "Swiss did not have to negotiate with the Allies at all after the war, and that having successfully resisted German hegemony, they were not about to comply with American hegemony." Do you share this view, which suggests in effect, that in negotiating for the return of looted assets the Swiss in effect were doing the Allies a favor?

Ambassador BORER. I am not a historian and I don't have my opinion on that. I just know that the Washington Agreement at that time, in 1946, was heavily debated in Switzerland, in the Parliament, and there were indeed a lot of Swiss who took the position that Switzerland should have never negotiated with the Allies. But there was also the other part of Switzerland, and this one prevailed, that said that the Allies had saved Europe and that Switzerland should, by entering the Washington Agreement, show its solidarity. Two hundred fifty million Swiss francs at that time was more than 2.5 billion Swiss francs. It was about one percent of our gross national product; it was about the amount the United States gave in the Marshall Plan to Europe. So this was one part to show our solidarity.

You know also that Switzerland—this is also mentioned in the U.S. report—has shown solidarity by raising another \$200 million to support refugees who do humanitarian work starting in 1944. This was again over a percent of our gross national product, an amount comparable to the share of the United States in the Marshall Plan. So at that time there was light and darkness. There were the Swiss who said we were totally right, this is our legal position, this was the right position. There were the other Swiss who said we can't stand on only the legal position; we should also show solidarity to Europe, which has suffered under the war.

Chairman LEACH. Let me turn briefly to a couple of matters of this year. As you know, there is a lot of sensitivity in America about the Swiss guard named Chris Meili. We have a great tradition of protecting whistleblowers. When he reported that certain documents were being shredded, it was the understanding over here that the Swiss Government had laid down certain orders that documents of this nature were to be protected. So a couple of questions naturally arise. Was there an investigation of the person who ordered the shredding, and is that individual being held accountable to justice?

Ambassador BORER. Mr. Chairman, as you know, we have a separation of power in Switzerland as in this country. As a government official, I have to refrain from interfering in the judicial procedure against Mr. Meili and against Mr. Haggemüller, who is the employee of UBS. Let me just explain the situation.

Mr. Meili has, under the Swiss law, infringed Article 47 of Swiss banking law, the Swiss banking secrecy, because he has given documents to third parties which belong to the bank. That's the reason why the state attorney of Zurich has opened an active investigation against Mr. Meili.

At the same time, the state attorney of Zurich has also opened an investigation against Mr. Haggemüller, who was the employee of UBS who ordered the destruction of the documents, because the

destruction of relevant documents is against our Federal decree of December 1966, as Ambassador Eizenstat has pointed out.

So there is against these two people an investigation in Switzerland.

Let me tell you now on a more personal note that as a lawyer, I know that if ever charges are pressed against Mr. Meili, he may face a fine of maybe 100 or 200 Swiss francs or dollars. For sure not more, because he has very legitimate reasons why he did that, and these reasons are also clear for Switzerland. Because of Mr. Meili, the legal committee of my parliament wants to introduce legislation with a goal to protect people like Mr. Meili, who find documents which are relevant and who want to protect these documents from destruction. So in a certain way one can see that Mr. Meili had a very important role in Switzerland.

Unfortunately, on a personal level, if I may say so, I think it's very unfortunate that the company who employed Mr. Meili, which wasn't UBS, but a private security company, they fired him. I think this is horrible. Nobody wants to be unemployed. But I must again say that the Swiss Jewish community found a job for Mr. Meili. Some other Swiss were willing to give him a job, and Mr. Meili decided to leave Switzerland.

He was not very much threatened in Switzerland. I heard today that there were hundreds of death threats. I have spoken to the police in Zurich. They got some phone calls from Mr. Meili. There were one or two nasty letters he received. I received much more nasty letters. The police told him that they are going to protect him.

He had a lot of sympathy in Switzerland. He was in a certain way also seen as a hero, and I think everything got a little bit out of control, and he is now in a little bit of a Hollywood-like style used in the United States. I can't tell it differently. He is used in the United States. I can just tell him he is more than welcome to come back. He is not going to be threatened in Switzerland. We have one of the oldest legal states in the world. The crime rate is very low. We do not go after people like Mr. Meili in Switzerland.

Thank you.

Chairman LEACH. My concern is that even though he is in the U.S., and I'm confident will be allowed to stay here, that he could become an international fugitive. That strikes me as a potentially awkward circumstance for both governments. I would certainly hope that this would be the type of issue where there is usually broad, or large, prosecutorial discretion, that reasonableness would prevail on some of the judgments that might be made.

Mr. Jackson.

Mr. JACKSON. Mr. Chairman, I have no questions of the witness. Thank you.

Chairman LEACH. There is a little tension between our countries. I understand that you are personally attempting to cement some of the differences. You are engaged to a Texas lady. We think that might be a step in the right direction.

[Laughter.]

Chairman LEACH. Thank you very much, Ambassador Borer. Ambassador BORER. Mr. Chairman, thank you very much.

Chairman LEACH. Our next panel is also a single witness. This is Avraham Hirschson. Chairman Hirschson is a member of the Likud Party, a member of the Israeli Knesset and Chairman of the Knesset's Committee on Restitution.

Mr. Hirschson is also founder of an extraordinarily significant movement to acquaint young people with the Holocaust through visitations to concentration camps.

We are pleased and honored that a fellow parliamentarian was able to offer his perspective on the issues before us.

Mr. Hirschson, do you wish to have translating help?

Mr. HIRSCHSON. If I can express myself in Hebrew, it will be much easier for me.

Chairman LEACH. Fine. Is there anyone that would like to—

Mr. HIRSCHSON. Mr. Singer, possibly.

Chairman LEACH. Let me also introduce a future witness, Rabbi Singer. I have been forewarned that Chairman Hirschson is a man of terrific succinctness, which is a quality that is very rare in the political parties of any country in the world. Welcome.

#### **STATEMENT OF MR. AVRAHAM HIRSCHSON, CHAIRMAN, ISRAELI KNESSET RESTITUTION COMMITTEE**

Mr. HIRSCHSON. Mr. Chairman, I have come to you today to transmit to you the feelings of the Government of Israel, the Parliament of Israel, and my own feelings of thanks to you and to Members of this committee for dealing with this important issue.

We would like to take this opportunity as well to thank Senator D'Amato for the work he has done in the last year-and-a-half on this important subject.

Especially as well we would like to thank Secretary Eizenstat for his important contribution through the preliminary Report that Secretary Eizenstat has transmitted to us several weeks ago.

Mr. Chairman, I would like to for the record state that we are not dealing with money here, we are not dealing with gold, we are not dealing with wealth. We are dealing with one-third of the Jewish people that were destroyed in the most horrible way during the Holocaust.

Mr. Chairman, we are here because certain nations are dealing with the questions that are before us with regard to an approach that they have that would try to resolve the issue with certain kinds of funds or foundations, but are avoiding the issue by not dealing with the critical issues such as the archives and documentation that deal with questions as serious as those of persons who lived through the experiences of Auschwitz, Birkenau and Maidanek and sometimes are asked to bring forward such documentation and such pieces of information that are not available because they have been destroyed and because they are being destroyed. Those very nations are saying, "Please don't judge us on how we behaved at those times because everyone else would have behaved in precisely the same way, and after all, how can we be judged?"

What we can do is say over the last 50 years there has been silence and there has been no movement on the part of many nations and on behalf of many banks that have not dealt with this burning issue until today. Mr. Chairman, with respect, had your committee

and the committee of Senator D'Amato and the United States of America not brought this matter to light the way they did, we may have waited another 50 years until this question would have been brought to the fore.

We have formed the Committee, which I chair, in the Knesset, the Parliament of Israel, so that we announce to the world that the State of Israel shall not ignore this question and shall deal with this question in the most serious way from this day on. They have asked us not to deal with this question. Some people have suggested that it might cause anti-Semitism. Mr. Chairman, I would like to at this point, state that Jews do not cause anti-Semitism; anti-Semites cause anti-Semitism.

My government and my parliament has called upon the World Jewish Restitution Organization, which is presided over by Mr. Edgar Bronfman and myself as chairman, to be the sole representative of the Jewish people and the State of Israel and to represent that government and this Nation with all questions regarding funds, gold and other assets.

Mr. Chairman, with respect, we have no time to wait five years or ten years for the results of studies. Our greatest enemy is time. Given the age profile of the victims, we must act now and cannot wait.

Mr. Chairman, once more with respect, I said to you at the beginning of my words and in conclusion want to repeat to you that I represent the Government of Israel and the Parliament of Israel, and would like to tell you that only yesterday in this position I met with an important constituent of mine that is of the age of 85, and that person told me, "You are leaving, Mr. Chairman, to the United States to speak before an important committee. Be aware, Mr. Chairman, I do not at my age want to wait. I cannot afford to wait. I want the opportunity to get that which belongs to me and be able to, in an honorable way transmit this as my legacy." In his name and in others like his name, I represent them and I ask you with respect to continue to do what you have done and to continue to act on their behalf, because you are their hope.

Thank you. Thank you very much.

Chairman LEACH. Thank you very much, Chairman Hirschson. I would say that I think in a very large sense you represent, not only the Knesset and the government, but many people around the world that are not in your country. That is a very appreciated circumstance, because as you know, Israel is more than a sovereign state. It's an ideal of many persons.

It is my understanding that you are also a member of the Swiss Humanitarian Board; is that correct?

Mr. HIRSCHSON. That's right.

Chairman LEACH. Are you satisfied with the progress of the fund to date, and do you think it's an effective potential way to provide restitution to victims of the Holocaust?

Mr. HIRSCHSON. With a divided heart, I agreed to be part of this fund. I accepted the role knowingly and I know of the problems that confront me. There are many needy survivors in Eastern European countries that have never benefited from any support, and I know of such people in the United States and in Israel as well. It is for them that I have participated in this fund, and yet I have

spoken to many of the people that have formed the fund, Ambassador Borer and others in Switzerland and the Swiss Government, and have told them of the many pressing needs of the relatively small amount of which we speak here, the need to expand that fund to meet the needs of those who have suffered, and I have transmitted my participation in the hope that that fund will indeed be enlarged to meet the needs.

Chairman LEACH. Are there specific steps the Israeli Government can take to assist Swiss efforts to locate both monetary or non-monetary assets in Switzerland, and second, to give advice on how the disposition might be given that is outside the fund? Is your government actively involved in this process?

Mr. HIRSCHSON. The Government of Israel shall place at the disposal of the Swiss Government today, as it has done until today whenever asked and will continue to do so in an aggressive manner, every single piece of information available to us in our archives that will help to speed up the work that has begun.

If the Chairman would permit me one more word on an allied subject, we are also dealing, with regard to other assets, with the question which pertains to insurance companies.

Mr. Chairman, with respect, I would like to point out to you that there are more or less 11 insurance companies that have in the vicinity of 40,000 policies that belong to Jewish victims of the Holocaust that have not been repaid. Those policies which we are discussing now had a face value for the insured and their families of over \$5.5 billion. Those insurance companies at times, rather than not only deferring or refusing to pay to Holocaust survivors, have in many, many cases found it possible to pay to members of criminal organizations such as the SS who were also insured by the very same companies.

I would like to give you a small example of a very small company that had an application to this subject which I raised before you. It was a company called Generale Insurance Company which we had been having discussions with for several months, but I had never actually made any headway with them. This was not a question of the State of Israel versus Generale. This was just a question of raising an issue with an insurance company, one of the smaller ones. As we furthered the discussion and they found out several weeks ago that I was planning to come to the United States, I suddenly confronted an insurance company that wanted to settle with us and indeed came to a settlement with us of over \$12 million just in dealing with this one company and those who were insured with it, and we think that it's a good beginning.

Chairman LEACH. I am pleased to hear that. The figures you cite are extraordinary, and frankly, if there is any magnitude similar to that, it could exceed the banking system by quite a bit.

Are there similar issues with other countries' insurance companies?

Mr. HIRSCHSON. I could sit here for hours and describe to you the various pieces of information that I would like to transmit to you but will choose to do so through the work of the World Jewish Restitution Organization headed by Mr. Edgar Bronfman and myself, Israel Singer. We will work through that committee to do that for you, but would like to raise the subject such as Secretary Eizenstat



raised with respect to the art work in France, some of which, 16,000 paintings, were sold at auction, and two and a half thousand which are found in French museums; certain issues with regard to wealth Jewish communities had in Eastern European countries. But we shall transmit that information to you in writing, sir, for the benefit of the committee and for the benefit of all those sitting here to not take further of your time.

Chairman LEACH. I appreciate that very much and I appreciate your working with outside organizations as well. As a chairman of a committee to another chairman of a committee, let me say you are also welcome to directly correspond with us, and any perspective you want to apply to this committee we would receive with appreciation.

Rabbi SINGER. Chairman Hirschson thanks you, Mr. Chairman, for the respect which you have given to him and for the committee, and the Parliament which he represents, and he wants to thank the committee and yourself personally. He is very, very thankful and wishes to continue to cooperate.

Chairman LEACH. Thank you very much, Chairman Hirschson, and Rabbi Singer.

The next panel is number four. One of my objectives in scheduling this hearing was to place the Nazi gold issue into an international context. Accordingly, we asked the embassies of key countries to provide the committee with preeminent experts on wartime history and international law. The response exceeded our expectations, and I am very pleased to present the following panel alphabetically by country. Although these experts were recommended to us by the embassies of their countries, what they say here represents their own opinions.

From Argentina, we have Professor Hector Masnatta, who is Professor of Law at the University of Buenos Aires, Professor and Member-Designate of the Oversight Panel of the Commission on Clarification of Nazi Activities in the Argentine Republic.

From Portugal, Professor Joaquim da Costa Leite of the University of Lisbon.

From Spain we have Professor Pablo Martin-Aceña of the University of Alcala.

From the United Kingdom, Ms. Gill Bennett, Head Historian at the Foreign and Commonwealth Office.

From the United States, Professor Gerhard Weinberg of the University of North Carolina.

From Sweden, Ambassador Krister Wahlbäck, Professor, University of Umeå, where I suspect the temperature is somewhat cooler than here in Washington.

From Switzerland, Professor Antoine Fleury of the University of Geneva, editor of the Official Books of Swiss Diplomatic History.

Unless there is a prior arrangement of the panel, I thought I would just begin alphabetically by country rather than by individual. So we will begin with Professor Hector Masnatta. Professor, you are very welcome.

**STATEMENT OF DR. HECTOR MASNATTA, PROFESSOR OF LAW,  
UNIVERSITY OF BUENOS AIRES, ARGENTINA**

Dr. MASNATTA. I thank you very much for the invitation to testify before this committee. My statement has as heading a title from the Talmud of Babylon, which is "The future has a long past."

Chairman LEACH. If I can interrupt for just a minute. Let me explain to the whole panel. All of your statements will be placed fully in the record. I am somewhat concerned that if each takes 40 minutes, it could be a long time. I just want to state that in advance. I'm sorry. I should have stated that before Professor Masnatta began. So please continue.

Dr. MASNATTA. Thank you.

A very famous Argentine historian struggled all through his life to dispel what was called the black legend surrounding the Spanish conquest of America. Five hundred years have gone by and this legend resurfaces, riding on the tide of successive events. The same thing occurs with the perception that my country was a safe haven for the Nazis during World War II and after that period.

The Report entitled "Efforts of the United States and the Allies to Recover and Return Gold and Other Assets Stolen or Hidden by Germany During the Second World War," has a chapter on the strained relations between Washington and Buenos Aires regarding Argentina's activities during this war. Inquiries made by the State Department's chief historian reproduce and endorse statements contained in the Blue Book prepared in February of 1946 by Ambassador Braden of the United States in Argentina.

For half a century different historians have dismissed that document, ascribing to it the character of an electoral operation, affirming that its information and assertions responded to political purposes.

A professor at the University of Basel quoted Jean Ziegler in his most recent book on Hitler's bankers, saying, "Historical science is linked to the conscience of history that inspires our thoughts and our actions politically."

The picture that each nation has of its own history is marked by preconceived opinions and values. There is no doubt that "each historiography is a product of an ideology; history is a political weapon." But it is also true that in assuming the past one has to fulfil the moral demand for clarification, doing away with the myth of idealization, and at the same time demonization by means of an impartial analysis of the facts. This is the task that we want to carry out at this time, that is, search for the truth, casting aside the legends.

We also use a quote by José Martí, which is, "To live is to remember."

I wanted to quote from Decree 390 of 1997, which for our government is a clear determination to take steps to shed light on the activities of the Nazi regime.

In 1992 Decree 232 was issued permitting the release of formerly classified documents on Nazi activities held by official agencies.

Another decree was issued in 1993, Decree 1290, which allowed for the release of documents on cases connected with persecution or political and racial crimes. This is by the executive branch. That was the executive branch.

But also in 1994, my government reformed the Constitution by creating the National Constituent Convention, which reformed the Constitution. The Constitution was amended to include Article 75 on human rights treaties, which now has the standing of a constitutional provision.

Also, this constitutional reform did away with the requirement that the President of Argentina be a Roman Catholic. This means that a requirement that was considered as a means to exclude those people professing other religions, especially the Jewish religion, was abolished.

Also, the judicial branch issued some decisions, one of which was the famous decision by the supreme court, the *Priebke* decision, as well as the extradition of Joseph Schwammberger.

Therefore we have a climate that has allowed for full freedom of the press, and along with the respect for citizens' civil and political rights, this has led to the appointment of citizens of the Jewish faith to the highest levels of our three branches of government.

With this framework, now we go on to review Decree 390. Since it is attached to my statement, I will not enter into any details, but I would like to underscore, however, that it establishes the Commission on the Clarification of Nazi Activities in the Argentine Republic, whose functions are to investigate Nazi activities during the Second World War and their consequences during the postwar period. It is important to highlight that it covers not only property and assets, but also individuals.

This Commission has an international panel made up of historians from Argentina and from other countries, historians who have great prestige. It also has an Advisory Committee composed of representatives of relevant foreign and domestic institutions. This Commission not only has to review cases, but also has to issue quarterly reports and take cases to justice.

Mr. Chairman, in the preamble of one of the latest constitutions to be passed, that is the Constitution of South Africa, it is mentioned that one has to acknowledge the injustices of the past. This Commission will have the full political support of the administration. It will also have to review legal principles.

In my personal opinion, one would have to take into account the documents and opinions issued by the International Tribunal which met in Nuremberg. Also, the principles set forth by the same tribunal as well as U.N. resolutions on the matter.

This Commission will have to issue a set of rules on its operations, and it will also have to come up with a plan of action because it has a term of a year in which to act. It also has to come up with an operational structure that will be effective and responsible. Thanks to this opportunity given me, it will operate in a framework of utmost transparency.

To conclude, I think I should end with the words of Albert Camus, French philosopher, who said, "Who would respond to the terrible obduracy of crime but the obduracy of testimony?"

Rest assured, Mr. Chairman, that the people and Government of Argentina understand that no pressure, even from terrorist elements, will affect its resolve to act. Future actions will bear witness to this.

[The prepared statement of Dr. Hector Masnatta can be found on page 172 in the appendix.]

Chairman LEACH. Thank you very much, and thank you for bringing a great French philosopher into the discourse with a very appropriate quote.

Let me now turn to Professor da Costa Leite. You are welcome, sir.

**STATEMENT OF JOAQUIM DA COSTA LEITE, PROFESSOR,  
UNIVERSITY OF LISBON, LISBON, SPAIN**

Mr. LEITE. Thank you, Mr. Chairman.

I would like to start by saying that at the time of the Second World War, Portugal was a very different country from what it is now. It was a poor, rural country under an authoritarian regime. There was still a Portuguese Empire at the time.

I would like to say that it is not the task of democrats to explain, much less to justify, the actions of dictators. What I am willing to do as an historian is to research the facts and to put them in historical context.

Concerning the U.S. Report and references to Portugal, I will concentrate on a single issue, which is central to the Report, the notion of neutrality. The Report recognizes in a footnote that there is a difference between countries which were neutral in the sense that they had no alliances or no commitments with either side, and nonbelligerent countries which did not get involved in the war, but still had some form of commitment.

This is not pursued in the Report, but I think it's very important in order to understand the position of Portugal, because Portugal has an alliance with Great Britain which is usually referred to as the "oldest alliance"—it dates from 1373—and it was the cornerstone of Portuguese foreign policy. It explains much of what Portugal did and did not do during the war.

To start with, on the very day that Great Britain declared war on Germany, September 1, 1939, a Portuguese official note reaffirmed the Alliance, adding that, fortunately, the Alliance did not require Portugal to enter the War. This interpretation was confirmed by an aide-memoir sent by the British Government to the Portuguese Government on September 5, 1939, which states: "His Majesty's Government in the United Kingdom much appreciate the assurances given by the Portuguese Government on the 1st September and agree with them that observance of neutrality by Portugal would best serve mutual interests of both Portugal and Great Britain in the present emergency. They are also in agreement with the decision of the Portuguese Government to refrain from making any declaration of neutrality."

The centrality of the Anglo-Portuguese Alliance was also evident to third parties. Quoting from the American diplomat George Kennan, who was at the time Charge d'affaires at the U.S. Embassy in Lisbon: "In the First World War, just as in the Second, the Portuguese made it clear that while they themselves preferred to remain neutral and proposed to do so if the decision were left to them, they would not fail to come into the war if asked by the British to do so in the name of the Alliance."

The British knew that, whenever a vital interest was at stake, they could invoke the Alliance and Portugal would comply. This they did in the negotiations for the use of military bases in the Islands of Azores, and also in the tungsten trade with Germany. As a matter of fact, in accordance with the spirit of the Alliance, Portugal discussed with the British, and later with the Americans, its overall trade, including trade with Germany. One of the main trading items was tungsten, about 70 percent of which was exported to Britain and about 30 percent to Germany.

Concerning financial transactions, there are two elements which have to be taken into account. One is the experience before the war, because Portugal tried to create the circumstances to enter the gold standard and was able to do it on July 1, 1931. But because the United Kingdom suspended the gold standard 21 days later, Portugal followed the pound, ending this brief experience. Nevertheless, the policy toward currency stability prevailed, and, in the view of the Bank of Portugal, the suspension of the gold standard only contributed to display the vulnerability of currency reserves, enhancing the security of gold.

Thus, from 1931 onwards, the Bank of Portugal tried to limit the accumulation of foreign currency to the minimum required by normal operations, using the rest to purchase gold. This was concerning any trade partner of the country.

The same policy was applied during World War II, relations with Germany included. The only exception—and this is the other element to take into account—was the sterling pound. In November 1940, the Bank of England and the Bank of Portugal signed an "Agreement Regarding Payments Between the Sterling Area and the Portuguese Empire." According to the Agreement, all trade and financial debts between Portugal and the U.K would be contracted in sterling. From then on, and until 1948, the exchange rate of the sterling was maintained at 100.50 Escudos. In the concrete circumstances of the war, the agreement meant that Portugal financed the British economy, accumulating sterling balances which by 1945 reached the amount of 80 million pounds.

I would like to stress the date of this agreement, 1940. It was, I think, the time that the British called their darkest hour in the sense that they were alone facing Germany.

The non-belligerent status of Portugal made it possible, in spite of severe economic conditions, to receive about 100,000 refugees, most of them Jewish. It is worth stressing that even those who were found without papers were allowed to stay in the country. This was recognized by many humanitarian organizations then working in Portugal both concerning the cooperation of the authorities and the friendly attitude of the Portuguese people toward refugees.

The role of Portugal was highlighted at the Bermuda Conference for Refugees by the Honorable Sol Bloom, Chairman of the House of Representatives Foreign Affairs Committee.

Concerning the Portuguese political scene, by the end of World War II there were hopes among many Portuguese that the authoritarian government of Salazar would be overthrown with the support of the Allies. Instead, the Allies preferred to deal with Salazar. The U.S., assuming its leadership role in the postwar world, wel-

came the Portuguese regime into the Marshall Plan and the NATO organization.

The benevolent American attitude toward Salazar's dictatorship was clearly expressed by Secretary of State Dean Acheson. Having met with Salazar after the Lisbon NATO meeting in 1952, he commented in his memoirs: "Indisputably, political liberty, in the modern British and American sense, does not exist in Portugal and, judging from past experience, would probably be incompatible with the economic stability and growth that over 40 years Dr. Salazar created. The Salazar regime had widespread acceptance and did not depend, as did Stalin's in Russia, on harsh suppression of individual liberties. A convinced libertarian—particularly a foreign one—could understandably disapprove of Salazar. But I doubt that Plato would have done so."

In 1974 the Portuguese were finally able to establish a democratic system. Today, having tried the alternation in power of different parties, Portugal is a stable, democratic country willing to face its history with openness and confidence.

[The prepared statement of Mr. Joaquim da Costa Leite can be found on page 180 in the appendix.]

Chairman LEACH. I thank you very much.

Now, Professor Martin-Aceña from Spain.

**STATEMENT OF PABLO MARTIN-ACEÑA, PROFESSOR,  
UNIVERSITY OF ALCALÁ, MADRID, SPAIN**

Mr. MARTIN-ACEÑA. Mr. Chairman, first of all, I would like to thank the Members of the Committee on Banking and Financial Services of the U.S. House of Representatives for your kind invitation to participate in this hearing. I consider it an honor, and I must add that I am delighted to have this opportunity to share with you the results of my research.

Mr. Chairman, if I may, I would like the entire statement which I have submitted to be part of the record.

Chairman LEACH. Without objection, so ordered.

Mr. MARTIN-ACEÑA. I would like to clarify my position here. I am a Professor of Economic History at the University of Alcalá, and therefore I do not belong to any official body, and neither do I represent the Spanish Government. You must understand that what I have written and all what I can say here today reflects my own views and my personal interpretation of the facts.

Also as an introduction, I want you to know that I have conducted a study centered on gold movements in Spain during the Second World War. The research was an initiative of the governor of the Bank of Spain, who wanted to have a good understanding of all gold transactions during the period. A limited and preliminary report was ready by April 15. The study that I have prepared is limited, because it dwells exclusively on the examination of what we understand as "monetary gold." My study is also provisional, because I have only consulted Spanish documentary sources.

In what follows I will try to explain the basic gold flows in Spain during the period 1939 to 1945, the economic relationship between Spain and Germany, and the negotiations that took place between the Spanish authorities and the Allied Control Committee with re-

gard to the recovery and restoration of gold stolen by the Nazis during World War II.

The information available in the Spanish archives on gold movements during the war and the years immediately thereafter refers essentially to the operations of the Spanish Foreign Exchange Institute. This agency had exclusive responsibility for transactions in foreign currencies since its creation in 1939.

According to Spanish records, the Institute purchased 67 tons of fine gold. The purchases were all made to foreign financial institutions. The list of banks from which the acquisitions were made included the Swiss National Bank, the Bank of England, the Bank of Portugal, the Transatlantic German Bank, and the Bank of International Settlements. The Institute also took some ingots from the Banco Exterior de España.

The largest volume was purchased from the Swiss institution, from which I.E.M.E. acquired directly 39 tons of fine gold between March 1942 and February 1946. This figure represented 60 percent of the total purchases made by the Institute during the entire period. From the Bank of England, the Institute purchased 15 tons. In a third place comes the Bank of Portugal, which sold 9 tons to the Institute. Furthermore, the Transatlantic German Bank sold to the Institute 2.5 tons of fine gold, while the gold received from the Bank of International Settlements amounted to less than one ton.

After all these purchases, the Spanish monetary gold reserve increased to a maximum of \$124 million.

The Institute acquired the gold with pound sterling and dollars obtained as a result of relatively large trade surpluses with the United States, the United Kingdom, and also with some neutral countries such as Portugal and Switzerland. Although the Allies were perfectly aware of the inclinations of the Spanish Government toward the Axis powers, both the United States and the United Kingdom were ready to allow and even to encourage commerce with Spain in an attempt to limit its exports to Germany.

American and British officials made constant efforts to prevent Franco from leaning completely and dangerously toward the Axis. Furthermore, by purchasing Spanish products and by supplying Spain with strategic inputs, the Allies avoided that the Spanish economy depended excessively on Germany. The Allies were also conscious of the poor situation of the Spanish gold reserves which had vanished during the Civil War, and of the desire of the monetary authorities to replenish their empty vaults.

In sum, the Allies kept their markets open to Spanish exports and therefore were the main source of the foreign currency employed by the Institute to purchase gold.

Trade with Germany was also intense and it accounted for about 40 percent of all Spanish exports during the war period. The close economic relations between Nazi Germany and Franco's Spain started at the very beginning of the Civil War, in 1936. Hitler decided to supply financial and military aid to the newly born Spanish Nationalist regime. This aid contributed decisively to the victory of General Franco and served to establish a permanent commercial link between the new regime and the German dictatorship.

The evidence suggests that the policy of the German authorities aimed at a vast exploitation of all resources of the Spanish econ-



any. This same evidence leaves no doubt that the Nazi leadership actively pursued policies to ensure that the balance of the new economic relationship would tilt irreversibly in favor of Germany.

By 1939 the Nazis had large investments in the mining sector as well as in textile and transport companies. They also had substantial economic interests in some agricultural products. When World War II started, the economic relations established during the previous four years intensified. Commercial relations between the two countries were conducted under different trade agreements. Therefore all export and import transactions took place within the framework of various bilateral treaties.

Generally, exports to Germany exceeded imports from Germany, and the consequence was the generation of an increasing trade surplus in Spain's favor. The balances were, however, never settled in free currencies or gold, since German authorities alleged the existence of a war debt resulting from the supplies provided by Germany during the Spanish Civil War. By 1945, the clearing account with Germany had built up to a surplus in Spain's favor, which was never collected, of about 300 million Reich marks.

After the end of the war, the U.S. Embassy in Madrid reminded the Ministry of Foreign Affairs that the Spanish Government had signed the Gold Declaration and that it was therefore obliged to furnish detailed information on gold stocks in Spain and their origin.

The Institute prepared the related documentation and it was forwarded to the United States Embassy, which in turn was to send it to the Allied Control Committee. American officials examined with detail all the information provided by the directors of the Institute with regard to gold flows during the war. Besides, the delegates of the Allied Control Committee also had the opportunity to inspect the ingots deposited in the subterranean vaults of the bank. Eventually eight bars were identified, with a weight of 101 kilograms in fine gold which had to be restituted in "fulfillment of the declarations of adherence to Bretton Woods Resolution VI and to the 1944 Gold Declaration."

These bars were apparently part of a direct purchase by the Institute to Germany via the Transatlantic German Bank in 1942. Their numbering enabled them to be identified as having come from the Bank of Holland, and they were thus subject to the restitution requirement.

Consequently, an exchange of notes was made between the United States Commercial Attaché in Spain and the Spanish Minister for Foreign Affairs. The notes were signed in Madrid in April and May 1948. In this agreement the Spanish Government committed itself to restituting the eight aforementioned bars.

Finally, in November 1948, the Director-General of the Institute and a representative of the Spanish Ministry of Foreign Affairs, in a meeting with the representatives of the Allied Control Committee, handed over to the latter the eight identified bars.

The gold acquired by Spain during the Second World War remained in the hands of the Spanish monetary authorities until the 1950's. This was a period of inflation and growing balance of payments deficit which saw the virtually total disappearance of the reserves built up by the Institute and a substantial reduction of the

gold held by the treasury. These reserve losses were the outcome of sales of gold deposited mainly in New York and, to a lesser extent, in London and Lisbon, as collateral for loans borrowed from U.S. and Swiss banks.

Overall, Spanish gold reserves were reduced by nearly 80 tons during the 1950's. At the end of 1958, the Institute's precious metal reserves had been reduced to \$2.5 million, and those of the treasury to \$8 million.

The Spanish economy at the end of the Second World War was as prostrated and poor as it was in 1939. Contrary to what had happened during World War I, Spanish neutrality did not bring any benefit to the economic situation of the country. In 1945, the level of industrial output and per capita income was similar or even lower than the one registered for 1939, and certainly well below the marks reached in 1935. During the 1940's the combination of a strict autarchic policy and the economic blockade imposed by the Allies on the Spanish regime resulted in a complete strangulation of the economy. Various reports made by the research department of the Bank of Spain clearly demonstrated that the industrial output of 1935 was not reached until the mid-1950's.

One can assert with a high degree of confidence that the political and economic relationship with Germany had long-lasting negative effects. Spain was severely punished by the Allies for Franco's support to Nazi Germany. In fact, economic recovery did not take place until the international sanctions against Spain were lifted. Thereafter growth proceeded relatively fast thanks to a more outward-looking oriented economic policy and to American aid which the country began to receive after 1953.

To finish my intervention, Mr. Chairman, I would like to make a brief comment on the Eizenstat Report.

I have read it with interest and I must say that I learned quite a lot. It is an important historical work, well-documented, although only based on American sources, and certainly represents a major advance in our knowledge of the World War II period and its immediate aftermath. The Report tells us a new and more detailed story of the economic diplomacy of those years and brings to light many unknown, and so far disregarded, aspects and facts.

With regard to Spain, we must conclude that the Report is perhaps too short and the different issues which the Report touches upon require a more profound examination.

Regrettably, I can say little insofar as non-monetary assets. However, it seems that the basic facts and the negotiations that took place at the time are well established in the Report. It may be that the negotiations were long because the issues on the table were complex and required a close examination of all assets involved. Eventually both sides reached an agreement and signed an Accord by which Spain proceeded to the liquidation of German assets.

With regard to gold, the findings of the Eizenstat Report basically coincide with the conclusions of my own study. Spain agreed to turn over the gold identified as looted from the Netherlands. They also agreed that Spain would return any other gold that could be identified as looted before April 1949.

Again on this matter, the negotiations between the American officials and the Spanish civil servants were long and complex. It

could not have been otherwise. Documents had to be prepared and examined; gold had to be inspected and all parties had to be well informed. There were not major differences, and when American negotiators asked for further explanations with respect to certain transactions, IEME officials were always ready to provide it. In various notes sent from the U.S. Embassy to the State Department, American officials indicated that they were satisfied with the explanations offered by the Institute and endorsed the final agreement that was eventually signed.

And this is all, Mr. Chairman. Thank you very much again to you and to all the Members of the committee for your kind attention and for this unique opportunity that you have offered me today to share my views with you.

Thank you.

[The prepared statement of Mr. Pablo Martin-Aceña can be found on page 186 in the appendix.]

Chairman LEACH. Thank you very much, Professor.

We will next turn to Mrs. Gill Bennett. I might say the British Government has prepared, I understand, under your direction, two extraordinarily fine documents on the subject at hand. Please proceed.

**STATEMENT OF MRS. GILL BENNETT, HEAD OF HISTORIANS,  
FOREIGN AND COMMONWEALTH OFFICE, BRITISH GOVERNMENT**

Mrs. BENNETT. Thank you very much, Mr. Chairman. I would like to begin by saying what an honor it is for me to appear before the committee. As you know, it's not usual for government officials to appear before a body such as this, but I think as official historian I can speak here as the historian, rather than the official.

Thank you for your kind words about our reports. I would like to say two things about those, one, which I made in my statement, that I have at all stages consulted closely with Dr. Slany, and I hope that both of us have profited from the close cooperation we have had on our reports.

The other is that our reports, although prepared by the Foreign and Commonwealth Office, do represent the documentation of all our government departments. For some reason the other departments were quite happy to hand over all their documents to me and let me write them. They didn't want to do it themselves.

Mr. Chairman, I have read with great interest the transcript of your previous hearings on this subject last December. During the course of that hearing you made the statement that "We must resist the temptation to apply today's moral rectitude to yesterday's circumstances." This statement, which as a historian I must heartily endorse, has particular resonance when we are discussing this subject which holds within it such tremendous depths of emotion, of loss, of bitterness, and of hatred.

But, while resisting the temptation of hindsight, we must use every means possible to understand yesterday's circumstances. That is the role of the historian, to set out the perspectives and the pressures, the constraints and the climate in which those in authority, during or after the War, had to make their decisions, whether government ministers, officials, control authority person-

nel, civilian or military, and it is also, of course, the role, I understand, of your hearings.

In my written statement I discuss the question of neutrality and the position of neutral governments. This afternoon I would just like to mention briefly three particular points which are relevant both to the postwar period and indeed to the investigations today, and we have to bear them in mind, I think, when considering this issue.

On all these points, the documentation is already available. I think it important to stress that most of the information published on this issue during the last year was already available in the public domain and indeed had been so for many years, and although the Eizenstat Report commendably contains much newly declassified material, I know its authors would agree with me that the main points of the story had already been available to public inspection for a long time before that.

The first point I want to mention is the question of the authority of the governments concerned, of the Allies, if you like, of the Allies as a whole whose authority after the war based on victory was not always endorsed by the full force of international law. I am not referring here just to the question of the negotiations of neutral governments where we have already heard international law did not back up the moral convictions of the Allied negotiators.

In general, in the postwar period the Allies' views and decisions on the shape of Europe, for example, and on the fate of Germany and what was to happen to assets were expressed primarily through conferences, through meetings, through communiques, not through treaties or formal agreements. For example, conferences at Tehran, Yalta, Bretton Woods, Potsdam all set out the shape of postwar Europe, but we didn't actually have a peace treaty.

The decisions reached at these conferences, therefore, were implemented largely because of the force of will, or the military might, of the major powers, or through persuasion. The final act of Bretton Woods, for example, could only recommend that all participating countries call upon the neutrals to take immediate measures to prevent the transfer of enemy assets. In other words, in each case individual governmental action would be needed to take effect of all these measures. There was very little that the Allies could do as a whole which would have the force of law.

As far as the American, British and French governments were concerned, their authority also derived from their position with the Soviet Union as occupying powers in Germany. This gave them a special and very heavy responsibility which they endeavored to fulfill in ways documented very ably in the Eizenstat Report. However, I think both that Report and the British reports illustrated the difficulty of the efforts and the difficulties they encountered.

This Tripartite responsibility was reinforced by the Paris Conference on Reparation, and henceforth they were acting not for themselves but on behalf of all the signatory powers of that agreement, and it's important to remember that in their negotiations with the neutral governments they were not negotiating on their own behalf or for any gain to themselves.

The second point I want to mention briefly and which has been well illustrated by the testimony earlier of Chairman Volcker is the

sheer technical difficulty of many of the issues involved in this question. Both Dr. Slany and I are only too well aware of the difficulties of dealing with monetary gold, non-monetary gold, gold which fell into neither of these categories, the fungibility of gold, technical and banking practices, technicalities of international law.

I'm not going to go into any of these, but I think we need to remember how extremely complex the issues concerned were and are, and when we listen to the testimony about how to take things forward now, we would do well to be instructed by Chairman Volcker in taking into account just how hard it will be.

The third thing I want to mention was also mentioned earlier by Under Secretary Eizenstat. Perhaps we have said too little in all this about actually what has been done, the positive aspects so far. Not just what has been done recently, but what was done at the time. The enormous quadripartite restitution machinery which operated in Germany from 1948; the wide range of measures taken by individual governments for restitution and compensation to the victims of Nazi persecution; the work of bodies such as the United Nations Relief and Rehabilitation Agency and the Intergovernmental Committee on Refugees; and again by individual governments for the help of all victims, and in particular for Jewish victims; and last but not least, we must not forget the compensation schemes established by the German Government, both of the FRG and as whole German Government, schemes which are still being extended to the countries of Eastern Europe formerly excluded by their inclusion in the Soviet Bloc.

There are, of course, those who must argue that this is not enough, and one cannot dissent from that. There are people in need who continue to suffer from their treatment at the hands of the Nazi regime and who have not yet received proper recompense for their loss.

As far as the British Government is concerned, we are of course sympathetic to the plight of those victims. The Secretary of State for Foreign and Commonwealth Affairs has made it clear that the government is ready and willing to look at all imaginative ways of helping these people which are consonant with our legal obligations. The announcement that the British Government will host a conference on Nazi gold later this year is further evidence of our desire for openness and for establishing the truth.

Speaking as a historian, however, I would like to stress the importance of carrying on, as I hope we have begun, and making sure that all our future efforts are based on an examination of the facts well supported by the documentary evidence.

Thank you, Mr. Chairman.

Chairman LEACH. Thank you, Mrs. Bennett.

[The prepared statement of Mrs. Gill Bennett can be found on page 201 in the appendix.]

Chairman LEACH. Professor Weinberg.

**STATEMENT OF MR. GERHARD L. WEINBERG, PROFESSOR,  
UNIVERSITY OF NORTH CAROLINA**

Mr. WEINBERG. Thank you, Mr. Chairman. You have a full copy of my testimony in front of you.

Chairman LEACH. I do, and it will be submitted for the record.

Mr. WEINBERG. To save time, I will read only portions of it at this point.

Let me make clear that I am not speaking for anyone but myself and that what I have to say pertains to the time of World War II and the immediate postwar period, not to the present.

The Eizenstat Report seems to me to be in general very sound. Its finding that Swiss financial and trade assistance to Germany prolonged the war has been challenged but is undoubtedly correct. The Germans were not buying cuckoo clocks so that every German soldier could be provided with one to wake him up when the time came to invade another neutral country. The Swiss francs acquired by the Germans were utilized for intelligence operations in Switzerland against the Allies and against Switzerland itself, and primarily for the purchase of goods and services which the German leadership at the time believed would be of greatest assistance to them in fighting the war.

There are three aspects of the Report which require either some addition or further emphasis.

First, the Report does not mention the very large credit, 850 million Swiss francs, extended to Nazi Germany in 1940 to 1942. I mention this because the Germans were not borrowing from Switzerland because they enjoyed paying interest, but because they had to borrow to pay for purchases. When thereafter they came up with massive quantities of gold and other valuable, it was obvious that these had been looted. Those running the Swiss Government and banks at the time were not kindergarten dropouts, but smart people. If you own an automobile dealership and your neighbor appears one day asking to borrow \$100 so that his electricity will not be turned off, and the next week there is a bank robbery in your town and the description of the robber fits your neighbor precisely, and the following week he comes into your showroom and puts down \$30,000 in cash for a car, you will know where the money came from.

The legal position of the Swiss Government at the time and in the immediate postwar years was always that looting is legal. That position was held not only toward Nazi Germany but also toward Communist Poland.

As the Report points out, in 1949 the Swiss Government signed a secret agreement with the Communist government of Poland under which the Swiss Government looted the accounts in Swiss financial institutions of those Polish citizens who had been murdered and who either had no heirs or whose heirs had been stonewalled. The proceeds were then paid over to Swiss citizens who had claims on Poland arising out of the nationalization of their property in Communist Poland. Suddenly the accounts which either could not be located or did not exist, depending on which week the Swiss negotiators were speaking to the Allies or the organizations looking after Holocaust survivors, could be located the moment the accounts were to be identified and emptied.

I am not suggesting that the individual recipients knew that there was blood on this money. However, everyone concerned in the government and banks knew, since by definition the accounts emptied were those of the murdered.

This brings me to the second point. In April 1945, the Swiss Government signed a secret agreement with the German Government which violated the agreement they had reached with the Allies in the preceding month. This is all in the Report. With Allied troops about to meet in the middle of Germany, this obviously had nothing to do with fear of a German invasion. This agreement and the many prior arrangements detailed in the Report had no more to do with pro-Nazi sentiments than the 1949 agreement with Poland involved pro-Communist sentiments, nor should such deals be attributed to anti-Semitism or anti-Catholicism.

I am not suggesting that there were no anti-Nazis or pro-Nazis, no anti-Semites, no philo-Semites, no anti-Catholics or pro-Catholics in the Switzerland of the time. My point is that all such considerations were insignificant as compared with priority number one: making as much money as possible for Swiss citizens, and to do so regardless of the legalities, morality, decency, or anything else.

The third issue to which I want to draw your attention is of an entirely different kind. In dealing with the reluctance of the Western Allies to push the Swiss Government too hard, the Report mentions that the Allies were concerned about the fate of British and American prisoners of war held by the Germans. Switzerland was representing Allied interests to the Germans and the Red Cross was involved in arranging inspections, food parcels, and correspondence links for these prisoners. This issue was vastly more important in restraining the Allies from pressuring the Swiss Government than the Report might lead one to believe. There was always concern that the Swiss Government and the Red Cross might renounce their role if we pushed them too hard, a step that might well endanger the fate of the POWs.

This concern increased rather than decreased after the tide of battle turned in favor of the Allies. The number of Allied prisoners held by the Germans was likely to increase as the war continued. There would be prisoners taken at the front and there were members of air crews who had to bail out. No one could predict the numbers. Everyone could predict that the total number would go up.

It was known at the time that the Germans slaughtered Red Army prisoners by the hundreds of thousands; it was known that there had been terrible incidents, the most notorious one involving Americans being the one during the Battle of the Bulge; but it was also known that the vast majority of British and American prisoners of war were surviving. Would the Germans allow this to continue? Would they issue orders, as we were beginning to understand that the Japanese had, to kill them all before they could be liberated? We know now that this did not happen, but it should be easy to understand that Allied officials at the time did not know and had every reason to be concerned.

In February 1945, during the fighting in Manila in the Philippines, Japanese soldiers not only raped and slaughtered tens of thousands of Filipinos but also broke into the Spanish diplomatic mission there and raped and slaughtered about 200 people there.

What has this to do with our subject? Spain had been representing Japanese interests to the Allies, and in response to this outrage formally renounced that role. Renouncing such a role had few if



any precedents. It must have reminded the American and British governments at the time that something like this could indeed happen.

I should like to conclude with a brief reference to the immediate postwar years. A major concern of the Allies was the reconstruction and recovery of Europe. We were in fact putting substantial amounts of American money into the Soviet-dominated portion of the continent through UNNRA.

The Cold War does not enter the picture substantially for several years. It was the relief and reconstruction concern that made it difficult for the Allies to pressure Switzerland, especially because the British Government of the time was unwilling to participate in such a policy. But no economic pressure on Switzerland would work unless all the major trading nations were willing to participate. In effect, Great Britain had a veto and exercised it. The profiteers could rest easy on whatever they had pocketed while others had sacrificed to protect their safety and Switzerland's independence.

Thank you.

[The prepared statement of Mr. Gerhard L. Weinberg can be found on page 235 in the appendix.]

Chairman LEACH. Thank you for a very original analysis with some very thought-provoking issues.

Professor Krister Wahlbäck.

**STATEMENT OF AMBASSADOR KRISTER WAHLBÄCK,  
PROFESSOR, UNIVERSITY OF UMEA, SWEDEN**

Ambassador WAHLBÄCK. Mr. Chairman, I have been asked to address the broader international context of this subject by presenting my perspective on the Eizenstat Report and my views of Sweden's role in the Second World War. Further, I have been told that it might be of interest for the committee to learn how these issues are now perceived in Sweden.

On the last point, Mr. Chairman, let me say at once that there has never been any consensus in these matters among Swedish historians, and I don't expect any change in that regard. I am sure some of my academic colleagues will disagree with what I am going to say, and my remarks can certainly not convey more than my personal views.

In particular, they do not represent the views of the official Swedish Commission on Jewish Assets in Sweden at the time of the Second World War, which was set up by my government in February of this year. Though a member of this Commission, I am only one of seven. The Commission is still in an early stage of its work and very much indeed remains to be done to establish basic facts. Only when the Commission has verified to our satisfaction such matters as the extent to which the Bank of Sweden may have accepted stolen gold and the way in which other banks dealt with Jewish assets will we consider the wider political and moral issues.

In my view, the study prepared by Dr. William Slany and his team is a most impressive piece of research accomplished in a phenomenally short time. Even if only preliminary, it provides an indispensable point of departure for our study. Most importantly, it offers an excellent analysis of the international context in which Sweden's role has to be considered.

Also, the study provides some precise pieces of information on the part played by Sweden and Swedish banks and industries as perceived by the U.S. Administration on the basis of sources available to them. This information is an input for our Commission as we try to reconstruct, with full access to Swedish archives, what actually happened.

Our Minister of Foreign Affairs has asked the Commission to complete its study before March 1998. She has also made it crystal clear that no stone should be left unturned in this pursuit. The Holocaust is such a unique chapter in mankind's history of evil that every nation has a duty to face all facts with regard to its own role in the years when Jewish communities all over Europe were destroyed and extinguished.

In Under Secretary Eizenstat's foreword to the study by Dr. Slany and his team, I note his assessment of the postwar negotiations with the neutrals. In his view, Sweden was the most forthcoming in terms of the extent and pace of its cooperation in transferring Nazi gold and other assets to the Allied powers.

Further, Mr. Eizenstat addresses several general issues of a political and moral nature which go beyond the scope of Dr. Slany's study of Nazi gold and Holocaust victims' assets. Thus he raises the question whether it was at all legitimate for the neutral states to continue any trade with Nazi Germany after Stalingrad in early 1943.

Mr. Eizenstat is very clear in his view on this point, which concerns a major part of Sweden's wartime foreign policy. His judgments are certainly well worth discussing. That is what I am doing in my written statement, showing that in the case of Sweden, to break off all trade with Germany would have resulted either in a collapse of our economy within a few months, which would have undermined our capacity to stand up to German pressure, or in German retaliation, possibly in the form of sudden military attack of the kind used against Italy in September 1943 or against Hungary in March 1944.

While I don't accept Mr. Eizenstat's thesis, it is my personal view, knowing what we now know, that Sweden could have taken a somewhat tougher line without running excessive risks. The effect on German capabilities would have been pretty marginal, of course, but at least we would have felt more comfortable with our wartime record.

Mr. Eizenstat's suggestion of a Swedish boycott of trade with Germany in 1943 reflects, I think, a changed awareness in recent years. Today, as we have come to realize fully how much of the Holocaust, as well as of other suffering and destruction actually took place in the final stage of the war, it is natural that we look for alternative developments that might have shortened the war. We engaged in the might-have-beens of history, or what historians call "counterfactual" history.

With regard to the Holocaust, we are all aware, for instance, of the debate about the effects on the Nazi annihilation program if the Allies had used their air superiority to strike at transportation lines to Auschwitz and other extermination camps. A neutral country like Sweden cannot expect to be unaffected by these new perspectives.

But those who made the wartime decisions in Sweden did not think in these terms, and the notion that Sweden had in its power to shorten the World War by breaking off trade with Germany in 1943 was simply absent in the Swedish debate for a very long time in the postwar period. Not only because most Swedes were still quite conscious of the trade imperatives during the war and of Sweden's vulnerability to the brute force of Nazi Germany. Not only because they lacked much of today's awareness of the terrible destructiveness of the last year of World War II. There were also some other factors at play, a set of painful recent experiences that had shaped the Swedish view of the country's proper place in European politics.

As a small democracy located close to Nazi Germany, the Swedish people were prepared to go to war with Germany in order to defend vital Swedish interests, and perhaps also to run some risks in order to assist her Nordic neighbors to maintain independence. But the idea of trying to play a role in 1943 to 1945 in shortening the immense war between the great powers was alien to a small nation which had adhered to neutrality largely out of frustration with the great powers of Europe.

In fact, at the outbreak of World War II, the mood in Sweden was one of disillusioned isolationism with regard to the great powers. The reasons are fairly clear.

In my written statement I describe how Sweden back in 1920 had joined the League of Nations, had dropped its own neutrality policy in favor of collective security and international solidarity, only to see in 1935 to 1938 how the great powers of Western Europe renounced this system and engaged in appeasing Mussolini and Hitler.

The Swedish reaction was one of withdrawal from Europe. The country focused its interests on the Nordic region and the idea of a common Nordic neutrality based on a measure of solidarity between four small Nordic democracies.

It proved possible for Sweden to carry out these policies at least in part when the Soviet Union attacked Finland in November 1939. Sweden did not issue a declaration of neutrality, and thus it was able to supply Finland with very large quantities of armaments. Finland survived due to the heroic feats of its army, even if it had to cede a large part of its territory to the Soviet Union.

When Germany attacked Norway and Denmark a month after the Soviet-Finnish war had ended, a similar supportive Swedish policy proved impossible. The Germans demanded at least neutrality, Sweden was within immediate reach of the German war machine, and the Norwegians were not successful in their struggle against the invader. Sweden declared itself neutral and avoided any support to the Norwegian Government.

However, after the war had turned against the Germans in 1942-43, the Nordic agenda again became paramount to the Swedish Government.

In the first place, Finland, which had joined the German attack against the Soviet Union in 1941 in order to regain the territories lost in 1940, had to be assisted to get out of the war before it was too late. Once the Finns were ready to break with Germany and reach an accommodation with the Soviets, Swedish support would

be essential, not least to make up for German deliveries of grain and other products. The Finns did not switch sides until September 1944.

The importance for Sweden of sustaining an independent Finland and avoiding the situation of having the Soviet Union as our immediate neighbor can hardly be exaggerated.

As for our neighbors to the west, it was essential that Norway and Denmark be liberated without being ravaged by renewed warfare or domestic violence at the very end of the World War. The Swedish Government thought it might have a useful role, both in training police troops recruited from the large Norwegian and Danish refugee communities in Sweden, and in persuading the commanders of the German troops in Norway and Denmark not to make last-ditch resistance.

With regard to Finland as well as Norway and Denmark, there was in Swedish minds a blend of a sincere wish to help and an equally sincere self-interest. It would be an advantage for our Nordic neighbors as well as for ourselves if Northern Europe emerged from the war not in ruins and in social and political turmoil, as in much of Continental Europe, but in a reasonably stable condition.

In the Swedish view, such an outcome presupposed that Sweden succeeded in staying out of the war and concentrated its limited resources on trying to stabilize the Nordic region. This effort would be easier if Sweden managed to maintain normal diplomatic relations with Germany. It was not too difficult to foresee that some Germans in commanding positions might be susceptible to Swedish persuasion as Hitler's system approached collapse during the final months of the war.

This Nordic ambition, Mr. Chairman, was one part of what the Swedish Government considered a reasonably ambitious role for a small country toward the end of the war. The other part was directly concerned with the Holocaust.

Sweden's record in admitting Jewish refugees before the war or during the first war years had hardly been better than that of other countries. As stated in the report of an official Swedish commission in 1946, our refugee policy had lacked generosity and displayed an absence of real concern.

Once it became known, however, that the Nazi regime had begun a program of mass extermination of European Jews, the Swedish Foreign Ministry organized a systematic effort to save as many Jews as possible. This effort has recently been analyzed by an American citizen living in Sweden, Paul A. Levine, in his Ph.D. dissertation "From Indifference to Activism: Swedish Diplomacy and the Holocaust, 1938-1944." I might mention that Dr. Levine is presently working as an expert in the official Swedish Commission on Jewish Assets.

The best known example of Swedish activism is, of course, the actions of the Swedish diplomat Raoul Wallenberg, who in 1944 was sent to the Swedish Legation in Budapest by our government in cooperation with the American War Refugee Board and the World Jewish Congress. Estimates of the number of Jewish people he managed to save by unconventional methods vary from 30,000 to 100,000. Another example is Count Folke Bernadotte, who in the early months of 1945 succeeding in extracting from Himmler's con-

concentration camps in Germany some 30,000 people, a great part of them Jewish.

It is also worth mentioning that almost the entire Jewish community in Denmark, some 8,000 people, managed to escape to Sweden in 1943, only days before they were supposed to be rounded up by the Nazis. The majority of the Norwegian Jews were also able to escape to Sweden.

To sum up, Mr. Chairman, to the Swedish Government during the final years of the War, a natural activist role for a country such as Sweden was to assist its Nordic neighbors and use its status as a neutral for rescue missions on the Continent of Europe.

Were these endeavors sufficient to compensate for the moral ambiguities inherent in a position of neutrality during World War II? This issue has been debated many times in Sweden, and today's concern about Nazi gold and Jewish assets will add yet another dimension to the discussion.

A serious analysis of the issue would raise a lot of complex philosophical and political problems. But I would like to conclude my presentation, Mr. Chairman, if I may, by quoting a few sentences from an article by the British moral philosopher, Professor Ken Booth.

For nations all morals are contextual, he says. "For governments, the traditional moral guideline has been the idea of the lesser evil. In contemplating the lesser evil, any specific set of circumstances, the size, the location, and the power of the state concerned will be significant. What is acceptable or justifiable behavior for a small country under the shadow of a hostile power is likely to be very different from what is thought acceptable or justifiable behavior for a great power."

Mr. Chairman, thank you for your attention.

[The prepared statement of Ambassador Krister Wahlbäck can be found on page 239 in the appendix.]

Chairman LEACH. Thank you, Ambassador Wahlbäck.

Our final historian is Professor Antoine Fleury.

#### STATEMENT OF MR. ANTOINE FLEURY, PROFESSOR, UNIVERSITY OF GENEVA, SWITZERLAND

Mr. FLEURY. First of all, let me thank you, Mr. Chairman, for the invitation to take part in this second hearing. In your invitation you state that the purpose of this hearing is "to place this troubled moment in history into a broader international context." As a specialist in the history of international relations, I am very pleased to make my contribution. You also request me to make known my perspective on the Eizenstat Report and, more broadly, my views of Switzerland's role in those tumultuous days, as well as to say something about how these issues are perceived in my country. A big problem.

Permit me to expose to you as concisely as possible my viewpoint as a historian. And I ask you to put my full statement in your record.

Chairman LEACH. Without objection, sir. And that applies to everybody's statement.

Mr. FLEURY. As regards the Eizenstat Report, I can only applaud this effort of research and publication of documents. The tasks of

compiling and, above all, synthesizing these documents represent an arduous task. Personally, I have long been an admirer of the work of William Slany and his assistants for the publication of the FRUS, an unparalleled source for the historian of international relations. Furthermore, in the case at hand, I see that he was obliged to work in exceptionally difficult conditions, faced with a tight deadline, not to mention the pressure of the media.

Yet it is a rather rare, if not unique, event to expose to the public, methodologically and analytically speaking, a provisional version of a major topic of research. On the other hand, I appreciate the fact that the authors of the Report have quite correctly qualified it as a "preliminary study," one which opens up numerous avenues of research and will require long and patient verification in order to clarify or confirm the most significant aspects or certain very specific points.

If our objective is limited merely to establishing the facts, it is impossible to do so based uniquely on the official documents of one state, no matter how massive its archives may be. It would, therefore, have been imperative for a truly international research endeavor to have been undertaken a long time ago if our desire is to shed light in the most objective manner possible on the conduct of states or of certain sectors of society during the Second World War and, in particular, with regard to the grave issue of the fate visited upon the Jewish people.

In the case of Switzerland, it would be wrong to believe that the discipline of history had neglected to probe this tragic moment of contemporary history.

In order to assist your committee in its investigation so that it might fully comprehend the extraordinary complexity of the situation of Switzerland during the war, it is my pleasure to be able to present you with a copy of the "Swiss Diplomatic Documents" we have recently published, two volumes of which are, so to speak, fresh off the press last week, in accordance with a project which was conceived several years ago.

[The information referred to can be found on page 258 in the appendix.]

And if we undertake, in all honesty and objectivity, to make a comparison of our own choice of documents, made in a context free from the influence of media pressure or that of current events, with certain of the Eizenstat Report's assessments, we are well justified in asking ourselves whether or not we are referring to the same country.

In a word, the manner in which Switzerland is presented in the Eizenstat Report is characterized by the well-known visual phenomenon of optical illusion resulting from focusing the study on one particular aspect and relegating the overall view to an obscure background. This approach may well be common and even comprehensible in historical monographic studies. However, it is quite frankly, inadmissible in a study leading to explanations whose scope is to establish moral and material responsibility.

By what authority does a Report going under the guise of a "preliminary study" anticipate and draw conclusions? There is a very great semblance here of historical research being used in order to



obtain political objectives. Other colleagues have mentioned this perspective too.

Indeed there are several points dealt with in the Eizenstat Report which would be ample stimulation for numerous scientific works and symposia aimed at in-depth clarification and an interpretation of maximum objectivity. My intention here is to limit myself to correcting one crucial appraisal which was extensively taken up and commented on by the media.

I am referring to the affirmation according to which Switzerland, beginning in 1943, would have been able to break off its relations with the Reich and move closer to the side of the Allies, while the fact of having maintained its neutrality and its economic cooperation with the Axis is to be seen as having contributed to prolonging the war.

Such a statement implies a lack of understanding as to the geographic situation of Switzerland, as well as an underestimation of the Nazi Reich's reaction capability and ability to cause harm and destruction even in its decline.

Suffice it to recall the following:

In the course of the Second World War, Switzerland underwent a number of shocks, each of which had a direct effect on its situation and entailed a reduction in its freedom of action. March 1938 saw the disappearance of Austria as an independent state in the name of a pan-Germanic ideology which was threatening a large part of Switzerland as well. I belong personally to the French part of Switzerland.

In June 1940, Switzerland found itself in almost total isolation with the fall of France and the occupation of several smaller states such as Belgium, the Netherlands, Luxembourg and Denmark. Switzerland stood alone and terrified in expectation of Germany's next power play.

In June 1941, Germany launched its attack on the Soviet Union. In the meantime, England and the United States were intensifying blockade measures against the European countries abandoned to the control of the Axis. Switzerland stood alone in the very core of Europe, and despite its increased isolation with the total occupation of France in 1942 refused to cede to the Nazi ideology and held firmly to its democratic institutions.

And yet, what powers came to encourage the efforts of resistance this tiny country was making? The support being counted on from the large democratic powers turned into an unexpected lack of understanding, making the nightmare of a solitary faceoff with the Axis still worse.

Even more serious in its consequences, the United States of America, by also targeting Switzerland, which it suspected of working with Germany, in its measures to freeze the European assets on 14 June 1941, treated Switzerland as an enemy state in complete disregard for the 1907 Hague Convention on the rights and obligations of neutral powers in the case of war.

Even if the goal of these measures was understandable, applying them without having made a serious examination of Switzerland's position contributed to making the latter still more dependent on Germany. If on the other hand, the Swiss had been able to dispose of their financial resources in the USA, they would have been less



fettered in their ability to freely procure foodstuffs and raw materials. This is precisely one of the aspects which deserves to be delved into more thoroughly by American and Swiss historians together.

I would like to add another important element. Had food supplies been guaranteed to Switzerland, the Allies would have given substantial support to the Swiss Government, enabling it to welcome thousands of additional refugees since it would have been impossible to invoke the food argument at the time the borders were being closed. And it is certain that Switzerland would have extended an even more liberal welcome to refugees in transit if the United States and England had furthermore committed themselves to taking in a good number of refugees, at least once the hostilities had ceased.

There is something still more serious which must be mentioned. Early in 1942, the American Secretary of State, Cordell Hull, and Lord Selborne, British Minister of Economic Warfare, announced that any person found to be lending support to the ransoming of Jews threatened, albeit, with deportation by transferring hard currency to the Nazi authorities, would be put on a blacklist. According to the sources available, this primarily concerned certain Dutch Jews who allegedly availed themselves of the services, in particular, of a law firm in Zurich which was rightly blacklisted. Such a sanction, edicted by two great Allied countries, signified that at that time, this rather paltry amount of currency which the Swiss were providing to the Reich in this shameful "human trade" was of greater importance than the human lives which this money could have saved from the Holocaust.

Here we have yet another issue worthy of further study and which deserves to be placed into perspective with regard to the moral engagements of the parties concerned.

On a broader plane, during these years of great trial, the policy of neutrality consisted of convincing the two sides that the independence of Switzerland was, for the one and for the other, of greater utility than alignment. From 1940 to 1942 it was not easy to convince Germany to leave Switzerland out of Hitler's "New Europe."

However, the thing that allowed Switzerland to escape from total submission was its economic trump card, and this story is very well documented in Volumes 13, 14, 15 of the Swiss Diplomatic Documents. It was the industrial and financial cooperation which was set up in 1941, continued in 1942, but began to decline in 1943, that enabled Switzerland not only to remain independent, and this without any Allied support, but also furnished it with the opportunity, and this point is scarcely taken into consideration until now, of acquiring an ever-increasingly modern and credible army, totally financed by the hard work and the savings of the Swiss people. This defense capacity was highly appreciated by Western military commands with the advent of the Cold War in 1946 and 1947.

Therefore, in 1943-1944, what benefit would there have been in Switzerland's alignment on the side of the Allies? Such an action would only have caused complications for the Allies. The more the war gravitated toward the center of Europe and to the Swiss borders, the more the Wehrmacht's intervention capabilities became a

reality. A few German divisions would have occupied the country, thus co-opting all of the country's resources. What would the Allied troops in southern Italy have been able to do to come to the assistance of the Swiss army? Moreover, we know that a simple economic realignment, implying, for one thing, the break-off of transit through Switzerland, would have been enough to provoke a German decision to intervene militarily, or to decide upon an economic blockade of Switzerland, leading to collapse of the nation.

One need only imagine all of the consequences this would have entailed for Swiss humanitarian activities in the world and for refugees of all sorts, primarily the Jews, and including the Swiss Jews. I shall refrain from going into what happened in 1944 with the Hungary of Horthy, who attempted to draw closer to the Anglo-Saxon powers and thereby provoked the installation of the Wehrmacht and that of the sinister Eichmann. Nor shall I elaborate on the Warsaw Insurrection of August 1944.

In truth of fact, Switzerland's greatest merit and its most important contribution to the victory over the Axis lies in its not having been occupied and in not having obliged the Allies to invest manpower and resources in the liberation of this Alpine country had it been taken over by the Axis like all of the other states in Central and Eastern Europe, with the subsequent burden of feeding it and reconstructing it. The highest Allied authorities of the time, Churchill, Roosevelt, De Gaulle, recognized this fact.

What's more, Switzerland, thanks to its desire to be neutral and solidary with all of the peoples who were victims of the horrors of the War, deployed its humanitarian activities on a global scale and totally out of proportion in function with its size and its means, four-and-a-half-million people during the war. I give figures on this matter in my statement.

As to the argument that the neutrals' economic cooperation, and that of Switzerland in particular, contributed in a considerable manner both to increasing the economic capacity of Germany to wage war and to prolonging the war itself, I would simply like to remind you of a few quantitative statistics.

Contrary to what has been depicted and certain interpretations which have been circulated in recent times, between 1940 and 1944, Switzerland's portion of the Reich's total imports represents an amount of merely 3 percent in 1940, 5 percent in 1941 and 1942, falling back down to 4 percent in 1943. This share is practically identical to that of Rumania and well below that of Belgium and Holland, both occupied countries at the time.

As to the role played by gold in financing the German wartime economy, although very useful, it is in fact of marginal importance, and the figures are put in my statement.

In this perspective, both camps primarily availed themselves of the Swiss National Bank as intermediary to procure currency in order to carry out diverse transactions which in themselves deserve to be the focus of so many individualized studies, as we have seen today. However, above all, they were used to finance various activities such as diplomatic and humanitarian services, espionage, propaganda, finding rare products everywhere in the world.

Under these circumstances, it is absurd to ascribe a prolongation of the war to these gold operations, above all when placed into the

context of the enormous requirements of the war economy at that period. On the other hand, the question of the origin of the gold coming from the Reich was a problematic issue at the time and remains so even today for historians who are, above all, examining the moral implications of these transactions that we know very good now.

Finally, the Eizenstat Report seriously calls into question the Swiss banking system and the practice of bank secrecy. Need the very system be called into question, or rather certain dealings performed by bankers or other financial agents, both Swiss and foreign, in making use of the system?

I present some arguments in my statement.

Nonetheless, there remains a crucial moral question and dimension in this aspect: Did the Swiss banks misuse the reputation of the system in order to deliberately camouflage to this day the funds which belonged to the victims of Nazism and to withhold them from any legitimate claimants?

To reply correctly to this question, it would be well to know the list of all those who have recuperated their assets, as well as the list of all unclaimed assets. It is clear that in 1946 neither the banks themselves, nor the government which had promised to ensure that this question would be settled in accordance with Swiss banking ethics, which means discretion and probity, would have been able to know which of their clients fell into the pertinent category. I think the Volcker Commission is now doing a very important part in deciphering this.

I would like to impart to you a final reflection prompted by both the Eizenstat Report and, above all, certain editorials and commentary which have appeared in the American press. It concerns the terminology and the imagery which is being employed sometimes.

The topic of the profit and gain which the Swiss, the banks, and the industrial community are said to have made is oftentimes brought up. This reasoning is oblivious to what they would have earned had peace, on the contrary, been maintained and if economic relations could have been able to develop in a normal manner with the large American market, for instance. One omits to point out that as of 1939, the United States surpassed Germany as destination for Swiss investment capital. It is an indisputable fact that the war put a halt to this development, and that it will only be several years after the war that things are able to proceed at a special pace once again.

And now to the image of Switzerland, wealthy at the end of the war. Yes, in comparison to the destruction in our neighboring countries, but no in as far as living conditions are concerned. May I remind you that the average food ration of the Swiss population in 1945-1946 corresponded to one-third of the ration provided to the American soldier in Europe. Yet this precarious food situation did not keep the Swiss from exhibiting boundless generosity in coming to the aid of the war devastated countries.

Furthermore, the Swiss Federal Government accepted, in the summer of 1945, the request of the American military authorities to allow GIs to spend a minimum of one week of R&R in Switzerland from October 1945 on. And so it was that over 200,000 U.S.

soldiers came to Switzerland for recreation, where they appeared to be in admiration for the people of this small country who had succeeded in escaping the Nazi hell, destruction and the war.

Mr. Chairman, you have also asked me to tell you how the Swiss population has been following this issue for the past year. Now I am speaking no more only as a historian, but also as a citizen.

I must simply say that because of the wars, criminal acts, and horrid things done by others, the Swiss have forged for themselves, rightly or wrongly, the image of a privileged people, one somewhat falsely heroic. The Swiss have also attributed to themselves the virtues of being a "special case,"—sonderfall—for having been spared by the wars and their aftermath. As opposed to the neighboring countries, there were no crimes or shameful official behavior to be repressed or hidden. We extolled consensual sacrifice, not the heroism of the war generation, since there had been no combat to be engaged in.

Some historians have made analyses of certain cases of compromise of principles, primarily in the domain of business, or have studied some instances of misled partisans of the Nazi ideology. We have also debated the respective roles of the army, the bankers, the Swiss National Bank, gold, and of the industrialists as guarantors of our independence in the face of Hitlerite hegemony.

We questioned ourselves and began so doing at the beginning of the 1950's, about the welcome extended to the refugees. Had the Federal authorities not been too severe, even inhuman? In keeping with its traditions, could the Swiss people not have given sanctuary to more refugees, above all those, the Jews, whom we knew were one step ahead of death? All of these questions are the object of inquiry in this small country. These questions also determine the conduct of the citizens with respect to the crime and misery found in today's world.

However, the methods being employed and the blanket attacks launched primarily from New York, accompanied by the threat of boycotts and offensive images of Switzerland's attitude during the Second World War, have profoundly shocked the Swiss people. They feel they are under attack by the great American sister republic with which they believed to enjoy a sort of moral tie from the beginning of these two republics.

Points of contention and difficult problems have existed in the past between the two countries, but they have always been discussed and settled in a friendly manner. And now Switzerland is being treated as a leper, as dishonest, as out for profit. In former times, certain of these epithets were uttered in Moscow, but not from the land of our American partners and friends. A serious crisis has emerged in Switzerland. Among the people it has provoked an anti-American sentiment that has practically never existed before in Switzerland, even if from time to time, some voices are heard condemning certain behavior perceived as dominating on the part of the big United States toward small Switzerland.

The memory of the Swiss people is in the process of being torn asunder. Today's Swiss citizen thinks that if he himself, or his forefathers, are or were guilty of being scoundrels and swindlers, then what should be the comportment of he who has striven his whole

life to be honest, conscientious, and in addition, charitable? The picture is fuzzy and blurred.

The historian in me, fully cognizant of the difficult problems which have cropped up in our bilateral relations in the past, regrets that so sensitive an issue as that of the remembrance of the victims of the Holocaust and of the respect of their moral and material rights, has become a "diplomatic deal" between our two countries. The use of the humanitarian dimension as an instrument by an ever-increasing number of our governments is detrimental to the victims. And in the case of the unclaimed assets, one which has a strong moral dimension for humanity but contains a purely technical aspects of entitlement to the accounts still available, it would be sad to see it give way to diatribes on the past and to a loss of solidarity among peoples with respect to the misery which prevails on this earth.

On the contrary, coming from Geneva, my wish and, without a doubt, that of many other Swiss today, is that the "Spirit of Geneva", one of conciliation and international aid and relief, be enhanced by this ordeal.

Why don't the public and private authorities undertake the construction of a sort of memorial monument dedicated to the victims of the Holocaust and to the peoples who in this century have been victims of crimes against humanity? And why not do so in Geneva, a site of international concord and harmony? Would this not be a noble illustration of reconciliation of the tragic fate of the Jewish people with the fate of humanity, a human race fated to be educated day after day in the fostering of peace, the respect for human life, and in solidarity among nations?

I thank you for your attention, Mr. Chairman.

[The prepared statement of Mr. Antoine Fleury can be found on page 249 in the appendix.]

Chairman LEACH. Let me thank the entire panel. What I would like to do is ask each of you a series of questions, and I will alternate with Mr. Snowbarger. I would like to begin in reverse order, partly because the analysis presented by our last historian was so stark.

Out of frankness, I must tell you I am somewhat disappointed, Professor Fleury. I believe a solid historian might find a point or two to disagree with in the Eizenstat Report and a perspective that might be applied from a different vein, but to describe it as an "optical illusion," paints it in a dimension that I find very unprofessional. The question I would have is, do you think you are applying illusory optics to make that judgment?

Mr. FLEURY. My personal opinion on that issue is that we don't very well understand about the special individual responsibility of Switzerland.

My opinion as historian is as much as I have seen documents. Many governments are very engaged in this issue and are focusing on only one aspect and one country. I know now that we are broadening the perspective, which was your goal. I agree totally with this perspective.

Chairman LEACH. It is always awkward for one country to make assessments about another. It is particularly awkward if one coun-



try is larger than another. On the other hand, what we are trying to deal with is the history of the times in a very broad context.

Having watched the development of this process and having viewed the professionalism of the Department of State in its analysis, I would stress that it is the American perspective that we are trying to apply a magnifying glass to our own and world history related to the Holocaust and trying to clarify, rather than distort the truth. That is the endeavor of our country at this time, and it is a very sincere endeavor. There are no motivations that I would consider that would evoke reactions that are designed to be of any nature except a search for the truth. We can be wrong. We can be partly and not fully right. But I think one has to be very careful on how one critiques the professional efforts in this area.

Let me ask some very specific questions. According to one document released by our Government at the time of the Eizenstat Report, one example of German holdings in Switzerland are deposits made by representatives of Goering into Swiss banks. Are you confident what happened to all of these kinds of deposits by Goering and others? Do you have a good sense for that?

Mr. FLEURY. I don't understand very well your question.

Chairman LEACH. The question relates to German deposits in Swiss banks held by figures such as Goering.

Mr. FLEURY. We don't have many documents about Nazi money flights to Switzerland. What we have to know is that at the end of the war the Americans and British were pressing Switzerland to block German assets. In 1944 these discussions were going on, and German agents knew the pressures from the Allies. At this moment, I suggest that the Nazi money didn't come to Switzerland, but went out of Switzerland, fearing that the German Nazi assets could be taken from the Allies. This is the fear. So the figures show exactly that there was not an influx of German money to Switzerland, but a departure of this amount.

How much of these funds? Perhaps the Volcker Commission would be better. Up to now it was impossible for us historians professionally to have access to banks' material. What we could find in official papers was only one, two or three names, but not exact details; rumors, information that high officials could receive, but not exact information.

For others, the Italians, we have a lot more.

Chairman LEACH. A historical document released with the Eizenstat Report said, "There is considerable evidence that a larger number of paintings which were looted by the Nazis from all over occupied Europe were brought illegally into Switzerland to be held there or sold for the benefit of Nazi leaders such as Goering, Alderman, Scherak, and so forth. Swiss business organizations and art dealers as well as private individuals have been reported to be custodians of these art treasures."

Can you tell the committee what happened to the Nazi looted art treasures?

Mr. FLEURY. It's a very complicated thing. I am not a specialist in that. I think it is projected to have an international scientific or historical symposium to study exactly this art market during the war. Many countries are concerned about this. The specific role of Switzerland has two aspects. Galleries exist in Geneva, but both

aspects can be treated only for this one important subject. We need further research to know details.

Chairman LEACH. Would Switzerland be cooperative with an international study of this effort?

Mr. FLEURY. What I can tell you is that what we have in our official accounts about this is a very small indication. No serious data. We should have now the right as historians to go to different societies, banks, financial societies, other societies who could give information about this kind of transaction. It's a big chance for the actual historians to go really deep for all this period 1933 to 1945. We need the cooperation of some privates to give documents about this very important issue. I agree with you.

Chairman LEACH. Mr. Snowbarger.

Mr. SNOWBARGER. This question is to any of the panelists with perhaps the exception of Professor Weinberg, because I know the answer, I think, for this country.

Professor Fleury has obviously indicated that there needs to be a study into these issues, but he has also indicated that there is at least some sense that blame is being targeted at Switzerland and the Swiss people. I guess my question to those of you from the other countries, what is your public's reaction to the kind of study that we are trying to do here? Is all this perceived to be on an academic search for information level, or is it perceived as some kind of charge or attack on your countries and on your people?

Professor Weinberg, if you want to answer that too, you can do so.

Mr. WEINBERG. It is obviously very difficult to summarize world opinion of this kind of issue. My impression is that in many countries this is perceived as a kind of internal American excitement, a kind of stirred up new trouble about what went on during the Second World War, and a kind of reluctance to look at things, in part because of the confusion in time to which I tried to call attention at the very beginning of my remarks.

We're not talking about what bankers in Argentina or Portugal or Switzerland or Sweden or what-not are doing, or in fact what their parents did. What we are really talking about are things which are really substantially in the past but some of which are, to put it politely, very unpleasant, and that always makes people uncomfortable. When they are raised by a very large, very rich, very powerful country, or if not by the country, within it, then I don't think we as Americans should be surprised if people react and say, "Well, us, and why do you pick on us, and what business of yours is it, and didn't you ever do anything nasty?", and so forth; and at the same time a kind of reluctance to look a little more precisely at some really quite outrageous things, not done now, but done by other people a couple of generations past.

Mr. SNOWBARGER. If others want to comment on that.

Mr. MARTIN-ACENA. It has to be taken into account that in the case of Spain that the 1940's were difficult years. Franco won the war and imposed in that decade, particularly in the 1940's, a very strict and very harsh dictatorship. From the point of view of our present day, new generations believe in democracy and they enjoy a different political regime. What happened in the 1940's, what Franco did, and also the relationship that the Franco regime had



with Hitler, the particular link, now people think, "Well, the responsibility was with those that perhaps collaborated with Franco, but not now."

The issue is perceived as past history, that one has to look at it, one has to examine, one has to know, have a good understanding in order to not repeat it perhaps. We have to know that during the war we were on the wrong side, to put it that way, but later we were on the right side.

Mr. WEINBERG. If I may point out a very important factor in answer to your question, sir. It is important to remember that Spain, Portugal, and Argentina have fundamentally different kinds of government now from the kind that they had at the time the things being discussed took place. It is therefore much easier for the people in those countries to say, "This just proves how wretched that regime that we are now, fortunately rid of, was."

As the Report on the whole is relatively kind to Sweden, which has the same basic system, there is a different reaction there. If Switzerland feels singled out, one element is surely that they have essentially the same government, unlike the others, and that so much that involved other countries such as Portugal, Spain, and Argentina, was in fact routed through Switzerland, and therefore in the Eizenstat Report, it seems to me quite reasonably, there is more attention there. So they feel hit harder.

Mr. SNOWBARGER. More attention, but also I guess basically the same government structure.

Mr. WEINBERG. Yes.

Mr. SNOWBARGER. So they don't have the easy out to say, "Well, that was them," because it's still us.

Ambassador WAHLBÄCK. If I could just fill in with regard to Sweden. With regard to the Nazi gold and with regard to the Jewish bank accounts or other assets in Sweden, I don't think there has been any opposition at all to a thorough investigation of what actually happened in Sweden.

It's a little bit different perhaps with some of the statements that Mr. Eizenstat makes in his foreword and which are not really, I would say, based on Dr. Slany's report. I refer in particular to the thesis advanced by Mr. Eizenstat, namely that it would have been possible for us to break off trade relations with Germany fairly soon after Stalingrad. I think those Swedes who know anything about our actual situation during those years, the final years of the war, they realize that this is a rather impractical suggestion which is probably based simply on a lack of knowledge of the geographical or strategic situation of Sweden in the middle of the Nordic region at that time.

Mr. SNOWBARGER. Mr. Chairman, that's all I have at this point.

Chairman LEACH. Thank you, Mr. Snowbarger.

Mr. Riley.

Mr. RILEY. Mr. Chairman, I apologize to the panel. I have been trying to get here all day today and my schedule just has not allowed it. I want to thank the Chairman for this forum today, and I look forward to your testimony. I do appreciate your participation, and again I apologize for the inability to be here for your testimony.

Chairman LEACH. Thank you, Mr. Riley.

Let me return to Ambassador Wahlbäck. Among the documents released by the government at the time of the Eizenstat Report was one describing how funds and other assets were transferred from Nazi Germany to Sweden. In one case, a manager of an engineering plant in Sweden reportedly purchased property in his own name on behalf of Goering. Looted works of art were reportedly also consigned to him in the free port of Stockholm. Can you describe, or estimate how extensive these kinds of transactions were?

Ambassador WAHLBÄCK. Not really. As I said in my statement, all pieces of information in the Eizenstat Report, or in the documents attached to the Report are, of course, of great interest to us because they convey information which gives us some leads, as it were, to search for evidence in Swedish archives. From that point of view, this information is quite interesting to us. But I am unable really at this stage of the work of our Commission to try to give a generalized picture of how extensive such transactions may have been.

Chairman LEACH. It would appear in statistical terms that Sweden was more responsive to Allied pleas for return of Nazi gold than Switzerland. It looks like by about a four-to-one margin in percentage terms. Is that your assessment?

Ambassador WAHLBÄCK. Yes, I think so. I don't like very much to make comparisons with other countries, but it seems like that, yes.

Chairman LEACH. Would Sweden today consider contributing to a fund perhaps in conjunction with Spain or Portugal, Turkey or Argentina to provide funds for Holocaust victims?

Ambassador WAHLBÄCK. That's a matter which will be considered by our government after the Commission has completed its work.

Chairman LEACH. Thank you very much.

Professor Weinberg, you have provided very interesting testimony and have gone beyond the Eizenstat Report and perhaps even disagreed with parts of it. Very impressive testimony. Am I right, though, that you agree with the Eizenstat Report's contention that the close Swiss commercial and financial relations with the Germans even in the late stages of the conflict perhaps prolonged the war? Is that a valid conclusion?

Mr. WEINBERG. Yes. I don't have any doubt that it's a valid conclusion. You have heard from two of your witnesses here today, sir, contradictions of that assertion based on statistics of percentages and total war costs. I must tell you, Mr. Chairman, that I do not believe that that kind of statistic is helpful for the issues at hand.

Scarce resources like gold, whether legally or illegally acquired, are always allocated, and while people do make mistakes, those things which are in their best judgements considered absolutely most essential, and the percentage is in this instance normally irrelevant.

Mr. Chairman, may I illustrate this with an example?

Chairman LEACH. Please.

Mr. WEINBERG. Substantial amounts of looted gold and Holocaust gold was deposited in Swiss banks to finance purchases, for example, of tungsten in Portugal. The amount of this in quantity and the amount of money involved in premiums to Swiss banks was ab-

olutely minute. But if you don't have the tungsten, you don't get steel and you cannot build tanks or submarines.

The point here that I am trying to make is while statistics of trade are useful and they give us in certain categories important information. If the Swiss hydroelectric works were providing a certain percentage of the German armaments industry's electric power needs, it tells us something, but I'm not sure that it tells us a great deal. It is the criticality of particular items to the war effort of a country, Germany in this instance, whose economy was desperately strained, particularly in the latter years of the war.

The same thing was true, within limits—here I'm afraid I have to disagree with my colleague from Sweden—of the massive efforts that the Allies tried to make to get Sweden to reduce steel ball bearing exports to Germany. There is extensive literature on this and I cited it in my book on World War II. The Swedes not only delivered massively, but delivered in direct violation to agreements they had previously made with the Allies in connection with the efforts of the Allies to block this.

It is entirely true that the weight of the ball bearings that make it possible for the turret of a tank to rotate is a minute percentage of the weight of the tank. Nobody will argue that point. My issue is that without ball bearings the turret doesn't rotate.

I use obviously examples which are particularly dramatic to emphasize my point. It may reflect my teaching of Western Civilization from time to time. To simply use gross statistics and say, therefore it is minute, or irrelevant, or makes no difference seems to me, at least, an oversimplification. One has to look at the significance of the items purchased. The Germans bought locomotives from Switzerland. They were, by definition, a small proportion of every train. Without the locomotive, the train normally doesn't run.

We have to see this in terms of a German war effort strained, the people in charge knowing that they had limited resources that they could use for imports, and their decision then to concentrate what foreign exchange, gold, looted jewelry, looted art, whatever it was, on the things which they thought at the time were most important to their war effort. Certainly there was in this procedure room for any number of German misallocations, mistakes, duplications, waste; personal looting by Nazis I'm talking about now; all kinds of other things.

But basically it seems to me that it just doesn't make sense to concentrate on overall figures as if this were the additional cost of adding one room to every German army barracks, which is about the equivalent that we were talking about. If necessary, the guys are going to sleep out in the cold. But you can't build certain weapon systems without certain materials. That's the part that I would have stressed and I tried to convey in my testimony, sir.

Chairman LEACH. Thank you, Professor Weinberg.

Ambassador WAHLBÄCK. Could I respond to that?

Chairman LEACH. Ambassador Wahlbäck, of course.

Ambassador WAHLBÄCK. I would certainly not deny, and I don't think I did that in my statement, that the Swedish exports to Germany of iron ore and ball bearings were quite important for the German war effort. My point is rather that, first of all, the Germans delivered scarce material to us, for instance, coal, coke, artifi-

cial fertilizers, to the same extent. In fact, at the end of the war we had not given the Germans any credits at all; it was rather the other way around; the Germans had given us credit. If you are looking at the trade balance overall, that was the situation.

At the same time, I also think one has to keep in mind that the more important, for instance, the iron ore or the ball bearings were from the German point of view, the more ruthlessly would they, of course, have acted against our country if we had for political or moral reasons cut off, or to a sizable extent, diminished those exports.

Of course, we have referred here mainly to the German possibility of launching an attack of the kind they did against Hungary in 1944, for instance. I refer to that in my written statement. However, there was also, for instance, the possibilities of launching air strikes against one or two of our major cities. Our air defense at this time was still quite weak, so we could not have prevented such attacks. As a great power with a dominating situation in our part of Europe, they had many other means at their disposal if for some reason they didn't want to resort to a full-scale invasion.

Thank you.

Chairman LEACH. Thank you, Ambassador.

Let me turn now to Mrs. Bennett. Do you have a view of why the British and the United States appeared to be apparently weak in our negotiating with the Swiss for the return of Nazi gold, and why, for instance, were the British unwilling to consider sanctions to press the matter?

Mrs. BENNETT. I think the basic reason, if you call it weak, is that we had a weak case except on, you might say, on moral grounds. As you know, in Bretton Woods and again at the Paris Conference it was urged that the neutral governments should all be asked to surrender German assets, including gold, which they might have in their countries. However, in international law we didn't have any right to force them to do so, and the neutral governments knew that perfectly well.

I also think that in contrast with what we heard earlier, certainly from the evidence I have seen, we did not have fully documented evidence on, for example, Swiss gold dealings with Germany. We had a lot of material, both the American Government and the British Government. We were in receipt of a great deal of information from intelligence and other sources, but it was certainly not as well documented as perhaps one might be able to document it now with the availability of other archives. So we were not absolutely sure of the ground we took in negotiating with gold.

The negotiations with the Swiss, for example. I only mention that because they are the first set of the Safehaven negotiations in particular and therefore, proved a test case for the following negotiations with other neutrals. They are well documented and, of course, were published in the foreign relations of the United States many years ago.

In regard to sanctions, the British Government had several particular reasons why they did not consider that sanctions against the Swiss would be a good idea. The first was that they did not think that in the postwar period, when most of the economic machinery had recently been dismantled, that the machinery actually

existed by which to enforce them. The British Government has always and continues to take the view that economic sanctions are useless unless they are properly enforceable.

We also considered that this was perhaps not the best approach to get a good reaction from the neutral governments. We believed, a belief maybe not entirely borne out, but our genuine belief at the end of the war was that in fact maybe the best way to get a reception was actually to approach them on a reasonable basis and also offering some sort of economic inducement in terms of renewal of good bilateral trading relations, for example.

In the case of Switzerland, the release of blocked assets in the United States, which Switzerland was extremely anxious to secure, and being taken off the blacklist, none of which would supposedly be delivered.

However, another reason was that we were under considerable pressure in fact, from the U.S. Administration to relax trading restrictions on a global basis. As part of the negotiations for the U.S. loan to Britain in December 1945, one of the conditions of our getting the loan was a relaxation of our own trading restrictions, dismantling the sterling area, joining international trade organizations, and a number of global free trade measures.

As we represented to the U.S. Government at the time, to impose sanctions on a country, especially if you didn't think they were necessarily going to be very effective, would be in complete contradiction to this trend.

What's more, my understanding—not just from the Eisenhower Report, but also from previously published American documentation—is that the American Administration itself was by no means of a single mind on the advisability of sanctions either, and by the time we actually got to the Washington negotiations, the U.S. delegation were also under instructions not to press for sanctions.

I think those are principal reasons.

Chairman LEACH. I appreciate that. Having once been a student in your country, it has always struck me that British historians more than any in the world, had two approaches to a World War I assessment. One proved to be frail and the other proved to be largely right, although outside the context of this discussion. The one that was frail was that there is an assumption that there was too much rigidity in the international system prior to World War I that led to a conflict that shouldn't have occurred. Therefore, there was a view of events leading up to World War II that perhaps we should have had more give *vis-a-vis* Hitler to stop an outbreak of a world war. As it worked out, there was too much of a learning of the problems of the pre-World War I era and I think perhaps too much of a give to Hitler.

The second related to postwar environment where British historians, as American historians, were absolutely convinced that there was too much punitive decisionmaking and that helped precipitate World War II. I think in the general overall context there was a general feeling of let's move toward reconstruction without being overly punitive with the exception of individual accountability of certain German officials. That is part of the context in which many people, I suspect, looked at some of these issues, but I don't know that. Does that seem valid to you?



Mrs. BENNETT. Up to a point. We won't get into World War I, as you say. The only thing I would argue against there is that I don't think it was a question of not being unduly punitive except to certain German officials. The negotiations on postwar Germany were based on reducing Germany as a country to a state where it could not be a threat again. However, as you know, there was also the consideration that German people had to be fed and you had to actually run the country. We were occupying it.

Chairman LEACH. Some of those were not choices. The Russians controlled part of Germany.

Mrs. BENNETT. Absolutely, and they, of course, were putting tremendous pressure on the other three occupying powers to be as punitive as possible on Germans, and there was an ongoing conflict in the Control Council for Germany as to the extent to which you balanced those two things out.

I think the other point that needs to be made is that decisions taken in the immediate postwar period certainly, as far as the British Government is concerned, were based very much pragmatically on what economically we were able to do. We were in a very low economic shape at the end of the war and we did not want to do anything which would make that shape any worse, and we wanted things to get back. After all, we are a trading nation. We wanted things to get back to running reasonably smoothly as soon as possible.

We weren't alone in that, but our particular geographical position has always meant that international trade is very important to the British Government. But I certainly wouldn't say that it meant that we took a less harsh view of those who had lost the war, but the neutrals, after all, had been neutral.

Chairman LEACH. Mr. Snowbarger.

Mr. SNOWBARGER. No questions.

Chairman LEACH. Mr. Riley.

Mr. RILEY. No questions.

Chairman LEACH. If I could go on, because I want to bring Professor Martin-Aceña into this. In addition to the issue of looted Nazi gold, were there assets in Spain which belonged to victims of the Holocaust, and if there were, what happened to these assets?

Mr. MARTIN-ACEÑA. I haven't gone into that topic myself, but all the German assets that existed in Spain after World War II were accounted for by the Allied Commission. They were able to establish financial and non-financial assets that had belonged to German residents. Pursuing that research, they didn't find, as far as I know, any asset that belonged to victims of the Holocaust.

The reason was that during the Second World War, nor before, say during the Civil War, non-Spanish citizens, non-residents, would not have thought of investing or sending assets to Spain. It was a period of great uncertainty. As I say, Mr. Chairman, I haven't done research on that topic.

Chairman LEACH. Given the history of the 1930's in Spain, that makes sense, even though you have perhaps one of Europe's oldest Jewish populations.

Mr. MARTIN-ACEÑA. It is difficult to explain that someone would have sent assets, money or gold, whatever, to a country that was torn by war during the previous years to 1939 and even thereafter.

Chairman LEACH. Thank you very much.

Mr. MARTIN-ACENA. Thank you, Mr. Chairman.

Chairman LEACH. Professor da Costa Leite, is there any evidence that Portugal, like Switzerland, may have heirless assets?

Mr. LEITE. I have not done any specific study in this area, but I know that when all these issues were raised in Portugal some time ago there were efforts by the Bank of Portugal to contact the Portuguese Jewish community to ask them whether there was any complaint or any rumor of a complaint about this. The answer that the Bank of Portugal got from the Portuguese Jewish community was that there was no complaint and there was no rumor of anything like that.

I think the situation—apart from this verification—is easy to understand. Portugal was not an important financial center to attract bank deposits before the war, and after the war started all the refugees who came through Portugal, and there were many, none of them were sent back. Even those who were found without papers were allowed to stay and got their papers, and most of them ultimately left, mostly to the United States. So there seems to have been no situation that would create this sort of problem.

Chairman LEACH. Thank you very much.

Let me end with Professor Masnatta. Argentine banks have recently reportedly turned over records and bank accounts dating back to World War II. Have you assessed what these records reveal, especially if they reveal anything related to victims of the Holocaust?

Dr. MASNATTA. Mr. Chairman, our laws are such that every ten years our files are cleaned, and therefore the records disappear, but the new commission that will be established will engage in a new review. One of its members is the chairman of the Central Bank of Argentina. The information we have for now is already included in the Eizenstat Report, and I have no further information to add.

Chairman LEACH. Thank you very much.

Let me thank this entire panel. You have provided an extraordinary perspective for a legislative body. Your work is greatly appreciated.

I would also say it is my impression that your governments chose, and our committee in the instance of Dr. Weinberg, an extraordinarily thoughtful and competent group of people to represent your perspectives. Thank you very much.

Our next panel was to be two witnesses. Instead it will be one. Dr. Rolf Bloch had to depart a few minutes ago to catch an airplane, but we are putting his statement in the record. We thank him and we are embarrassed that the hearing has gone so long and he has been unable to testify.

[The prepared statement of Dr. Rolf Bloch can be found on page 262 in the appendix.]

Chairman LEACH. Our witness on this panel is Rabbi Israel Singer. Rabbi Singer is the General Secretary of the World Jewish Congress and beyond that has been extraordinarily active in this cause and many other causes. We appreciate your appearance before us today.

Rabbi Singer.



**STATEMENT OF RABBI ISRAEL SINGER, GENERAL  
SECRETARY, WORLD JEWISH CONGRESS**

Rabbi SINGER. Thank you, Mr. Chairman.

Norway's leaders yesterday repudiated a government commission's inquiry into the wartime treatment of Norwegian Jews, saying that its final report dramatically understated Norwegian culpability in looting Jewish assets, sending a third of the country's Jews to die in Nazi death camps and turning away Jewish claims after the end of World War II.

In a report released yesterday by the Commission and endorsed by five of its seven members, there was provoked a government official outrage. At an extraordinary news conference in Oslo, Justice Minister Gerd-Liv Valla endorsed a minority report by the two dissenting members that said the Commission minimized, not only Jewish losses, but Norway's moral responsibility for its role in the Holocaust. "The loss of the Jews cannot be limited to economic calculations only," Valla said, denouncing the final report. "The organized deportation and liquidation was mass murder. It was the murder of a people. We cannot change what happened, but we can help to set a moral standard to remind everyone of this dark chapter in the history of Europe."

I begin with this direct quotation from Walter V. Robinson's report out of Oslo today because I believe that those who think that when I saw the former prime minister of Norway, who promised that there would be a commission set up over 18 months ago, that a report like this could be written in which there would be culpability announced for Norway but not sufficiently, and that the successor to that government, from the same party, I might add, would condemn the chairman it appointed and the five members that were carefully picked and repudiate the majority and choose the decision made by the minority to members, I would have thought that I was living in an optical illusion.

I must tell you that this has happened as a result of the sitting of this committee and of the committee that is chaired by Senator D'Amato, the Senate Banking Committee, by the report of Secretary Eizenstat and by the authorization of President Clinton to write that Report, and the shrill voices coming out of New York, frequently my own, shall continue to be heard, because those are the voices that today describe the loss of the Jews that cannot be limited to economic calculations alone.

I have decided to speak somewhat more extemporaneously and will include the original statement into the record because of changes that have occurred in the last 24 hours.

Chairman LEACH. Without objection, that will occur.

Rabbi SINGER. On July 1, in a couple of days from today, the Government of Hungary will begin to pay \$50 a month to every Holocaust survivor living in Hungary as an initial payment against the 5,000 buildings as part of the restitution claim made by the World Jewish Restitution Organization which Mr. Bronfman presides over, and which I Chair, as a payment of 4 billion Forints, its initial payment, which I would like to place into the record.

Chairman LEACH. Without objection.

Rabbi SINGER. It is a check from the Hungarian Parliament to the World Jewish Restitution Organization, which we replaced as

gift to the Hungarian Government, which began paying payments this month, and the checks will go out July 1st to those 22,000 persons living in Hungary. That, too, Mr. Chairman, is a result of the efforts of your committee and the result of the efforts of Eizenstat's report.

[The document referred to can be found on page 303 in the appendix.]

The Polish Government this week has joined us in establishing a foundation like the one in Hungary which will deal with the 10,000 buildings in Hungary, a payment against which these \$30 million, or 4 billion Forints, has been made; 15,000 communal buildings in Poland which were the wealth of 3.3 million Jews and are today inherited by 3.5 thousand Jews which are left in Poland. But not only by them, but by their heirs who were driven out of Poland after the war, and Poland today takes that problem seriously and has agreed to help form such a foundation which will deal with this question as well. That too is a result of the sitting of this committee.

In the last seven months, 22 countries, Mr. Chairman, have described their activities in varying degrees of self criticism. Not all have described them the way Norway did. And it's true. Quisling did come from Norway. And it is true, however, that 500,000 Norwegians fought in the resistance against Quisling. Today those who fought against Quisling have their memory somewhat renovated by a government which voted against the majority report.

We have come here today to ask this committee to consider what we have achieved in the last 6½ months since we were here before.

It's true. I serve on the Volcker Commission which was created as a result of the agreement which we signed last May 2—it seems as if it were a decade ago, or maybe 50 years ago when it should have been signed—between the Swiss Banking Association and the World Jewish Restitution Organization. It seems as if the ink is only beginning to dry. To me it seems as if these 22 other countries are learning. They are learning that the Volcker Commission needs to deal with assets that were dormant, a phrase which was sleeping by itself until we began dealing with it.

We know that the release of the names of account holders of dormant accounts has taken place as a result of these hearings. We know that there is a creation of a Swiss Historical Commission. We've heard and everyone has spoken to this, and everyone has said almost everything, and there is no need for me to say it as well. But it is for me to question whether we can wait ten more years to find out what it is that is the brunt of the information that we need to know about this period?

I come from a generation that questioned our own people in 1982 when the Jewish state—I'm sorry that my colleague Hirschson is not here now—went into Sovereign Shatella. I come from that same tradition in which the Supreme Court of the State of Israel and a special commission of the Chairman of the Supreme Court, the presiding president of the Supreme Court wrote the following words in 1983, one year after Sovereign Shatella: "Although the Israeli Army could not say that any Israeli soldier participating in that massacre of Muslims in Lebanon by Christians, they could not in true Biblical moral terms say what the Bible reads as saying,

just as they could clearly say 'my hands did not spill this blood' they could not say 'my eyes did not see', and for that we are culpable."

It is from that tradition of self criticism that I come. It is from the tradition of self criticism in which we ourselves march in this country against the laws of our own country with regard to civil rights. It is from that tradition of self criticism that we went on to look in on other countries and the way our brethren, white and black, and from varying different racial backgrounds, social backgrounds, political backgrounds changed possible the history of the world with regard to the Communist world and the way people were living under that dominion.

I remember that if I were to look at that period today, and we came to many such committees sitting in this Congress, I would tell you that this committee and committees like it changed the life of every single person living behind that Iron Curtain. And because of that public criticism that was coming from the shrill voices in New York, 1.3 million Jews and maybe 200 million Soviet citizens today live in a modicum of democracy.

I take no fear or shame in being called a person who creates optical illusions, because these optical illusions for 50 years were dormant along with the accounts. I suggest that in the next six months until we appear before this committee we have very many more serious results other than mechanisms to report to you about.

It is true the Volcker Committee will deal with dormant accounts in Switzerland. The question is, what percentage of those dormant accounts, according to Swiss law, are still in existence? This is the critical question which we are raising in the Volcker Commission and which we talk about every day.

What percentage of record destruction will we find and what will be the result of that percentage of record destruction legally that we will find, and what will we do about it? What will we do about the looted funds which we agreed on last May 2, 1996, with the Swiss Banking Association to look in on through Bergier Commission? And when we find that information, what will we do with it?

Sir, when that Swiss Historical Commission writes its first report with regard to Nazi gold in December and writes its second report with regard to refugee policies at the beginning of the year, Mr. Chairman, I ask you, will it also at that time include for us a table of contents or a proposal for all the other projects that it has before it, so that at least we will be able to not just criticize the substance of its preliminary report, but know what it conceives of dealing with?

It's easy to criticize the preliminary Report of Secretary Eizenstat, which in seven months—300 historians, 15 million documents, one million newly-released documents may have offended the sensibilities of certain people, but it raised the sensibilities of others—and it made them feel as if the relatives that they lost, and the monies which were taken away from them did not merely continue to lie dormant.

We are not here to make people feel comfortable. We're here to comfort the afflicted, but also to afflict the comfortable, and they are us.

I thank you, sir, for the opportunity to speak before this committee and do not want to repeat that which has already been said, but I promise you that I will be back here knocking on your door, and I will tell you what we have done with the Swiss fund, what we have done in terms of those poor people who have been generously helped so far with an infusion, and we hope to be able to report to you that that infusion will have been enlarged and that those persons who are not able to be helped directly by giving them back their dormant funds will be able to be given some kind of equity, an equity which has been created as a result of the efforts of committees like yours.

I thank you, Mr. Chairman.

Chairman LEACH. Thank you, Rabbi Singer. I note that there is no representative of the Swiss Banking Association here today, and the Swiss bankers are going to need to answer some of these questions as well. From your perspective, do you find that the Swiss Banking Association has made good or are substantially in the process of making good on its pledges to the committee last December? These pledges were made by Dr. Crier, who is chairman of the Swiss Banking Committee, and they are as follows:

One, to resolve in an open, equitable and professional manner all outstanding questions regarding any assets held in Swiss banks that may have belonged to Holocaust victims;

Two, to support and cooperate with the Volcker Commission;

Three, to provide the Volcker Commission auditors with full access to all relevant information;

Four, to consider the results of the Volcker Commission conclusive;

Five, to support the work of the Swiss Banking Ombudsman;

And six, to distribute all assets that could have belonged to Holocaust victims to either their rightful heirs or to an appropriate charity.

Would you say these commitments are in the process of being lived up to, haven't been lived up to, or you are skeptical that they will be lived up to?

Rabbi SINGER. Mr. Chairman, let me respond to each of the six points from my perspective, and let me tell you that what has happened as a result of committees like your own is that we are working together with the Swiss Bankers Association. That is a big change. You could say it's an optical illusion of sorts, given where we were 18 months ago and where we are today. That's the good news.

The good news is that we sit together with them at a table. The good news is that we share seats together at a committee that Chairman Volcker runs. The good news is that we present to them what we think are the methods that the auditors should be using and what a forensic audit should be like. The good news is that they agree. Haltingly, but do so. The good news was that we thought last May 2 the audit would begin.

The bad news is that this week it did begin. I can't answer you with regard to what they will find, but I can tell you that there is good news. The auditors have gone into the banks. They have begun the pilot audit.

There are two pilot audits, actually, and I would like to state that for the record as a member of ICEP, not on the Swiss bankers side, but on the World Jewish Restitution Organization side. These efforts, I think through good will on both sides, took a while to thrash out. I say this after the historians spoke, because there were different optics.

The Swiss bankers had never before opened any of their activities to anyone's eyes except their own auditors, I guess, and if I am correct in quoting directly from one of the bankers sitting across the table, there were never even any footnotes in Swiss bank statements in the past. They didn't operate that way. This is a new experience for them. And I don't believe they have to change their way of operation. It has been a rather effective one for them. But from this perspective they did need to change their operation and are doing so. That's a very, very difficult task for them, but I think they are beginning to deal with that question of the audit.

Two kinds of audit. One actual audit, the five banks in a pilot study. That is beginning this week.

Second, a document retention audit study, which will give us a percent of the documents that were retained either by law or against the law after the beginning of this year when it became illegal to shred documents and destroy documents. We will find a percentage of the amount of documents that still exist from those accounts which were opened prior to World War II until today. That will teach us something about what happened.

To give you an example of a conversation. There were, for instance, X number of safety deposit boxes which are dormant accounts. One of our colleagues clearly stated for the record that not one safety deposit box in Switzerland is still in its original form; all have been opened. True, under the watchful eye of a notary public. We hope to get the records from those notaries public and we hope to make that part of the record of the Volcker Committee. I say that here to your committee.

And I am pleased to say that we are progressing. We hope that number six, which you describe, will possibly begin to come true not merely through Volcker's efforts and our ICEP efforts, which will deal with dormant funds, bank accounts placed by individuals themselves, by intermediaries, by lawyers, who we expect to study through databases of every possible name of every attorney, every possible auditor, every possible transfer, every possible intermediary placed into our database and cross-referenced with those files which we find.

But at the end of the day, if the audit retention audit tells us that there is only a certain small percentage left under law, we will have to draw conclusions from that in an orderly manner together with our Swiss colleagues, and I think we will study this question the same way we studied that question in Norway, the same way we studied that question in Hungary, the same way we studied that question in Poland, the same way we studied that question in every one of the other countries which have commissions that are being set up right now or are already set up.

One example of that is in Sweden. You heard a partial report. But we have been dealing with two parallel tracks in Sweden. And when one looks at the Eizenstat Report, one looks at Sweden hav-



ing responded in one way and others having responded in another manner. There are differing ways to respond in 1997, and that is what we are looking at today, sir. We are looking at the way I think people are responding.

My answer to your question is that the six points that were made by Mr. Crier are beginning at this time while we sit here to be dealt with, and that is a positive development we shall continue to monitor.

Chairman LEACH. I appreciate that very much. Let me ask you one other question that is a little tangential, but it may be more profound than others. What happened to the victim gold discovered by U.S. military authorities at Merkers in Germany? Was it restored to victims or Jewish organizations?

Rabbi SINGER. It's not a tangential question at all. Some gold, as you know, was in an oblique way transmitted to "victims" through certain gestures made by our government to organizations that dealt with refugee relocation. But let's face it. In my travels in the last few months, and I must answer your question tangentially, I will tell you that many of the responses I have received have been very positive. The existence of the task force which Ambassador Borer heads is a positive response to committee hearings like this. The entire reassessment going on in Switzerland is not in Switzerland alone. I was in Degusa last Thursday, which is the smelting plant for ingots that took raw gold like the kind that we found left at Merkers that belonged to individuals, which were the resulting conclusions of the Eizenstat Report with regard to personal gold.

When we find the percentage out, if we can find it out, and Degusa has now given us full reign of their books to study the smelting practices and to study every document which they have, we will be able to answer that question more honestly with regard to whether it was given back to them. My raw answer would be, "very little," and my initial answer would be, "far too little."

One of the most serious questions that the Eizenstat Report raises is, why not? To answer your question somewhat obliquely, the answer was because of one document which somehow made its way out of the Tripartite Gold Commission discussions, which are still bottled up because some of the United States' colleagues would, in some Catch-22, like the files to remain sealed until the work of the Commission is concluded, the work of the Commission being concluded when all the gold will have been distributed. So then we won't be able to know whether individuals' gold is still there, which is a Catch-22 for the individuals.

One interesting phrase that was used by one of the discussants was that, "the reason we can't give the gold back to individuals is because it would be cumbersome." It's a very unpleasant phrase. It's precisely the sensitivity, or the lack of sensitivity of phraseology like that that these hearings, held in a public manner, may be somewhat shrill, I think have changed the sensibilities and sensitivities of everyone involved in these procedures. It has taken bankers and made them people involved with morality. It has taken government officials and made them people who are careful as to how they phrase statements with regard to Holocaust survivors.

The first time we met with people in various countries they told us that all of the Jews in Europe together that died didn't have a dormant account because they were all paupers. It was an insult of incalculable proportions, and nevertheless, today I think that there is no country which would make a statement like that, and that is because of the public hearings taking place, because everything is transparent.

Chairman LEACH. Thank you.

Mr. Riley.

Mr. RILEY. Again, Mr. Chairman, this is the beginning of a process for me that I hope to get very involved in. I apologize for having to leave a moment ago.

I think you make a very valid point. The more that we open up this dialogue, the more that we bring these issues to the table, I think it is refreshing what you bring as a witness today, and I think more than anything else, to people who haven't been as involved, this is the approach that we need and the agenda that we need to push for the next few months.

I would ask a question of you on what you asked a moment ago. When we find these accounts in the Swiss banks and you look at the documentation and it's not what you had expected, you asked the question, what would we do? What would you recommend?

Rabbi SINGER. I think we have begun to do that and I think that is one of the most positive aspects of the public nature of these hearings, and Congressman, I would like to thank you.

I think the \$250 million Swiss fund that has been created for Holocaust survivors prejudices the fact that possibly we may not conclude this study with full information, despite all these red books sitting in front of you here, or even despite the million documents that we got opened because of hearings like this, or because of the fact that by the time Bergier's study will be concluded, many of the people—who average age 80—will be dead.

So, my answer to you is, the answer will be that in 22 countries this will be part of a negotiation where I think some will respond like Norway, where they repudiated the government commission's inquiry result. The difference in the monetary amount wasn't the important part. They repudiated the wording of the five members, the majority, and they chose the two member minority wording, which said this was basically a moral issue. When you start dealing morality, it's very hard to put a dollar figure on it, but each country will decide for itself what it needs to do to remedy it.

I am very proud today to be an American citizen, to know that the preliminary report of the United States Government called for a distribution of \$70 million in gold sitting in our Federal Reserve Bank and in the banks of our Allies, for Holocaust survivors twice harmed, and have done so based upon a preliminary report of seven months. I'm proud of being an American and I'm proud that happened. I'm sorry it happened 50 years too late. That's the nature of this beast.

Mr. RILEY. Thank you, sir. Thank you, Mr. Chairman.

Chairman LEACH. Thank you very much, Rabbi Singer. We appreciate your thoughtful testimony.

Our final panel is composed of Mr. Seymour Rubin, Ms. Lynn Nicholas, and Mr. Marc Masurovsky. Mr. Rubin is a lawyer and



one of the rare people with firsthand knowledge of events under consideration. He was the deputy head of the delegation that negotiated the 1946 agreement with the Swiss Government and head of the delegation that negotiated Accords with Sweden, Spain and Portugal and, I might add, one of these lawyers that carries a great moral mantle as he speaks, and we are appreciative of his help to the committee.

MR. Lynn Nicholas is the author of "The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War". She's an expert on the plundering of art works throughout Europe by the Nazis. She talked to us on the subject, a subject which has probably not received adequate public attention to date.

Our third panelist is Mr. Marc Masurovsky. Mr. Masurovsky is also an expert on looted art, who has pursued this and related issues for nearly 18 years in archives all over the world. Mr. Masurovsky, you have the high distinction of being our last witness this afternoon.

Let me begin with Mr. Rubin.

**STATEMENT OF MR. SEYMOUR J. RUBIN, PROFESSOR OF LAW, EMERITUS IN RESIDENCE, AMERICAN UNIVERSITY; FORMER DEPUTY CHIEF NEGOTIATOR, U.S. DELEGATION TO SWITZERLAND**

MR. RUBIN. Mr. Chairman, thank you very much. I take the liberty of assuming that my testimony will be included in the record.

CHAIRMAN LEACH. Without objection, so ordered.

MR. RUBIN. As I have mentioned to your staff, my eyesight is very bad, so I hate reading a statement in any case. So I'm bound to speak more or less extemporaneously, which I plan to do.

I would also like to depart a little bit from my planned approach, which was to talk about heirless assets in the United States, which I understand is a particular topic that the committee would like to hear about from me. I would like to respond, because what I just heard from Rabbi Singer I think is not quite accurate.

My own knowledge is that the non-monetary gold, which was found very largely in the concentration camps in Germany and so forth, was turned over to the Intergovernmental Committee on Refugees and it was liquidated there and, in accordance with the Paris Reparation Agreement, the bulk was turned over to two agencies, the Jewish Agency for Palestine, as it was at the time, and the Joint Distribution Committee, and used for the relief of nonrepatriable victims of Nazi action. There probably was some which was not turned over; there probably were some assets, some property found in the concentration camps that was stolen by German soldiers, by British soldiers, by American soldiers, and so forth. But I think the bulk of it did go, as it was intended to go, in the way in which I describe. So I do not think that there is a great deal of that kind of asset which is not accounted for or which did not go to the kind of commendable purpose that we are all seeking to achieve.

So far as the heirless assets issue is concerned, it has been a very, very difficult issue to deal with. I do have with me a copy of a document which I would like to have inserted in the record some-

where, an article written by myself and by my then-partner, Mr. Abba Schwartz, who thereafter was an Assistant Secretary of State in Charge of Refugee Affairs, and who, during the time of these affairs was working for the International Refugee Organization or the predecessor or successor organizations.

Chairman LEACH. Without objection, the article will be in the record.

[The article referred to can be found on page 271 in the appendix.]

Mr. RUBIN. Thank you.

It does point out a number of the issues which were being debated and being debated more or less in terms which we are talking about now as of some 50 years ago—or 45 years. I think the article's date was 1952–53.

I claim a certain amount of expertise in this particular regard because I was not only a member of the United States State Department during the negotiations, and the Deputy Head of the negotiations with the Swiss, and the Head of the negotiations with the Swedes and the Spanish and the Portuguese, although the last two were not completed by me. But I also followed up on this matter after I left the Government in 1948 and went to work as a private lawyer in Washington, with one of my principal clients being the American Jewish Committee, on whose behalf and on behalf of a good many other Jewish organizations as well, I followed these matters very, very carefully.

The issue was one very largely of the ability to trace heirless assets. We never really had any disagreements that I could perceive with the Swiss that they would return the assets of victims of Nazi persecution. That had to be to a certain extent a problem, because we, the Allies, were insisting that all German assets in Switzerland and in the other neutral countries be liquidated and that the proceeds be turned basically into the pot for reparations payments.

We had to define what we meant by "German assets." In doing that, we made it perfectly clear that the assets of so-called "Germans in Germany" did not include the assets of victims, and the converse of that was, of course, that a victim, a persecutee, could turn up, whatever his nationality might be, and obtain his assets in Switzerland as well as elsewhere.

That was understood to be the issue. One of the big problems, which you have faced here and which we all have faced, is the fact that it was very, very difficult to obtain the proof which the Swiss banks required in order to release these assets to these individuals. That is a problem which I trust is being taken care of by the Volcker Commission 50 years late.

There were protests made all during the period of time by myself as a representative of the American Jewish Committee, by a whole variety of other people representing other Jewish and non-Jewish organizations, the Quakers, the Catholics, and so forth, but the result is that we still have a problem of that sort at the present time.

I trust that the Volcker Commission will finally be able to lay that particular problem to rest, although I must say that I have a certain amount of skepticism with respect to the large amounts which are being talked about at the present time.

That skepticism is based upon my feeling based upon much investigation over the course of the years that most large amounts of money which were deposited in Switzerland by people who wanted to get their money out of Germany or Czechoslovakia or Rumania was actually taken care of and they actually did get it out one way or the other. Maybe because they had appointed agents; maybe because they survived and got there. But Mr. Volcker and his commission will, I hope, bring all doubt with respect to that to rest.

With respect to the heirless property in the United States, which is the issue that I raised with Mr. Eizenstat way back in March, the problem was more or less the same as the one we found in Switzerland. We agreed here in the United States and enacted legislation instantly after the war to restitute to persecutees, to victims of Nazi action, any property which was blocked or vested here in the United States.

In the case of property blocked by the Treasury Department under the Trading with the Enemy Act, we unblocked it.

In the case of vested property, if some of that property had been actually vested by the Alien Property Custodian on the thesis that this was enemy property and would eventually be liquidated and the proceeds paid into our reparations account, we made provision in the law that any individual with whatever kind of claim, a claim of title of whatever sort, could come and could get that property back.

As far as I know, that was done. In the years in which I represented Jewish organizations and dealt extensively with the Jewish organizations in New York and elsewhere, there was never any complaint which was made to me, that I heard of that the American banks or the American institutions were saying "Produce a death certificate from Bergen-Belsen before we give you the money." So I think that particular problem almost did not exist in the United States.

The second problem, however, here as elsewhere was what to do with that property which had belonged to persecutees. But the persecutees had died in Bergen-Belsen or Auschwitz, or wherever, and they had left no heirs. So there were no claimants. On that issue there was a considerable amount of discussion here in the United States.

Part of the discussion arose from the thesis on the part of perfectly legitimate claimants. The War Claims Commission said this was basically German property; the people who put it there originally were German nationals, which they were; and since there is no claimant for it, we ought to put it into the reparations fund and pay off legitimate American claims.

On the other side, the Jewish organizations which I was representing at the time, and a variety of others, felt that this property was heirless property and should go into a special fund for the surviving persecutees or their heirs, the kind of thing that is being talked about at the present time.

Query: How does one identify that kind of property?

What we did was to get a group of people who were experts in communal Jewish life in Europe, and they took a look at two lists. The first list that they took a look at was property which had been identified by the superintendent of banks of the State of New York,

and that property was property which had been dormant accounts. Nothing had happened to those accounts for a long period of time.

Then we took a look at the list where the Treasury Department had blocked property or the Alien Property Custodian had vested property on the ground that it was owned by foreign nationals.

Putting those two lists together, we came out with a list of names and we turned those names over to this group of experts and they took a look through this list and they tried to find out from these lists by taking a look at the names which of those names looked as though they were Jewish, and with their knowledge of the communal property, and so forth, of the communities in Europe they could identify a good many names. They came up with a list of names.

When you put a figure to those names, it came out to \$6 million, and that was the amount which the Jewish organizations suggested should be the limit to be returned to the Jewish organizations for the benefit of the refugees, for the benefit of the persecutees.

When that figure came to the halls of Congress, it was considered to be a very shaky figure, which it was, because it was based only on names. There are a great many names which are very ambiguous. They could be Jewish; they could be Irish Catholic; they could be something else.

The suggestion was made on the Hill that this figure of \$6 million should be reduced to \$3 million. Legislation was then introduced in the amount of \$3 million. That legislation was supposed to allow claims to be made by the Jewish restitution successor organization or other successor organizations as if they were the inheritors of this property, the so-called "heirless property." That meant that they still were going to have to establish their claim.

After a certain number of years of negotiation, it became fairly obvious that since this was all heirless property it was going to be extremely difficult to establish the kind of claim that an individual claimant would have had to establish.

On that basis, we all came to the conclusion that a bulk settlement was the best possible way to go, and a bulk settlement was proposed in the amount of \$3 million first. That was reduced in Congressional committee to \$1 million. When it went to the floor of the House of Representatives it got cut back to a half million dollars.

The Bureau of the Budget continued to object and said it should be only \$250,000, but fortunately we were able to lick them. The Bureau of the Budget did not have the clout then that it has at the present time, and under those circumstances legislation was introduced and passed which restored one-half million dollars to the successor organizations.

I should add that the main successor organization was the Jewish Restitution Successor Organization, which still exists in New York City, and did a tremendous amount of work, as I pointed out in my statement, in obtaining heirless property in Germany itself, in the American zone of Germany in particular. The main claimant here would have been the JRSO, but the legislation provided that the JRSO was to get 90 percent of this one-half million dollars with the remaining 10 percent being earmarked for non-Jewish succes-

for organizations. To my knowledge, no non-Jewish successor organization ever showed up. Whether the full half-million dollars, that rather small amount, went to the JRSO, or whether that was reduced by 10 percent, I really do not know and I have not been able to find out.

The real point of my being here, Mr. Chairman and Members of the committee, is that it does seem to me, as I pointed out in that letter I wrote last March to Mr. Eizenstat, that the United States Government really ought to take a look at that half-million dollar figure.

One can see all sorts of reasons why Jews or others would put their money in Switzerland rather than a country like the United States: proximity, reputation for security, and so forth. But a lot of people would have, if they had had any notice whatsoever, tried to put their money in the United States. It was further away from Europe. They probably would have hoped to come to the United States later, and they had friends and relatives in the United States who could be trusted to try to take care of them or even try to take care of their money.

So, I find it very hard to believe that of all the property and money which was put in the United States, only \$500,000 dollars was properly classified as being heirless property of Jewish victim origin. My own feeling is that that original estimate, which was put together by our communal experts from Europe of \$6 million probably was closer to the truth and maybe it was more than that.

I would say probably it was more than that also because one must remember that the only figures we were taking a look at were the figures out of New York State. It was logical to begin with New York State, because New York was and is still, I suppose, the financial capital of the United States—if not the world. Most people who were depositing money in the United States probably would have gone to a New York bank or to somebody in New York.

But there were large Jewish communities in Chicago, which is my native city, in Los Angeles, Miami, and so forth. And there has been no effort as far as I know to take a look at the dormant accounts in those particular areas. They may or may not have been identified. I really do not know.

In any case, my thesis is and what I would urge very strongly, is that this committee recommend the enactment of legislation which would estimate the amount of heirless property in the United States. One does not have to do that just out of the air. I am informed that there are statistical methods which would make it possible to do something like this and get some kind of figure, but I think something like that should be done and that the half-million dollars which is in our current legislation should be increased very substantially.

Thank you very much, Mr. Chairman.

Chairman LEACH. Thank you, Mr. Rubin. I would say that it is very unusual to hear a witness on a subject he testified to before Congress 40 years ago.

[The prepared statement of Mr. Seymour J. Rubin can be found on page 266 in the appendix.]

Ms. Nicholas.



**STATEMENT OF MS. LYNN H. NICHOLAS, AUTHOR, "THE RAPE OF EUROPA"**

Ms. NICHOLAS. Good afternoon, Mr. Chairman.

I am very pleased to appear before you today to discuss a little bit the displacement of works of art during the Second World War and the efforts that have been made since that time to recover and return the works, or to provide suitable compensation, to the rightful owners.

I will just make short remarks. I assume the rest will go into the record.

The 12 years of the Nazi era mark the greatest displacement of art in history. The process began in Germany itself as soon as Hitler came to power in 1933. From the first day he held office he set about the implementation of his dream of a pure and Germanic Empire. The art world was not exempt. Sixteen thousand so called "degenerate" art objects unacceptable to the regime, which included works by Jewish artists and quite a lot of modern art, which they didn't like, were gradually purged from the state museums. Most of these were sold abroad for foreign currency.

The purging of people was equally gradual. Jews, at first, were encouraged to emigrate, and many did send their collections abroad to various countries.

As this committee well knows, complex financial strictures limited which assets they could take with them, and works of art were frequently "donated" to the Nazi authorities in exchange for exit permits or sold at a loss in order to raise funds.

By 1938, outright confiscation of private Jewish holdings had begun in earnest. Ideologically correct works of high quality from these collections were taken by the Nazi leaders and some were put in the German museums. The rest were sold off to dealers and auction houses.

Once they were in control of most of the Continent of Europe, the Nazis envisioned nothing less than the complete purification and rearrangement of all the works of art in the occupied nations in accordance with the now well-established Nazi laws and ideology. These operations were planned as carefully as were the military campaigns and personally controlled until the very last days of the war by the Nazi leadership.

Four major organizations and a lot of other ones concerned themselves exclusively with art matters, and they were well funded and backed by the full force of police and military formations. The total number of objects acquired ran well into the millions.

The Nazi art agencies had completely different policies for Eastern and Western Europe. In the East, Hitler intended to eliminate the Slavic peoples and their cultures and to repopulate Eastern Europe with ethnic Germans. Millions of objects from private and public collections of Poland and the Soviet Union were confiscated, as were other valuable objects by non-Slavic artists. Works of Slavic origin were either destroyed or preserved in special Nazi research institutes. Churches, shrines and synagogues were desecrated and books in Slavic languages were pulped. Private collections, whether they were Jewish or otherwise, were simply confiscated.

In the West, where, according to the long-range Nazi plan, the indigenous populations, once purified, would be preserved, the national collections were carefully protected for the time being by a special agency established within the various occupation governments.

The vast Nazi acquisitions in Western Europe came from two main sources: the art market and the confiscation of the collections of Jews and certain other groups.

Because the Nazis were able to manipulate the economies of the occupied nations to their advantage, they had almost unlimited cash with which to buy works of art. Willing sellers abounded. Private collectors and art dealers made fortunes, particularly in the early years of the war, while the auction houses of the Continent went full tilt the whole time. Nazi leaders, German museum directors, war profiteers and collaborators were all buying, as were citizens of the occupied lands seeking safe investments or money for survival.

Of course not all the sales were voluntary: an unwilling owner could be threatened with arrest, and works of art were often traded for exit visas and for lives.

The confiscations of Jewish and other collections in the West were equally vast. Confiscation of private collections was for a time limited to things which had been "abandoned" or left in normally safe museum vaults, houses, bank boxes and commercial storage by those who had fled the country, and that included people transported to concentration camps.

The confiscations took place in all the occupied nations, but the largest percentage was in France. The Nazis had come well prepared, with lists of all the best collections. The galleries of famous Jewish dealers, particularly ones who had left the country, were cleared. Pictures which they had stored in the provinces were relentlessly tracked down. Private collections such as those of the Rothschilds were brought in.

But it should be noted that there was great resistance to these confiscations by the personnel of the French museums, and in fact those of most other countries. They falsified inventories and acquisition dates, mixed endangered objects from Jewish collections in with the permanent collections and frustrated the Germans by a general go-slow policy. Many of their curators worked actively for the Resistance, and there was even a "safe house" and a printing press within the Louvre.

After they collected all these things, exhibitions were arranged so that the Nazi leaders and their art staffs could choose exactly what they wanted. The objects were then shipped to Germany.

Chairman LEACH. Excuse me. If I can interrupt you, Ms. Nicholas. We have a problem of a vote on the floor. In fact, there will be two votes. I would like to recess pending these votes and then come back to you. It's a little late in the day, but you have, in my judgment, extraordinarily important and incredibly interesting testimony, and I hope you are able to stay. Is that a problem?

Ms. NICHOLAS. That's fine. Thank you.

Chairman LEACH. We will recess pending the vote on the floor. Probably the reconvening will be about 6 o'clock.

[Recess.]



## EVENING SESSION

Chairman LEACH. The hearing will reconvene.

Ms. Nicholas, if you could proceed.

Ms. NICHOLAS. Thank you, Mr. Chairman. I was talking about the confiscations which took place in all the occupied nations.

Among the confiscated works were, of course, many modern, or "degenerate" pictures, as they were called by the Germans, which could not be exhibited in Germany. Once again these were used, especially by Goering, as a form of currency.

Second-rate Old Masters were also fed into the thriving art market, and thereby scattered all over Europe. It is known that some 22,000 works were shipped to Germany from the main Paris depot alone. How many more went to dealers or were never reported by the Nazi collecting agencies, where corruption and side deals were rife, can probably never be determined.

Of course, not everything was displaced by sale or confiscation. Thousands of objects were stolen by civilians and military personnel of all nations, and have also been dispersed all over the world.

At the surrender of Germany the Nazi acquisitions were found in salt mines, castles and so forth all over the fallen Reich. In the occupation zones of the Western Allies all these things were secured and moved to a number of collecting points set up by the Army. It was Allied policy to return works to the countries from which they had been removed and not to individuals. This was a very complex process. Art specialist officers in the British and American armies and the OSS, aided by representatives from the occupied nations, worked for six years to sort out the tons of art in their custody.

This was not the case in the Soviet Zone, where all works of art encountered were removed to the Soviet Union. Many of these were returned to Eastern Europe in the 1950's, but many still remain in Russia. The Soviets felt then, and many Russians still do today, that the objects they retrieved were fair compensation for the irreplaceable treasures of their national patrimony destroyed by the Nazis. Unfortunately, many items which the Nazis had taken from Jews and the Western nations were included in the shipments which went to Russia. The Russian Duma has recently voted to keep it all, but President Yeltsin apparently does not agree with this, and it is said that he will take the issue to Russia's highest court, or to the World Court at The Hague.

In the West, special restitution commissions were set up in each looted nation to undertake the delicate task of determining to whom the objects rightly belonged. By 1952, when the Allied restitution operations ceased in Germany and were handed over to the new German government, several million items had been returned to these national recuperation commissions. Objects, particularly religious objects which had belonged to Jewish communities which no longer existed, were given by the Allies to the Jewish Restitution Successor Organization for distribution to other communities all over the world.

The process of restitution was fairly simple when it came to the great, catalogued collections. But hundreds of lesser works, frequently removed from the houses of ordinary families, could not be identified.

For example, in France, some 60,000 objects, which doesn't include books, coins and archives, were returned from Germany, and over 45,000 were returned to claimants after the war. About 13,000 of the unclaimed items were auctioned off, and the remaining 2000 were placed in the French museum system with special inventory numbers, and have always been available to claimants without any statute of limitations. Many of these unclaimed works belonged to families killed in the Holocaust, but others undoubtedly belonged to collaborators who wished to conceal their wartime dealings with the Nazis.

The French museums have recently come under strong criticism for not publishing a catalogue of these last unclaimed works and for not making a greater effort to discover who the owners are. The catalog has now been put on the Internet and will, I am told, be published shortly in a printed version.

Most of the recuperation commissions were reduced to smaller offices during the 1950's, but restitution did continue: the German Government returned some 40,000 works to various claimants after 1952. In France, the legendary Resistance heroine Rose Valland dedicated her life to the recovery of loot until she died in the late 1960's. An office set up in our State Department in 1952 to process claims still is functioning today.

By the mid-1960's, I would say, roughly 80 percent of the millions of objects displaced in the war had been returned or accounted for. From that time on the effort to return items to the proper owners, though never formally ended, slowly declined. The opening of Eastern Europe and the discovery there of hundreds of works thought to be lost, and of many relevant archives, has revived the restitution process and commissions have been reestablished in every concerned nation to try to identify what is still missing and to process claims, and also to make precise inventories of what is missing.

The claiming process has never been easy. Laws vary widely from country to country and precise documentation of ownership and endless paperwork are required. But the persistent were, for instance, able to obtain partial compensation from the German Government for works which were presumed lost, but not until the late 1960's.

Some claimants have been forced to resort to extended litigation. A prime example was the French dealer Paul Rosenberg, who discovered that a number of the paintings confiscated from him had been knowingly acquired by the Swiss industrialist, Emil Buhle. Allied requests that the Swiss Federal Government intervene in this and other cases were refused and claimants were informed that they had to hire Swiss lawyers and go through the local Swiss courts. To its credit, the Swiss court did find in favor of Mr. Rosenberg, and his pictures were returned.

As time has gone on, looted works of art have been dispersed all over the world and have often been sold several times. They can, and do, reappear almost anywhere, and constant vigilance is required on the part of those hoping to recover objects. The present owners, who have usually bought the items in good faith, seldom feel they should give up their valuable acquisitions, and claimants must then resort to the courts.

There are two such cases pending at present in jurisdictions in the United States: one for a painting which belonged to Holocaust victims in Chicago, and the other for a work looted from a Polish prince in New York, and I'm sure that more such cases will arise.

The circumstances of displacement were very, very complex, and claims can only be handled fairly on a case-by-case basis, but much could be done to make the process less painful. In the end there will, of course, be a quantity of works for which there are no claimants, sad tokens of the incredible greed and killing of the Second World War. It is surely fitting that these things either be sold for the benefit of living victims of the war, or that they be preserved in public collections as memorials to all the dead.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Lynn H. Nicholas can be found on page 291 in the appendix.]

Chairman LEACH. Thank you very much, Ms. Nicholas.  
Mr. Masurovsky.

#### STATEMENT OF MR. MARC MASUROVSKY, HISTORICAL RESEARCHER

Mr. MASUROVSKY. Mr. Chairman, I want to thank you for giving me the opportunity to testify before the House Banking Committee.

I am a trained historian specializing in the flight of Axis capital, knowhow, personnel, and loot from the Third Reich to neutral and Allied countries at the end of the Second World War and in the years immediately following the unconditional surrender of the German Reich in May 1945.

To that end, I spent close to 18 years in American, French, and British archives, trying to understand the extent of Nazi influence in the neutral countries of Europe and in Latin America, the relationships between bankers, politicians, and industrialists on both sides of the Atlantic Ocean during and after the Second World War, and how these relationships helped shape the postwar era and allowed businessmen, bankers, art dealers, and brokers to evade prosecution as war profiteers and economic collaborators of the Nazis.

With that in mind, I undertook a careful examination of most available records pertaining to Operation Safehaven, the Anglo-American program aimed at countervailing the post-defeat plans of the Nazis in the neutral countries. One of the many aspects of Safehaven that the Eizenstat Report omits pertains to the acts of spoliation committed by the Nazis and their henchmen in occupied Europe, especially with regard to the theft or forced sale of Jewish art collections.

Until the outbreak of the Second World War, wealthy Jewish families, comprising approximately 2 to 5 percent of Europe's Jewish population, had amassed substantial art collections.

These Jewish collectors were the patrons and underwriters of a bustling international art market that stretched all the way from Warsaw and Budapest to New York City, Havana, and Buenos Aires. They were, first and foremost, the guardian angels of modern European culture.

For that reason, the Nazis set out to destroy "Jewish" culture, first in Germany, then in Austria, and finally in every country that

they occupied and plundered. Being opportunists, however, the Nazis understood the value of these so-called "degenerate" works of art. For them, the art market was another convenient way through which to acquire hard currency, namely Swiss francs, American dollars, or English pounds, to subsidize intelligence operations against the Allies, or line their own pockets for future use in case things went wrong, such as defeat at the hands of the Allies. Art was therefore a tangible insurance policy which allowed the Nazis to go underground in the postwar years.

The Nazis forced Jewish collectors to turn over their collections to selected agents, in forced sales where they had no choice but to accept ridiculously low prices in exchange for their lives. These "sold" paintings were then either placed on consignment in galleries whose owners were only too desirous to collaborate with the Nazis, or they were auctioned off in France and Switzerland. The locus of acquisition, trans-shipment and resale included France, Switzerland, and Spain, and ultimately North and South America.

Although the evidence is still scanty and requires much more in-depth research, it is fair to say that American art experts were cognizant of the fact that unprecedented opportunities lay before them from the late 1930's to the late 1940's to acquire at extremely discounted rates, priceless "degenerate" works. Here, greed and competition were the underlying motives. And this, the Nazis were also aware of, or at least their agents and brokers, for we do know that they continued to deal and trade with their American and British counterparts during the war years.

In a revealing 69-page intelligence assessment addressed to Jefferson Caffrey, the American ambassador in Paris, a Spanish noblewoman, Carmen de Gurtubay, Marquesa de Yuretta y Gamboa, asserted the following:

"I have read that a lot of art treasures that have been stolen by the Nazis were missing. This is quite natural, but a thing that maybe you ignore is that from 30 to 40 percent of them have found their way into Spain, and, as the Spanish market is very reduced and probably do not need to buy them for themselves, the German exiles and Spanish connoisseurs are keeping them hidden away so as to be able to sell them in the American market in a couple of years. This is a well-known fact in Spain, and I had a very amusing episode happen to me as Pocola Blanco had wanted to sell me a drawing by Dürer which came from one of the Dutch museums. I naturally did not buy it, though a friend of mine who happened to be there and was an expert said the thing was authentic and had probably been brought to Spain by some officer, probably a Nazi. So you have not to look very far to find some of the art treasures which have disappeared and which are actually in the Iberian Peninsula."

I just wanted to add that Carmen de Gurtubay was a very high placed Allied intelligence agent who risked her life both in Portugal and Spain during the war years. She was jailed several times at the behest of German agents, who basically had influenced the Portuguese and Spanish police to act on their behalf.

Considering the thousands of Fascist activists in Spain at the time, the extent of the smuggling operations across the Franco-Spanish border, even after its official closure in July 1944, the

depth of complicities between Spanish officials, French Fascists, and Nazi agents, the sophisticated trans-shipment networks between Switzerland, Spain, and France, the circumstantial evidence is overwhelming and points at a southwesterly exodus for looted works of art through Spain, Portugal, South America, the Caribbean, and North America.

American and British intelligence reports have detailed the presence of substantial collections transitting through Cuba, Venezuela, and Argentina, en route to the United States.

According to American officials based in France in 1945 and 1946, export controls were so lax between Western Europe and the Western Hemisphere, that they held special meetings to figure out ways of tightening them in order to prevent looted art from finding a safe haven in the U.S. or Latin America. The closing down in late 1946 of Allied commissions searching for looted art, the shift in priorities in the European theater from reparations to reconstruction, the lack of highly skilled individuals to screen looted art works bound for the Western Hemisphere, all these factors allow us to postulate that from August 1944 to July 1946, thousands of paintings and drawings found their way out of Europe and into North and South American collections.

I have some reports here that show essentially that dealers from Norway, Belgium, Switzerland, France, most of Western Europe were essentially dealing in substantial amounts of paintings and shipping them to the United States or Latin America.

How does one know if a work of art has been stolen? How do you identify it? The only proof, and the most obvious one, is that the painting has a provenance, it has an acquisition history. But it is also something that is pretty easy to forge, and one of the hardest things to establish is the exact location of a painting or a drawing. Who is the original owner? Where did it go? And how did it end up in particular hands?

The task of finding and restituting stolen works of art is tedious, but it is not unrealistic. Through a careful examination of leading public and private collections, postwar auctions, by focusing on specific artists and periods, one can create a list of suspect works. Once that list is drawn up, researchers can work backward and retrace the twisted acquisition paths of these works of art.

After a painting is identified as having been illegally removed from a Jewish collection by the Nazis or was the subject of a forced sale at bargain basement prices, for instance, \$1000 for a Renoir which actually could be worth \$1 or \$2 million in today's market, then the hard part begins, and that is restitution. It is hard to imagine how a wealthy collector or a museum will give up a priceless painting. That reluctance alone should make you understand the trauma associated with the forced removal of these paintings from families who considered these works as family members, heirlooms, and testaments to their appreciation for life and culture.

This is one area where Congress can make a significant contribution to this cause. Because so many of these works may be in the U.S., there must be a way in which this Congress and this Government can bring about a final settlement of these acts of spoliation. I understand that the art market is not regulated and should not

be. But these special circumstances dictate a unique approach in order to facilitate the restitution of stolen art works.

I would like to recommend the following, if you will allow me:

One: That all documents relating to looted art and Safehaven be declassified to shed full light on this problem and clarify the flow of stolen art work to the United States. Many documents pertaining to this issue were withdrawn from the National Archives as late as 1987.

Two: The Final Report of the Eizenstat Commission should include a section on Looted Art. If that is not possible, the Congress should consider ordering a separate report on Looted Art to ascertain the severity of the problem.

Three: The Federal Government should take steps not to allow any work of art stolen from Jewish families who have been the subject of forced sales from being shown in American museums.

Four: Which is probably unrealistic, but I still mention it. Perhaps a Federal office should be established concerning the restitution of stolen works of art, which could be staffed by lawyers, historians, and investigators, and the purpose of which would be to identify stolen works of art in the United States, and promote their safe return to their rightful heirs. Maybe an office like that could be funded by the art world, and hopefully with the blessings of Congress.

To sum things up, the Nazis' thievery did not fall within the worn-out paradigm of "to the victor go the spoils." They committed an ideological crime against an entire people, against an entire culture, the purpose of which was to erase a way of life, a system of thinking, by whatever means were available at the time. These crimes were classified at the International Military Tribunal of Nuremberg as acts of spoliation.

In sum, every art dealer, collector, broker, curator, gallerist, who acquired works of art stolen from European Jews and other victims of the Nazis participated, wittingly or not, in an act of spoliation. The art world has to be put on notice that such acquisitions make it an accessory to a crime which outweighs by far the instant thrill and personal satisfaction of owning a masterpiece.

In closing, I want to tell you a little story. It will take 30 seconds. I was in Buffalo three weeks ago and I went to the Albright Knox Gallery of Fine Arts, which has an outstanding collection of 19th and 20th Century paintings, and I did a double take because I saw one particular painting called the "Yellow Christ" by Paul Gauguin. It's a beautiful painting and it's unique in its kind.

I had read about it many times in the OSS files as being a painting that had disappeared from the collection of Paul Rosenberg that Lynn Nicholas just mentioned. Somehow or other this painting resurfaced at the end of the war. It was found and returned to Paul Rosenberg, and his heirs sold it to the Buffalo Museum since he died in the United States shortly after the war.

This is a fortunate circumstance. In other words, it's a painting that was stolen, restituted, and it ended up in the Buffalo Museum. I inquired as to why it ended up in the Buffalo Museum, and it turned out that the head of that museum, Andrew Ritchie, at the time was technical advisor to the U.S. Forces, European Theater in



Vienna. And he had been majorly responsible for restituting French collections back to their rightful owners.

But it also points out another issue, which I think is the one that we really need to focus on. He really wore two hats. On the one hand he was a technical advisor, but on the other hand he was doing his job as a museum director. He was scouting Europe for works of art to enhance the collection of his museum. He did it honestly, but for every honest purchase of this kind, we are talking about perhaps hundreds of purchases that may not have been so honest and that ended up in United States collections. This is what perhaps this Congress should focus on.

Thank you.

[The prepared statement of Mr. Marc Masurovsky can be found on page 296 in the appendix.]

Chairman LEACH. Thank you very much, Mr. Masurovsky.

Let me begin with Mr. Rubin. In your testimony before Congress in 1958 and 1959 you agreed to a lump sum settlement for JRSO claims for heirless assets after making the case that it was exceedingly difficult, time-consuming and costly to press each individual claim. Can you tell us how many claims the JRSO originally filed, how many claims were successful, why were some withdrawn, what kinds of evidence were you asked to present to prove an asset was heirless, and why should this issue be opened now 50 years later?

Mr. RUBIN. The evidence which was asked to be presented was basically the same kind of evidence that would have been asked of any person who would come in to claim restitution of his property on the ground that he was a Nazi victim. That is, proof of ownership and so forth, or proof of ownership and heirship. In this particular situation it was very, very difficult to provide that kind of information.

The individuals who turned up in the United States or who had relatives in the United States found very, very little difficulty in meeting what I think you referred to earlier today as "relaxed standards of proof," or somebody referred to it as relaxed standards of proof.

Chairman LEACH. Paul Volcker did, yes.

Mr. RUBIN. In that kind of situation they were able to say, "Well, somebody disappeared in Bergen-Belsen, the name is there, and I'm a relative," and so forth.

In the case of heirless assets there was no such kind of proof. Basically what the JRSO had happen to it is it was put in the position as if it were standing in the shoes of the victim but without the information that could be presented. They had names of individuals because the people who were looking at these lists of names would say, "Well, that's a Jewish name, and he probably died in Bergen-Belsen." But then he couldn't tell whether the property in the United States was in his name or in the name of somebody with a name similar to that, and that sort of thing.

That made it extremely difficult and the JRSO stepping into the shoes of the claimants, that process almost immediately stopped, and we began thinking about the possibility of a bulk settlement and making an estimate of how much is in this particular pot.

You know what is in the pot because you have the money which has been declared in the dormant accounts by the State of New



York and the money which is out of that which has been vested or blocked by the Treasury Department of the Alien Property Custodian.

That gives you a round figure. What you have to do is apply your same count to that, and then you can come up with this \$6 million figure, which these people came up with in the first instance, or you take an arbitrary axe and cut it in half and make it \$3 million.

As I say, the reason for cutting it—we were talking a lot about greed and so forth. I don't consider this greed, but basically you had the War Claims Commission in the United States which said, "Hey, our clients are the people who suffered real damage, and this is money which probably ought to go into the War Claims Fund. There is no reason why you should give it to Mr. Cohen who is living in Denver and who has no particular claim to this particular money but who happens to be a victim of the war. We have victims of the war who are American citizens, lost property," and so forth.

So the War Claims Commission, quite understandably, was in favor of not having a very large estimate put on this bulk settlement.

Chairman LEACH. I appreciate that. I raise these questions just in terms of what lessons there are for the Volcker Commission, and so forth. By implication, you are saying it is going to be very hard to pick out definitive individuals and much easier perhaps to make extrapolations and perhaps to seek disposition through charitable efforts. I don't know that. Would that be your conclusion?

Mr. RUBIN. Basically it would be. As I say, the half-million dollar estimate which is in the existing legislation is that kind of estimate. All I am saying is that really that is much too low an estimate.

Chairman LEACH. Let me just say in response to that, I fully share that conclusion of yours.

Mr. RUBIN. As I say, there are all sorts of reasons why people would have put their money in Switzerland rather than some other place: proximity; they can walk across the border. That's why Mr. Volcker is taking a look at all the little regional banks around the circumference of Switzerland as well as the big banks where you think people would put their money. People might have taken a bicycle across the border and made a deposit.

There are all sorts of other reasons why money would have been concentrated in Switzerland, geography and security being the basic ones. But a lot of people probably would have put their money in the United States because they hoped to get here one of these days, because they had relatives here, maybe because it was further away from Germany than Switzerland was.

In the United States we always start off with the figures out of New York, that's all, because we do not have any figures that came out of Illinois or California or Florida as to so-called "dormant accounts" there. Again doing a very, very rough estimate, I come to a figure of somewhere between \$6 and \$10 million. You cannot get me to say much more in proof of that, but I think that would not be an unreasonable amount.

Chairman LEACH. Thank you very much, Mr. Rubin.

Mr. RUBIN. Thank you very much.

Chairman LEACH. I have questions for both the last panelists, but I would like to turn to Mr. Riley.

Mr. RILEY. Mr. Rubin, I appreciate your testimony. I know it's a difficult task. Before we had to go to vote, did I understand you in your original testimony to say that today you think there is statistical data available that was not present years ago that might help us better reestablish the values that you are talking about?

Mr. RUBIN. I think that there are statistical methods. I am not a statistician. Mr. Volcker has a Ms. Helen Jung who is working for him, and she came to see me quite a while ago. She is a former official of the International Monetary Fund, and she is doing some statistical work trying to estimate the wealth of the Jewish communities in Poland and Hungary, and so forth, as a method of trying to get what the amounts of money might have been that they might have put in Switzerland. That is not, I'm sure, a very exact amount.

I am told by statisticians to whom I have talked—I should reveal the fact that one of them is my nephew who happened to be the head of the statistical department at Harvard a while ago—that there are methods in which you can do this kind of thing and make a reasonable estimate. You can get an estimate of the amount of money that Jewish communities had; you can get an estimate of the amount of money that people from one country or another put abroad; you can get an estimate of the amount of money that flowed into the United States during a given period of time, and so forth, and so forth. By putting all of these things together and working it all in these magic machines called computers, you can come out with a figure which is reasonably accurate.

Mr. RILEY. Thank you, sir.

Chairman LEACH. Ms. Nicholas, an historical document released with the Eizenstat Report said there is considerable evidence that large numbers of paintings which were looted by the Nazis from all over occupied Europe were brought illegally into Switzerland to be held there or sold for the benefit of Nazi leaders such as Göering, von Scherak, and so forth. Swiss business organizations and art dealers, as well as private individuals have been reported to be custodians of some of those art treasures.

Do you have an assessment of what happened to the Nazi looted art in Switzerland after the war? For example, you always hear the name Göering involved in all of this. Do you have an assessment of whether there is documentation of just how much he came to control and where he placed this art?

Ms. NICHOLAS. Yes, there is quite a lot of documentation on Göering's collection because all those documents were found in Berchtesgaden after the war. Göering bought works of art in every country.

Chairman LEACH. Bought with Nazi funds? With his own funds?

Ms. NICHOLAS. With Nazi funds, yes.

Chairman LEACH. Was he dispensing this for his own sake?

Ms. NICHOLAS. He had various jobs, so he was very well paid. He was able to use funds from the Central German Bank, and also the Nazis were able to rig the exchange rates in the countries they occupied to their advantage, so they got very good prices. They also

used money from the economies of the occupied countries to buy things.

Göering bought a lot for his personal collection, but he had trouble getting Swiss francs and other kinds of non-occupation country currency. So one method he used was quite complicated. The paintings would be confiscated in Paris. Then they were taken to Germany on Göering's train. Some of them were held there.

Then if Göering saw a painting he liked in Switzerland, say a Titian or an Old Master, he would pay for it by sending that dealer ten confiscated pictures, and usually the ones he sent were so-called "degenerate" pictures which could not be sold and could not be exhibited in Germany. So this worked out very nicely for him.

Then the dealer in Switzerland would sell these things to certain collectors in Switzerland. The art world knew exactly what these things were, and most refused to buy them. But collectors like Emil Bührle, who was the head of Oerlikon, a huge industrial complex, did buy them and kept them right through the war. When people told him that he was buying looted goods, he said, "Oh, well, that's OK. If I get caught, I'll give them back and I'll buy them again."

That is not exactly what happened, because at the end of the war when Paul Rosenberg, as I mentioned, found out that his things were in Switzerland and went to claim them, Bührle refused to give them back, and Rosenberg had to go to court. In the end, Rosenberg did resell them to Bührle and they are presently in the Bührle collection.

But a great deal of trade did go on through Switzerland, as everywhere else. At the end of the war an OSS team or joint American-British intelligence team had an investigation there, and they did not find very many looted works of art; they only found about 75. I think most of those were returned to the owners.

Of course a lot of things were smuggled in which they would not have known about, and this team was withdrawn very quickly by the American Government when they were downsizing the armies and cutting back on things. So the investigation didn't go on very long, and it's quite possible that there are more looted works in Switzerland, probably in private hands.

Chairman LEACH. There is some circular irony in this. As I understand it, Oerlikon is a Swiss company that made gun sights.

Ms. NICHOLAS. That's right.

Chairman LEACH. You kind of had money circulating back. Maybe it's guns to art.

Ms. NICHOLAS. Yes. Mr. Bührle's profits were used to buy art confiscated from Jews in France.

Chairman LEACH. Hanna Arendt in her famous book "On The Origins of Totalitarianism," had a thesis which many people have had for a long time about the parallels between the Soviet and Nazi systems, the gulag and the concentration camps. The whole theory is you take a circle of politics right and left and you come together. There was also a great deal of art the Nazis looted from Poland, and then the Russians looted the Nazis as the war came to an end. So we have all these pictures in Russia. The Russians have a hard time coming up with lists, in partial measure because one has a sense they think there is a better chance to keep them,

and partly a better chance to market them through their own kinds of corrupt system.

But there are a lot of what I think are "degenerate" German pieces, to use your term. People like the Austrian artist Oscar Poshka who believed all of his art was destroyed in these museums, and it looks like some of it has resurfacing and was actually hidden rather than destroyed.

In your judgment, is there any Jewish art in Russia today?

Ms. NICHOLAS. Oh, yes, there definitely is. The Soviets had what they called the "Trophy Organization," which took all sorts of things back, trains and whole factories and what-not. They had a special art unit. They took enormous amounts of art, including things which had been confiscated by the Nazis in other countries, and probably from their own country, from Jewish collectors.

There was a show at the Hermitage last year of about 75 pictures that were brought back at that time, and there was another show at the Pushkin. Among them were objects from Jewish collections in Hungary and a couple of other collections like that. The Soviets didn't discriminate between things which had been owned by Germany and Germans and things which the Germans had looted from other people.

Another collection in this situation is a magnificent collection of drawings, the Koenigs collection, which was sold in Holland to Hitler, and stored near Dresden. The Russians took it back to Moscow, and it was put on exhibition last year too.

There are things in all kinds of categories in Russia. When you say that there aren't lists, there was a tremendous amount taken back by individual officers and which has never been listed and which is hidden. Although the Russian government may be holding back on their lists, part of what is there the government probably has never known about. These things are being, rumor has it, leaked back into the trade through Germany, and they do provide people quite a lot of money.

Chairman LEACH. All of us think of instances in our personal lives. I'm thinking that I might have been part of this process. The only improper thing I ever knew my father did was he brought back from the war, against instructions, a German binocular.

Ms. NICHOLAS. So did my father.

Chairman LEACH. Since he captured the tank, he kind of felt he had a right to the booty.

Mr. Masurovsky, I understand you played a major role in providing a perspective to the Eizenstat Report, at least on the Treasury Department's paper on Safehaven. Now that the full Eizenstat Report is out, how do you assess it? Do you think it had about the right perspective? Were there problems? How would you comment?

Mr. MASUROVSKY. I have to preface this by saying I'm very close to this issue, unlike most people who read it for the first time and who had never heard of Safehaven. It is a very good report considering it's a major first effort in this direction. I do see some weaknesses in it as somebody who is definitely deep inside.

Number one, it smacks too much of a State Department document. In other words, it papers over too much the dissensions, in some cases severe dissensions within the American Government between rival agencies. The State Department was far more, let's say,

pragmatic or realistic about the chances of enacting punitive measures, as you called them earlier today, against Germany and its Axis allies in favor of reconstruction, in favor of resuming international trade.

In that sense, I believe that the Treasury Department was sort of the most ideologically-driven agency in the U.S. Government at the time—at least that is what the record seems to point to—in terms of taking the Germans and Nazis and Fascists to task and making them never forget what they did from the standpoint of punishment. In that sense, they lost their battle once Morgenthau left the Treasury Department, because his successor Vinson was really more interested in going to the Supreme Court, and his successor Snyder was clearly a partisan of rolling back the clock as far as punitive measures were concerned and trying to make do with Germany.

I wanted to add a couple more things. Number one, one thing I did not hear at all today, except from Professor Weinberg, was really economics and international trade were sort of the major under-tow of all the negotiations.

In other words, the pressures on the American delegation or at least the American Government were as strong and powerful as they were on the British and the French to resume international trade and to get rid of the blacklist. There were a number of businessmen, banks, all sort of individuals seeking to do trade and exchange goods and services with the Europeans, and companies that had collaborated with the Nazis were phenomenal. I can well imagine what it must have been like to just field calls on a daily basis from these individuals.

The point is that there was no momentum to continue and persist in maintaining sanctions to get a hardcore deal from the Swiss, the Swedes, the Spaniards, and the Portuguese as a result of the prevailing environment which dictated, "Let's trade again, let's make some money."

The other thing you really should understand is the Americans and the British, regardless of whether they are Allies or not, they were economic competitors. There are tons of records out there to indicate the extent to which American embassies and American Government officials were favoring American businessmen, I guess naturally, in markets that had been traditionally controlled by the British. So you have to understand the British position in that sense, the extent to which they were acrimonious at seeing this happen.

When you read the Foreign Office records, that is what dominates their discussions internally. They'd say, "Once again the Americans are coming; they are beating us over the head, and you know what's going to happen. They're going to take our markets. They are going to negotiate these contracts, and why should we go along with these programs. The Americans are holier than thou, they are self-righteous, but bottom line, they want to make more money than we do."

This is what dominated the thinking. It might not have been what was being said in the negotiations, but I think it was in the back of everybody's minds in 1946, 1947 and 1948.

I disagreed tremendously with a lot of things that were said by our European colleagues, and I was rather shocked actually not to hear more precise indications of German infiltration and influence in Spain and Portugal. Those two countries were, in fact, the countries that we feared the most, not Switzerland, as far as the post-war was concerned. We really were concerned that the Nazis were reorganizing heavily in those two countries.

It was Goering's line that "Spain was a springboard to Latin America", and he was not lying. There were thousands and thousands of agents running around Spain, organizing networks. Most of German intelligence had its organizations still in place in 1946 in Spain. There are reports where the former head of the Gestapo in Madrid came back two years later, after being repatriated, back to his apartment in Madrid. He kept his own name, and his deputy came back a couple of weeks later, down the hall from him, to his own apartment. This was going on every single day.

There is a report that I have here. The Spanish police say they can't arrest German collaborationists. What do you mean they can't arrest them? It's not like they can't find them. But they won't arrest them. They have a mandate not to arrest them.

That is what was taking place in 1946. So when American and British and French negotiators come in and try to get a deal from the Spaniards or the Portuguese, let's not be unrealistic. There is nothing to get, because they know what to say. They know to add here to Resolution VI; they know to say, "Well, of course we are going to try to catch these bad people, but like the Swiss did, we'll stall and stall and stall", and they did, because they invoked the same rights as neutrals.

That game got played so long, year after year, that we gave up. We said, "Whatever you want to give us, we'll take it and go away."

Chairman LEACH. We heard Mr. Rubin has a perspective on the three major goals in these negotiations. Would you explain those to the committee briefly? You've articulated to me a goal of not letting the Nazis reemerge and two other goals of the negotiations that you were part of. You argued that these primary goals were basically met. Do you recall what I am referring to?

Mr. RUBIN. Our primary goal in this program very largely was to get rid of German influence in the neutral countries, Latin America as well. So when we negotiated with the Swiss back in 1946, we had the goal of Operation Safehaven, making sure that there was not a base for resurgence of Nazism in Switzerland immediately after the war. Second, the reparations objective, and third, the business of restituting looted property one way or another, both to the governments which had been looted, the monetary gold, so called, and the non-monetary gold or the looted property that came from private sources, whether it was gold or works of art.

Chairman LEACH. The first objective may have been so large at the time that the second two objectives took on lesser significance. From your descriptions to me in prior settings, I had the feeling that what you were suggesting was that our negotiators met our objectives generally speaking, but the first objective was so large, that is, not to allow Nazi rebirth, that it might be at this time that we have a little better emphasis on the other issues because the



issue was so overwhelming. That is what I am trying to sug-

Mr. RUBIN. I think that is probably true, sir. I don't think that I had much worry about the possible resurgence of German influence. In the 1947-48 period, by that time we were preoccupied with our worries about people further east, and so forth.

I don't think one of these objectives really overwhelms the other. Basically the objective of getting rid of German influence fitted in very, very well with the objective of obtaining a sufficient amount of money for reparations payments, and that fitted in pretty well with the objective of restoring looted property, whether it happened to be looted out of central banks or from individuals.

I know that Mr. Eizenstat thinks that the American delegation was weak back in 1946 and so forth. I don't think so. I think we got pretty much what we wanted despite the fact that we did not get nearly the amount of looted gold restored that we thought we should have.

Mr. Otto Fletcher, whose memorandum features in all of these things, was working on my staff. I called him into the State Department. I talked with him a lot. I think that he was probably right, but he didn't have all of the figures, and we had some kind of problem about that with respect to what the accurate figures were.

All of these objectives went together with no particular difficulties as far as I was concerned. My problem with the Swiss, as I have said many times, is that they didn't carry out the agreement. The agreement was a perfectly good agreement. If they had fulfilled it, they would have restored property to the individual victims who came back; they would have restored heirless property to various organizations, the Intergovernmental Committee for Refugees, and we would have received the amount of money that we should have received for reparations purposes.

One of the other problems that I have at the present time, if I may diverge for just a moment, is I don't really know what they did with respect to the liquidation of German property in Switzerland. I've never really been able to find out. There are rumors kicking around now that they did not liquidate that property.

We always thought they had an objective of self-interest in doing that, because half the proceeds were going to go into the reparations fund, the other half were going to go into paying their commercial claims against Germany, their balance of payments, there. So they had a perfectly good reason for wanting to do this despite the fact that they said they couldn't under international law do it at the beginning.

I have never been able to find out—I don't have the resources to do much in the way of research—whether the German assets in Switzerland were, in fact, liquidated as they were supposed to be liquidated in accordance with the 1946 Washington Accord. I would be interested in finding that out. I think maybe Mr. Eizenstat ought to pursue an inquiry into that particular point, as well as into the other point that I have been making, that we should re-estimate the amount of heirless property in the United States.

Chairman LEACH. Thank you.



Let me just ask the last question to Mr. Masurovsky, and Mr. Nicholas might want to respond.

How much Nazi looted art do you think ended up in the United States?

Mr. MASUROVSKY. That's really the \$20,000 question. At this point we can only speculate. Nobody has really done a careful study of public and private collections, partly because it's very difficult to get access to the private collections.

Based on the information that I have seen, I think the figure is rather substantial, and I think that the American market was ultimately the end user market for most looted works, at least from Western Europe. I wouldn't be too surprised if some of the major postwar Impressionist collections were partly comprised of paintings that had been the subject of forced sales. I'm thinking perhaps even some of these recordbreaking Impressionists that rocked the auction market about ten years ago.

Chairman LEACH. But they're in Japan.

Mr. MASUROVSKY. Now they are in Japan, but they came out of New York auction houses. The problem is that any painting that was purchased as of 1941-42 that we find in an American collection, in my book has to be considered suspect until proven innocent. Until they can demonstrate the provenance, particularly if this painting comes out of the European market, specifically if it's an Impressionist or an Expressionist or other "degenerate" work, the burden of proof really is on the people who purchase these paintings, because more often than not the provenance is falsified.

Ms. NICHOLAS. I would like to comment on that. I think there are probably quite a number of paintings which were confiscated which have found their way to the United States, but there are various categories. The "degenerate art" which Goering and the Germans took from their own museum collections before the war were sold by both the German, French and all kinds of dealers legitimately to buyers from many, many countries.

A great number of those pictures came to the United States because there were more collectors here who were interested in that sort of art. This falls in the same category as the paintings at the National Gallery which were bought from the Soviet Government which they took from their own museums. They were sold by the German Government from their state museums to raise foreign currency for their government. That is one category.

Also, families who came over here. Many Jewish families sent works of art to the United States before the war in order to protect them. One method used was to send things to the World's Fairs and various exhibitions and then never bring them home. This got around the export laws of their own countries.

I think you have to be very careful, because, of the thousands of things that were recovered after the war, many were returned to their owners and then resold shortly after that quite legitimately.

A few years ago someone accused the Metropolitan Museum of having a Chardin which was from a looted collection. This was put all over the front pages of the *New York Times*. It turned out that the painting had been confiscated, but it had been returned and it had then been auctioned and the Metropolitan had bought it quite legitimately.

I am sure that there are things that have come through the trade. Masses of art moved through South America. A lot of the great European dealers who fled from the Continent set up offices, and business was going on all through the war, from Cuba, from Buenos Aires, from everywhere. The provenance of things was often very doubtful. I think you have to be careful and take it on a case-by-case basis.

I do think that people buying works of art for huge sums should be very careful to do research on what they are getting.

Speaking of the works that are now in Japan, "Dr. Gochet" by Van Gogh, the most expensive painting in the world, was a "degenerate" painting which was taken from a German museum. It was acquired by Goering's agents. He sent it to Holland, where it was sold and eventually ended up in a Jewish family, and they brought it to the United States and they had it in the United States for many years, and they sold it to Japan.

This is the kind of incredibly complex thing that goes on.

Chairman LEACH. Do you imply that the German museum may have a claim on this painting?

Ms. NICHOLAS. That has never been suggested, but if you start thinking about the Elgin Marbles, what about the German museums who were dispossessed by the Nazi Government against their will, which was the case. They did not want to give these things up. It is Pandora's box.

If you were to investigate every picture that is here that came through these sort of Byzantine ways, it would be a very complicated process indeed, but I do think that collectors should be very careful.

When we speak of legislation, there might be some requirement to have insurance or some fund could be set up to protect people from damages. People often buy a work in good faith and then the original owners come along and claim it, quite legitimately.

There is a case going on now in Chicago where a dealer sold something to a collector in Chicago. They should have done their research much better, because it is being claimed by Holocaust victims. It will be very interesting to see what happens. I surely believe that the victims should get that picture back, but I can sympathize with the collector who didn't know what he was getting.

Chairman LEACH. Let me assure you the saints and sinners pictured on these walls of this room are not of a quality that any serious collector would have a problem with.

Ms. NICHOLAS. I won't comment on that.

Chairman LEACH. Let me underscore one point. We have two historians and one attorney. I take it there is no doubt in anyone's mind that an individual that could prove—a Holocaust victim, for instance, Catholics went to the camps, as did Gypsies, as did Lutherans. If you could prove as an heir that you once owned a confiscated piece of art, you are entitled to retrieve it today under American and most international law. Is that valid?

Ms. NICHOLAS. It depends on which jurisdiction. There is another case in New York of a Polish national. Someone had been given a picture by his mother. He tried to sell it sometime ago. It turned out that it's from the Czartoryzski Collection in Poland, one of the great collections, and that family has gone to court to try to get it

back. They have, of course, the same right as the Holocaust victim to their property, which was taken under similar circumstances.

I think all kinds of things will turn up belonging to many kinds of people, and they should all have the same treatment.

Chairman LEACH. Thank you very much. This has been an extraordinarily interesting panel. I think you might have depressed the Impressionist market and by implication enhanced the market for American painters.

Ms. NICHOLAS. Thank you.

Chairman LEACH. In any regard, I appreciate all your testimony.

In conclusion, in listening to the witnesses today it is hard not to be struck by how much we know about World War II and its aftermath, and yet how much there remains for us to find out. I am encouraged that most of the key countries involved in the war have taken on the task of analyzing that period of their history in an increasingly dispassionate way.

While the Swiss role in the war was center stage, we learned that each of the major participants wrestled with wrenching decisions involving the safety of its people and its own sovereign survival. No country appears without blemish.

Confronting complicity in tragedy is never easy, but for the sake of those who were persecuted and the few who still survive, we must persevere and insist of ourselves and each other that truth be brought to light, and justice done.

Ambassador Borer, in his powerful statement, suggested that Switzerland, though it may have maintained extensive economic relations with the Germans during the war, did so for the sake of its own survival, democratic values and a desire for independence. Accordingly, he argued, its wartime behavior should be judged in this light, not through the retroactive application of moral norms formed after the war and perhaps as a result of it.

The Swiss historian, Antoine Fleury, went further and suggested that the Eizenstat Report involved "optical illusions." As Chair of this committee, I believe that the Fleury hyperbole might itself involve illusory optics, and the Eizenstat Report, in my view, is an excellent effort to uncover, rather than distort the truth.

Importantly, for the first time since the issue of dormant accounts has resurfaced, we learned of concrete progress to provide victims a measure of relief in their waning years.

Progress has been slow, but Paul Volcker's announcement of the Swiss Federal Banking Commission's decision to publish all the names attached to dormant accounts gives us hope that the process of restoring to Holocaust victims and their heirs what is rightfully theirs will now gather momentum. I commend and thank Mr. Volcker for his considerable efforts in this regard.

Under Secretary Eizenstat updated the committee on the steps taken in Switzerland and elsewhere to review the past and move toward compensation for victims or their heirs. His presentation also provides hope that the process of rediscovery of the past and restitution is picking up breadth and speed.

Crimes against humanity are not just yesterday's headlines. Pol Pot in Cambodia and Bosnian generals are today's genocidalists. Post-World War II history is rife with examples of dictators guilty of crimes of torture and theft of their own people. Indeed,

"kleptocracy" has become a 20th Century form of government in states like the Philippines, under Marcos, and Zaire, under Mobutu.

If we are going to move toward a civilized and just society in the 21st Century, we have no choice but to follow the money, and in some cases, assets like art, in certain oppressive states or historical circumstances.

Once again, I wish to thank all the witnesses and particularly those who came from overseas to be here for what has been a long, but I believe, useful hearing with a record that, I think, will be used by a lot of people for some time to come.

Thank you very much.

[Whereupon, at 7:05 p.m., the hearing was concluded.]



