II

107TH CONGRESS
1ST SESSION

S. 1876

To establish a National Foundation for the Study of Holocaust Assets.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

Mrs. CLINTON (for herself, Mr. SMITH of Oregon, Mr. STEVENS, Mr. SPECTER, Mrs. BOXER, Mr. FITZGERALD, Mr. SCHUMER, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To establish a National Foundation for the Study of Holocaust Assets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Holocaust Victims' Assets, Restitution Policy, and Remembrance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States should continue to lead the international effort to identify, protect, and re-

turn looted assets taken by the Nazis and their collaborators from victims of the Holocaust.

(2) The citizens of the United States should understand exactly how the United States Government dealt with the assets looted from victims of the Nazis that came into its possession.

(3) The United States forces in Europe made extraordinary efforts to locate and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust.

(4) However, the restitution policy formulated by the United States and implemented in the countries in Europe occupied by the United States had many inadequacies and fell short of realizing the goal of returning stolen property to the victims.

(5) As a result of these United States policies and their implementation, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted.

(6) The Presidential Advisory Commission on Holocaust Assets in the United States, established in Public Law 105–186, found the following:

(A) The United States authorities generally restituted those victims' assets that came under United States control to the national government of their country of origin. In these cases the recipient government bore the responsibility to locate the rightful owner and to restitute the property turned over to it by United States authorities. The Commission found little evidence of efforts by these countries to effect restitution and no evidence that the United States monitored the recipient countries' compliance with these responsibilities.

(B) The policy explained in subparagraph (A) excluded those who no longer had a nation to represent their interests, or who had fallen victim to the ruthless efficiency of Nazi genocide and whose property had been rendered heirless and unidentifiable. For those cases, the United States designated ''successor organizations'' to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of victims. The adoption of this policy led to many assets being too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations rather than to the individuals themselves.

(C) The United States military government established strict deadlines that created narrow windows for filing petitions for restitution and prevented many rightful owners from asserting their rights.

(D) Even when property was returned to individual owners or their heirs, it was often only after protracted, cumbersome, and expensive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

(E) Better policy implementation in Germany and Austria would have prevented identifiable victims' assets from being stored in disorganized and poorly secured military warehouses and facilities where they were occasionally subject to theft and requisitioning by United States servicemen and civilian employees.

(F) In 1953, a Senate judiciary subcommittee delving into the activities of the United States Office of Alien Property (OAP) criticized the agency for lacking good business practices in the way it handled the assets under its control. The subcommittee particularly singled out the ‘‘inefficient and dilatory’’ manner in which claims were processed. Of approximately 15,000 title claims only about 6,000 had been processed.

(G) Congress regarded frozen German assets as a source from which to pay United States war claims for damages suffered by American businesses and individuals. The United States War Claims Commission received more than $200,000,000 from liquidated German and Japanese assets. Thus, United States war claims were paid in part by German assets that likely included victims’ assets.

(7) The United States Government should redress and improve upon the results that that occurred as a result of the policies it established to assist the victims or their heirs to recover property stolen from them during the Nazi regime.

(8) The best way to improve upon these results is to create a single institution to serve as a centralized repository for research and information about Holocaust-era assets.

(9) Enhancing these policies will also assist victims of future armed conflicts around the world.

(10) The conference on Material Claims Against Germany has worked since 1951 with the Government of the United States and with other governments to accomplish material restitution of the looted assets of Holocaust victims, wherever those assets were identified, and has played a major role in allocating unclaimed restitution funds, including funds contributed by the United States, to the Nazi Persecutee Relief Fund.

SEC. 3. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government the National Foundation for the Study of Holocaust Assets (in this Act referred to as the ''Foundation'').

(b) PURPOSES.—The purposes of the Foundation are—

(1) to serve as a centralized repository for research and information about Holocaust-era assets by—

(A) compiling and publishing a comprehensive report that integrates and supplements where necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust;

(B) working with the Department of State's Special Envoy for Holocaust Issues to review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-era Assets and the Vilnius International Forum on Holocaust-era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so; and

(C) collecting and disseminating information about restitution programs around the world;

(2) to create tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets and to enable claimants to obtain the speedy resolution of their personal property claims by—

(A) ensuring the implementation of the agreements entered into by the Presidential Advisory Commission on Holocaust Assets in the United States with the American Association of Museums and the Association of Art Museum Directors to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United

States, beginning with European paintings and Judaica;

(B) funding grants to museums, libraries, universities, and other institutions that hold Holocaust-era cultural property and adhere to the agreements referred to in subparagraph (A), to conduct provenance research;

(C) encouraging the creation and maintenance of mechanisms such as a computerized, searchable database of Holocaust victims' claims for the restitution of personal property;

(D) funding a cross match of records developed by the 50 States of escheated property from the Holocaust era against databases of victims' names and publicizing the results of this effort;

(E) assisting State governments in the preservation and automation of records of unclaimed property that may include Holocaust-era property; and

(F) regularly publishing lists of Holocaust-era artworks returned to claimants by museums in the United States;

(3) to work with private sector institutions to develop and promote common standards and best

practices for research and information gathering on Holocaust-era assets by—

(A) promoting and monitoring banks' implementation of the suggested best practices developed by the Presidential Advisory Commission on Holocaust Assets in the United States and the New York Bankers' Association; and

(B) promoting the development of common standards and best practices for research by United States corporations into their records concerning whether they conducted business with Nazi Germany in the period preceding the onset of hostilities in December 1941; and

(4) other purposes the Board considers appropriate.

SEC. 4. BOARD OF DIRECTORS.

(a) MEMBERSHIP AND TERMS.—The Foundation shall have a Board of Directors (in this Act referred to as the ''Board''), which shall consist of 17 members, each of whom shall be a United States citizen.

(b) APPOINTMENT.—Members of the Board shall be appointed as follows:

(1) Nine members of the Board shall be individuals appointed by the President, by and with the advice and consent of the Senate.

(2) Eight members of the Board shall be individuals appointed by the President, by and with the advice and consent of the Senate, after consideration of the recommendations of the Congressional leadership, as follows:

(A) Two members each shall be appointed after consideration of the recommendations of the Majority Leader of the Senate and after consideration of the recommendations of the Minority Leader of the Senate.

(B) Two members each shall be appointed after consideration of the recommendations of the Speaker of the House of Representatives and after consideration of the recommendations of the Minority Leader of the House of Representatives.

(c) CHAIRMAN.—The President shall appoint a Chair from among the members of the Board.

(d) QUORUM AND VOTING.—A majority of the membership of the Board shall constitute a quorum for the transaction of business. Voting shall be by simple majority of those members voting.

(e) MEETINGS AND CONSULTATIONS.—The Board shall meet at the call of the Chairman at least twice a year. Where appropriate, members of the Board shall consult with relevant agencies of the Federal Government, and with the United States Holocaust Memorial Council and Museum.

(f) REIMBURSEMENTS.—Members of the Board shall serve without pay, but shall be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

SEC. 5. OFFICERS AND EMPLOYEES.

(a) EXECUTIVE DIRECTOR.—The Foundation shall have an Executive Director appointed by the Board and such other officers as the Board may appoint. The Executive Director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(b) EMPLOYEES.—Subject to the approval of the Board, the Foundation may employ such individuals at such rates of compensation as the Executive Director determines appropriate.

(c) VOLUNTEERS.—Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

SEC. 6. FUNCTION AND CORPORATE POWERS.

The Foundation—

(1) may conduct business in the United States and abroad;

(2) shall have its principal offices in the District of Columbia or its environs; and

(3) shall have the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any real or personal property or income therefrom;

(D) to enter into contracts or other arrangements with public agencies, private organizations, and other persons, and to make such payments as may be necessary to carry out its purposes; and

(E) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 7. REPORTING REQUIREMENTS.

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during that fiscal year, including a full and complete statement of its receipts, expenditures, and investments, and a description of all acquisition and disposal of real property.

SEC. 8. ADMINISTRATIVE SERVICES AND SUPPORT.

The Secretary of the Treasury, the Secretary of Education, the Secretary of State, and the heads of any other Federal agencies may provide personnel, facilities, and other administrative services to the Foundation.

SEC. 9. SUNSET PROVISION.

The Foundation shall exist until September 30, 2011, at which time the Foundation's functions and research materials and products shall be transferred to the United States Holocaust Memorial Museum, or to other appropriate entities, as determined by the Board.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Foundation such sums as may be necessary to carry out this Act.

(b) LIMITATION.—No funds appropriated to carry out this Act may be used to pay attorneys fees in the pursuit of private claims.

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