

108TH CONGRESS
1ST SESSION

S. 1184

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

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2003

Mr. SMITH (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. FITZGERALD, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Holocaust Victims’ As-
5 sets, Restitution Policy, and Remembrance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

1 turn looted assets taken by the Nazis and their col-
2 laborators from victims of the Holocaust.

3 (2) The citizens of the United States should un-
4 derstand exactly how the United States Government
5 dealt with the assets looted from victims of the
6 Nazis that came into its possession.

7 (3) The United States forces in Europe made
8 extraordinary efforts to locate and restitute assets
9 taken by the Nazis and their collaborators from vic-
10 tims of the Holocaust.

11 (4) However, the restitution policy formulated
12 by the United States and implemented in the coun-
13 tries in Europe occupied by the United States had
14 many inadequacies and fell short of realizing the
15 goal of returning stolen property to the victims.

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

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

23 (A) Despite the undertaking by United
24 States agencies to preserve, protect, and return
25 looted assets, United States restitution policy

1 could never fully address the unimaginable di-
2 mension and complexity of restituting assets to
3 victims of the Holocaust. Many inadequacies re-
4 veal that United States authorities were driven
5 by necessity, and practical concerns of restitu-
6 tion commingled with conflicting interests, pri-
7 orities, and political considerations. Restitution
8 competed with, and was often subordinated to,
9 the desire to bring American troops home, the
10 need to rebuild devastated European economies,
11 and provide humanitarian assistance to millions
12 of displaced persons, and the Cold War.

13 (B) With respect to many types of assets,
14 the United States followed international legal
15 tradition and undertook only to restore property
16 to national governments, which it assumed
17 would be responsible for satisfying the claims of
18 their citizens. Because this practice excluded
19 those who no longer had a nation to represent
20 their interests, or who had fallen victim to the
21 Nazi genocide, the United States also des-
22 ignated certain “successor organizations” to sell
23 heirless and unclaimed property and apply the
24 proceeds to the care, resettlement, and rehabili-
25 tation of surviving victims. This practice led

1 many assets to be too hastily labeled as heirless
2 or unidentifiable, with the result that they were
3 assigned to the successor organizations, rather
4 than returned to their rightful owners.

5 (C) Far more regrettable is the United
6 States failure to adequately assist victims,
7 heirs, and successor organizations to identify
8 victims' assets, instead relying upon them to
9 present their own claims, often within unreal-
10 istically short deadlines, with the result that
11 much victim property was never recovered.

12 (D) Even when property was returned to
13 individual owners or their heirs, it was often
14 only after protracted, cumbersome, and expen-
15 sive administrative proceedings that yielded set-
16 tlements far less than the full value of the as-
17 sets concerned.

18 (E) While the overall record of the United
19 States is one in which its citizens can legiti-
20 mately take pride, even the most farsighted and
21 best-intentioned policies intended to restitute
22 stolen property to its country of origin failed to
23 realize the goal of returning property to the vic-
24 tims who suffered the loss.

1 (F) In many instances, policy and cir-
2 cumstance combined and led to results that can
3 be improved upon now, to provide a modicum of
4 justice to Holocaust victims and their heirs and
5 in memory of those who did not survive.

6 (7) The United States Government should pro-
7 mote both the review of Holocaust-era assets in Fed-
8 eral, State, and private institutions, and the return
9 of such assets to victims or their heirs.

10 (8) The best way to achieve this is to create a
11 single institution to serve as a centralized repository
12 for research and information about Holocaust-era
13 assets.

14 (9) Enhancing these policies will also assist vic-
15 tims of future armed conflicts around the world.

16 (10) The Government of the United States has
17 worked to address the consequences of the National
18 Socialist era with other governments and nongovern-
19 mental organizations, including the Conference on
20 Jewish Material Claims Against Germany, which has
21 worked since 1951 with the Government of the
22 United States and with other governments to accom-
23 plish material restitution of the looted assets of Hol-
24 ocaust victims, wherever those assets were identified,
25 and has played a major role in allocating restitution

1 funds and funds contributed by the United States
2 and other donor countries to the Nazi Persecutee
3 Relief Fund.

4 **SEC. 3. ESTABLISHMENT AND PURPOSES.**

5 (a) ESTABLISHMENT.—There is established a Na-
6 tional Foundation for the Study of Holocaust Assets (in
7 this Act referred to as the “Foundation”).

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

10 (1) to serve as a centralized repository for re-
11 search and information about Holocaust-era assets
12 by—

13 (A) compiling and publishing a comprehen-
14 sive report that integrates and supplements
15 where necessary the research on Holocaust-era
16 assets prepared by various countries’ commis-
17 sions on the Holocaust;

18 (B) working with the Department of
19 State’s Special Envoy for Holocaust Issues to
20 review the degree to which foreign governments
21 have implemented the principles adopted at the
22 Washington Conference on Holocaust-era As-
23 sets and the Vilnius International Forum on
24 Holocaust-era Looted Cultural Property, and

1 should encourage the signatories that have not
2 yet implemented those principles to do so; and

3 (C) collecting and disseminating informa-
4 tion about restitution programs around the
5 world;

6 (2) to create tools to assist individuals and in-
7 stitutions to determine the ownership of Holocaust
8 victims' assets and to enable claimants to obtain the
9 speedy resolution of their personal property claims
10 by—

11 (A) ensuring the implementation of the
12 agreements entered into by the Presidential Ad-
13 visory Commission on Holocaust Assets in the
14 United States with the American Association of
15 Museums and the Association of Art Museum
16 Directors to provide for the establishment and
17 maintenance of a searchable central registry of
18 Holocaust-era cultural property in the United
19 States, beginning with European paintings and
20 Judaica;

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

1 (C) encouraging the creation and mainte-
2 nance of mechanisms such as an Internet-
3 based, searchable portal of Holocaust victims'
4 claims for the restitution of personal property;

5 (D) funding a cross match of records de-
6 veloped by the 50 States of escheated property
7 from the Holocaust era against databases of
8 victims' names and publicizing the results of
9 this effort;

10 (E) assisting State governments in the
11 preservation and automation of records of un-
12 claimed property that may include Holocaust-
13 era property; and

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

17 (3) to work with private sector institutions to
18 develop and promote common standards and best
19 practices for research and information gathering on
20 Holocaust-era assets by—

21 (A) promoting and monitoring banks' im-
22 plementation of the suggested best practices de-
23 veloped by the Presidential Advisory Commis-
24 sion on Holocaust Assets in the United States
25 and the New York Bankers' Association;

(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;

(C) encouraging the International Commission on Holocaust Era Insurance Claims (ICHEIC) to prepare a report on the results of its claims process; and

(D) promoting the study and development of policies regarding the treatment of cultural property in circumstances of armed conflict; 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 representatives of government departments, agencies

1 and establishments, appointed by the President, by
2 and with the advice and consent of the Senate as
3 follows:

4 (A) One representative each from the De-
5 partment of State, Department of Justice, De-
6 partment of the Treasury, Department of the
7 Army, National Archives and Records Adminis-
8 tration, and Library of Congress.

9 (B) One representative each from the
10 United States Holocaust Memorial Council, Na-
11 tional Gallery of Art, and National Foundation
12 on the Arts and Humanities.

13 (2) Eight members of the Board shall be indi-
14 viduals who have a record of demonstrated leader-
15 ship relating to the Holocaust or in the fields of
16 commerce, culture, or education, appointed by the
17 President, by and with the advice and consent of the
18 Senate, after consideration of the recommendations
19 of the congressional leadership, as follows:

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

1 (B) Two members each shall be appointed
2 after consideration of the recommendations of
3 the Speaker of the House of Representatives
4 and after consideration of the recommendations
5 of the Minority Leader of the House of Rep-
6 resentatives.

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

9 (d) QUORUM AND VOTING.—A majority of the mem-
10 bership of the Board shall constitute a quorum for the
11 transaction of business. Voting shall be by simple majority
12 of those members voting.

13 (e) MEETINGS AND CONSULTATIONS.—The Board
14 shall meet at the call of the Chairman at least twice a
15 year. Where appropriate, members of the Board shall con-
16 sult with relevant agencies of the Federal Government,
17 and with the United States Holocaust Memorial Council
18 and Museum.

19 (f) REIMBURSEMENTS.—Members of the Board shall
20 serve without pay, but shall be reimbursed for the actual
21 and necessary traveling and subsistence expenses incurred
22 by them in the performance of the duties of the Founda-
23 tion.

1 **SEC. 5. OFFICERS AND EMPLOYEES.**

2 (a) EXECUTIVE DIRECTOR.—The Foundation shall
3 have an Executive Director appointed by the Board and
4 such other officers as the Board may appoint. The Execu-
5 tive Director and the other officers of the Foundation shall
6 be compensated at rates fixed by the Board and shall serve
7 at the pleasure of the Board.

8 (b) EMPLOYEES.—Subject to the approval of the
9 Board, the Foundation may employ such individuals at
10 such rates of compensation as the Executive Director de-
11 termines appropriate.

12 (c) VOLUNTEERS.—Subject to the approval of the
13 Board, the Foundation may accept the services of volun-
14 teers in the performance of the functions of the Founda-
15 tion.

16 **SEC. 6. FUNCTION AND CORPORATE POWERS.**

17 The Foundation—

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

20 (2) shall have its principal offices in the Dis-
21 trict of Columbia or its environs; and

22 (3) shall have the power—

23 (A) to accept, receive, solicit, hold, admin-
24 ister, and use any gift, devise, or bequest, either
25 absolutely or in trust, of real or personal prop-

1 erty or any income therefrom, or other interest
2 therein;

3 (B) to acquire by purchase or exchange
4 any real or personal property or interest there-
5 in;

6 (C) to sell, donate, lease, invest, reinvest,
7 retain, or otherwise dispose of any real or per-
8 sonal property or income therefrom;

9 (D) to enter into contracts or other ar-
10 rangements with public agencies, private orga-
11 nizations, and other persons, and to make such
12 payments as may be necessary to carry out its
13 purposes; and

14 (E) to do any and all acts necessary and
15 proper to carry out the purposes of the Founda-
16 tion.

17 **SEC. 7. REPORTING REQUIREMENTS.**

18 The Foundation shall, as soon as practicable after the
19 end of each fiscal year, transmit to Congress a report of
20 its proceedings and activities during that fiscal year, in-
21 cluding a full and complete statement of its receipts, ex-
22 penditures, and investments, and a description of all ac-
23 quisition and disposal of real property.

1 **SEC. 8. ADMINISTRATIVE SERVICES AND SUPPORT.**

2 The Secretary of the Treasury, the Secretary of Edu-
3 cation, the Secretary of State, and the heads of any other
4 Federal agencies may provide personnel, facilities, and
5 other administrative services to the Foundation.

6 **SEC. 9. SUNSET PROVISION.**

7 The Foundation shall exist until September 30, 2013,
8 at which time the Foundation's functions and research
9 materials and products shall be transferred to the United
10 States Holocaust Memorial Museum, or to other appro-
11 priate entities, as determined by the Board.

12 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) AUTHORIZATION.—There are authorized to be ap-
14 propriated to the Foundation such sums as may be nec-
15 essary to carry out this Act.

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

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