



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, FRIDAY, MAY 9, 1997

No. 60

## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 12, 1997, at 12 noon.

## Senate

FRIDAY, MAY 9, 1997

The Senate met at 9:15 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of the Universe and Lord of our lives, by the revolution of the Earth around the Sun, You have brought forth a new day. Just as You have made the sunrise, You have made us what we are; just as we cannot take credit for the sunrise, we dare not take pride in what we have made of ourselves. We can, however, be humbly grateful. To fail to glorify You for either the new day or the miracle You have made of each of our lives would be blasphemy. Help us to praise You both for this new day and the privilege of living life to the fullest. All that we have and are is Your gift. This day will be like no other day past or to come.

You who are everlasting Mercy, give us tender hearts toward all those for whom the morning light brings less joy than it does to us, those for whom the beginning of a new day does not bring rejoicing, but grief, suffering, or trouble. Free us to do all we can for all to whom we can communicate Your care. As we seek to make this a great day for others we will discover the practical love You want to communicate through our words and actions, deliberations and decisions. This is the day You have made and we will rejoice and be glad in You. Through our Lord and Saviour, Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader, Senator D'AMATO from New York, is recognized.

Mr. D'AMATO. Mr. President, it is indeed a pleasure to be with you today.

### SCHEDULE

Mr. D'AMATO. Mr. President, on behalf of the majority leader, there will be a period of morning business to allow a number of Senators to speak. The time between 9:45 and 12:30 will be equally divided for statements regarding the Family Friendly Workplace Act. As previously announced, no roll-call votes will occur during today's session of the Senate.

On Monday, the Senate will consider the IDEA legislation and/or the CFE treaty. If an agreement can be reached for the consideration of those measures, the majority leader has stated it may be possible to stack any votes ordered until Tuesday. All Members will be notified accordingly when those agreements are reached and when the Senators can anticipate the next roll-call vote.

I thank my colleagues for their attention and I thank the President pro tempore for his recognition.

### MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, there will now be a period for the transaction of morning business.

### RECOVERY OF WORLD WAR II GOLD

Mr. D'AMATO. Mr. President, pursuant to the order, I rise today to speak to the release of the report, and I will show you this report. The report is entitled, "U.S. and Allied Efforts To Recover and Restore Gold Stolen by Germany During World War II." I think that description of the report is totally inadequate. It is a great report. The author and the person who has worked so hard, Ambassador Stuart Eizenstat, Under Secretary of Commerce and soon to be Assistant Secretary for Economic Affairs in the State Department, should be proud. We should all commend him for his efforts at getting the truth.

What this report might better be called is the report on the greatest robbery that mankind has seen take place under the guise of the law and under the guise of civilized conventions and under and with the approval of allies who did not face the killing machine of the German Nazi armies. This was after the war that the greatest looting continued and this conspiracy continued for 50-plus years.

Let me say we owe a great debt of gratitude to Stuart Eizenstat because he comes forward with the truth—not all of it, because not all of the documents and not all of the evidence are available or have been made available, but it is a beginning. His dedication to the truth and the perseverance he has demonstrated, and those who work with him, to bring us to this point should be commended. He has done this despite opposition from many quarters,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper containing 100% post consumer waste

S4255

quarters within our own Government, the State Department. The State Department was not happy; they were not happy campers. He pushed forward and he saw to it that this report was released. It really cracks the conspiracy, the veil of secrecy that has existed for 50-plus years. It begins to unravel the web and the deception that has been continued for 50 years, the so-called neutrality of some nations, and particularly the Swiss.

Simply put, this report details the greatest robbery in the history of mankind. It underscores the necessity for a complete review and release of all of the documents and a full accounting of the assets that the Swiss held during the war and continued to hold for the past 50 years. It is outrageous that this crime could continue and that there were nations and citizens and representatives of this country, as well as our allies, as well as the French, as well as the English, who countenanced this. There were no great German armies threatening them at that point in time. The Swiss cannot claim that they were fearful because they were surrounded and they were a tiny little nation.

The report demonstrates beyond a shadow of a doubt the guilt and complicity of the Swiss Government as the bankers for the Nazis during World War II. Holocaust victims and their families have to shudder when they read this report. It leaves the unmistakable conclusion that we have to look carefully and ask our allies to look with us at whether or not we should reopen the Washington accords. The Washington accords set the basis for the distribution of billions and billions of dollars worth of gold.

Literally, let me say that it would appear that the Swiss Government withheld billions. I will get into some detail and indicate how much. It is very clear that the Swiss Government was not forthcoming, that they were deceptive in terms of how much in the way of assets they were holding, that the Nazi killing machine had deposited with them. They kept these billions of dollars illegally and improperly, notwithstanding the bonafideness they might claim as a result of the accords being agreed to by the Allies.

Some of this money, unmistakably, came from the death camps, places like Auschwitz and Treblinka, as well as from the peoples throughout Europe who were slaughtered when the Nazi killing machine swept across the Continent. In the 1946 accords between the Allies and Switzerland, the Swiss Government only agreed to give the Allies \$58 million in gold. That would be the equivalent of about \$580 million today, despite the fact that even some of our negotiators knew they had at least \$398 million, or worth close to \$4 billion today. So, while they had \$4 billion that never belonged to them, they distributed and agreed to distribute a small portion of that. They basically said, "We have it, we are not telling

you how much, and this is how much we are going to give you."

The report indicates that the Swiss refused to give the Allies any more than \$28 million in what we call German external assets. Those are the assets that are stocks and bonds and insurance policies, real estate, and others. Despite the fact that we knew that they had the equivalent of between \$4 and \$8 billion, they said, "We will give the equivalent of less than \$300 million."

There is a movie that has become somewhat famous called "Jerry Maguire." In that, the athlete, I think the movie star Cuba Gooding Jr., has a great line when he says, "Show me the money." Well, Mr. President, it is about time we said to the Swiss, "Show us the money," give to the world a full and proper accounting, reopen those accords.

There was a claim by the Swiss Ambassador the other day saying, "You cannot hold us responsible for what took place 50 years ago." To that extent I can say, that is correct. Most of the individuals today in Government or in positions of responsibility were nowhere around then. They did not make those decisions. They did not make the decisions relating to trafficking with the Nazis, being their bankers, or, indeed, keeping the loot thereafter and refusing to meet their legitimate obligations. But we can hold them accountable now. We can and we must.

There are going to be great pressures to say, "Come on, stop rocking the boat." There are tremendous international consequences in terms of the international corporations that these banks do business with and/or control and/or work with. These billions of dollars that they have had and have used all these years at their disposal, they are not so anxious to depart with them. Indeed, if one were to say, "Give us a real accounting, show us all of the money, the money and profits that were made as a result of the billions of dollars that you have kept over the years," wouldn't that be interesting.

The question as to where did all of that money go becomes important. Who concealed it for all these years? Why did it take a righteous man like Christophe Meili, a young bank guard, to stop the records of these transactions from being shredded? He attempted to. He is a young bank guard who stumbled upon Union Bank of Switzerland shredding records 5 months ago. Should we say anyone who is alive today is responsible for what took place 50 years ago when they were not there? We can certainly say, why would you shred records now, records that related to great companies and corporations and the business activities that they had with the Germans, records that, it would seem, indicated that there were properties of Jews that were forced to leave, forced sales? Why would the bank historian do this, and what was the fate of this particular young man?

This week we heard testimony from Mr. Meili, who, as a result of turning over some documents to the Jewish Historical Society, who then turned them over to the Swiss police, has come under tremendous pressure. Instead of being held as a righteous person and a man who did what was correct, he has received hundreds of death threats, in writing—not just by way of the telephone. His children have been the subject of harassment, and they are 2 and 4 years old. He has been threatened and the lives of his children—it has been indicated they would be kidnapped in retaliation for his act of courage. Here is a young man who acted as a righteous person, and instead of being treated as a hero for standing up and doing what is right, he has been treated like a criminal.

Yes, the Swiss Government and their Ambassador has said, "Do not judge us on the events that occurred 50 years ago but on what we do today." Certainly, if the treatment of Mr. Meili is any indication of their commitment to finding truth, then it makes it rather difficult to hold out hope that they are really dedicated to attempting to deal with the horrors that took place and have been concealed for 50 years.

The Swiss bankers owe the world a total and full accounting, as do our allies. It is about time that our allies and this Government put aside the diplomatic niceties and do what they should have done 50 years ago and do the right thing. You don't have to be a rocket scientist to know that there are going to be great pressures to put this aside. I think what is taking place is unconscionable, and it is time to set the record straight.

Because of the importance of the report of Mr. Eizenstat, as well as the great work of Mr. Slany, the historian of the State Department, we will be holding Banking Committee hearings on Thursday, May 15. We will hear from Ambassador Eizenstat, and Mr. Slany, the State Department historian. They will discuss the findings of the report, what it covers, what it doesn't cover. We will also hear from Ambassador Borer, of the Swiss Foreign Ministry; he is their special ambassador. Finally, we will hear from Tom Bower, author of the book "Nazi Gold," which traces the history of the Swiss banks during World War II, and Rabbi Marvin Hier, of the Simon Wiesenthal Center in Los Angeles. Rabbi Hier has played a major role in tracing the flow of assets of Europe to South America during this period.

Mr. President, the world deserves the truth. For 50 years, it has been hidden in the archives while justice has been denied to the victims of the Holocaust and the survivors. This is the greatest tragedy, a tragedy of indifference, a tragedy of the indifference of the Swiss bankers and it is disgraceful. They knew they were accepting laundered gold and that they were financing the Nazi war machine. As Secretary Eizenstat said, the Swiss bankers extended the war. How many people died

because of this? We don't know. We may never know the answer. But it is our duty to get the facts and have a full accounting from the bankers.

During these "Days of Remembrance" of the Holocaust, it is our duty to go forward to try to achieve some measure of justice for those who cannot fight for themselves. In memory of those who died in the Holocaust, and the people who still act courageously, like Christophe Meili, we must continue the inquiry so that the full truth be known.

This past Tuesday, Mr. President, Mr. Meili came before the Banking Committee. His testimony was chilling, to say the least. As we reached the end, I asked him several questions. I turn to page 40 of the transcript. Mr. President, let me say that this was not a Q and A in which the questions were known to the person who was being asked, nor did I have any idea or know how Mr. Meili—the 28-year-old bank guard who came from Switzerland this past Friday, and is in this country now—would respond. I said:

Let me, if I might, just ask several other questions, and then put some letters . . . into the record.

And I turned to him and I said:

What made you, Christophe, think that the records you found were important and should be saved from destruction?

Through his interpreter, Mr. Meili said this:

A few months before, I had seen the movie "Schindler's List." And that's how, when I saw these documents, I realized I must take responsibility; I must do something.

He is a 28-year-old bank guard in Switzerland. He did something that was right, that was courageous. He is a non-Jew, but he had seen "Schindler's List" and he was moved, he was compelled to respond, to stop the shredding of these documents or the destruction, to report them to someone, and to say should this be done?

And then, Mr. President, if that wasn't chilling enough—and, really, it seems to me a call for those of us who have the power and the responsibility of righting these wrongs—I asked him if there were any closing remarks he would like to make, that we would be glad to receive them. I asked that question of the three witnesses who appeared before us. Here is what Mr. Meili said:

Please protect me in the United States and in Switzerland. I think I become a great problem in Switzerland. I have a woman, two little children, and no future. I must see what goes on in the next days for me. Please protect me. That is all. Thank you, Mr. Chairman.

Mr. President, it is not good enough for the Swiss Ambassador to say, "You can't hold us responsible for what took place 50 years ago," when a young man who has attempted to do what is right finds himself ostracized, finds the power of the Swiss Government and the Swiss banks—who indeed run the Swiss Government, as a practical matter—

and that remark may draw their ire and their fire and their protest, that a young man who acted courageously now finds himself a victim scorned, the lives of his wife and children threatened. How can we do any less than what one individual, Christophe Meili, attempted to do, and that is to do what is right?

So, Mr. President, I hope that this week when we have these hearings, this will be a new beginning and it will energize our Government and our allies to come forward in a united way, to put aside the diplomatic niceties that have shrouded this over the years, to seek a full accounting and to seek justice once and for all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, it is my understanding that we are now on general debate on S. 4; is that the order of business?

The PRESIDING OFFICER. Actually, we are in morning business until 12:30.

Mr. JEFFORDS. Fine. I will proceed anyway.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

#### THE FAMILY FRIENDLY WORKPLACE ACT

Mr. JEFFORDS. Mr. President, the legislation that we are discussing today, S. 4, the Family Friendly Workplace Act, is timely, commonsense legislation designed to give working families a much-needed option in balancing their busy work and family schedules. I am extremely pleased that the leadership has made passage of this bill a high priority.

The Family Friendly Workplace Act is intended to provide private-sector employers and employees with the same optional workplace flexibility benefits that public-sector employees have enjoyed since 1978. S. 4 provides three alternative work schedule options: One, compensatory time off in lieu of monetary overtime pay; two, bi-weekly work schedules; and three, flexible credit hours. I will explain each of these in more detail in a minute. In addition to the workplace scheduling option, S. 4 offers much-needed salary basis reform, and this is a very important problem that we now have as a result of recent court decisions.

Mr. President, there seem to be many misconceptions about what this legislation does and what it doesn't do. I appear today to clear that up.

I wanted to go over, first, the four components of S. 4. I believe this will give some of my colleagues a better understanding of this bill.

The first component of S. 4 is the compensatory time provision. S. 4 would amend the Fair Labor Standards Act's overtime provisions to allow employers to offer their employees the option of compensatory time off instead of traditional overtime pay.

In other words, you can trade the time and a half pay for compensatory time off. This provision will allow hourly employees the ability to take time off as a result of having worked overtime. Like State and local government employees, private sector employees would accrue comptime at the same rate as an employer's normal rate of overtime pay, that is 1½ hours of compensatory time off for every hour of overtime worked.

This legislation is not mandatory. It does not require employers to offer compensatory time off. If employers decide to offer the comptime option to their employees, it is up to the employees to decide whether or not to accept it. Employees who are members of unions will choose compensatory time through the collective bargaining process. Nonunion employees, on the other hand, must "knowingly and voluntarily" enter into an agreement with their employer for comptime before they perform any overtime work. Again, I want to stress that this provision is purely voluntary.

Mr. President, this legislation goes to great lengths to protect employees. If a nonunion employee does not like the comptime program, he or she may withdraw at any time by providing his or her employer with written notice. The withdrawal of employees who are members of unions will be controlled by the collective bargaining agreement.

I see no reason why unions should be in opposition to this bill.

If an employer finds that its comptime program is not working out, it can cancel its compensatory time off policy by providing the employees who have elected to earn comptime with 30 days with written notice. Again, there is nothing compulsory about this law at all.

Employees are also permitted to cash out—receive the cash equivalent of their accrued comptime—at any time.

Let me repeat that. Employees are permitted to cash out—receive the pay equivalent of their accrued comptime—at any time. So even if an employee selects the comptime option, if that employee decides at a later date that he or she needs the overtime pay instead of time off, the employee has the ability to cash out, to get cash for their overtime work.

An employee will also receive the cash equivalent of any unused compensatory hours whenever an employer discontinues its compensatory time policy or in situations where an employee withdraws, resigns or is terminated.

The employer must cash out the employee's compensatory time at either the employee's overtime rate or the