

# INTRODUCTION OF THE U.S. HOLOCAUST ASSETS COMMISSION EXTENSION ACT OF 1999

Mr. SMITH of Oregon. Mr. President and Members of the Senate, next week our Nation will pass an important if unnoticed anniversary—the anniversary of one of the first official notifications we were given of the atrocities of the Holocaust.

On August 8, 1942, Dr. Gerhart Reigner, the World Jewish Congress representative in Geneva, sent a cable to both Rabbi Stephen Wise—the President of the World Jewish Congress—and a British Member of Parliament. In it, Dr. Reigner wrote about “an alarming report” that Hitler was planning that all Jews in countries occupied or controlled by Germany “should after deportation and concentration \* \* \* be exterminated at one blow to resolve once and for all the Jewish question in Europe.” Our Government’s reaction to this news was not our greatest moment during that terrible era.

First, the State Department refused to give the cable to Rabbi Wise. After Rabbi Wise got a copy of the cable from the British, he passed it along to the Undersecretary of State, who asked him not to make the contents public until it could be confirmed. Rabbi Wise didn’t make it public, but he did tell President Roosevelt, members of the cabinet, and Supreme Court Justice Felix Frankfurter about the cable. None of them chose to act publicly on its contents.

Our government finally did acknowledge the report some months later, but the question remains: how many lives could have been saved had we responded to this clear warning of the Holocaust earlier and with more vigor? The questions of how the United States responded to the Holocaust and, specifically, what was the fate of the Holocaust victims’ assets that came into the possession or control of the United States government, is the focus of the Presidential Advisory Commission on Holocaust Assets in the United States, of which I am a member.

This bipartisan Commission—chaired by Edgar M. Bronfman—is composed of 21 individuals, including four Senators, four Members of the House, representatives of the Departments of the Army, Justice, State, and Treasury, the Chairman of the United States Holocaust Memorial Council, and eight private citizens.

The Commission is charged with conducting original research into what happened to the assets of Holocaust victims—including gold, other financial instruments and art and cultural objects—that passed into the possession or control of the Federal government, including the Federal Reserve. We are also to survey the research done by others about what happened to the assets of Holocaust victims that passed into non-Federal hands, including State governments, and report to the President, making recommendations for future actions, whether legislative or administrative.

The Commission was created last year by a unanimous Act of Congress, and has been hard at work since early this year. Perhaps the most important information that the Commission’s preliminary research has uncovered is the fact that the question of the extent to which assets of Holocaust victims fell into Federal hands is much, much larger than we thought even a year ago, when we first established this Commission.

Last month, at the quarterly meeting of the Commissioners in Washington, we unveiled a “map” of Federal and related offices through which these assets may have flowed. To everyone’s surprise, taking a sample year—1943—we found more than 75 separate entities that may have been involved.

The records of each of these offices must first be located and then scoured—page by page—at the National Archives and other record centers across the United States. In total, we must look at tens of millions of pages to complete the historical record of this period.

Furthermore, to our nation’s credit, we are currently declassifying millions of pages of World War II-era information that may shine light on our government’s policies and procedures during that time. But, this salutary effort dramatically increases the work the Commission must do to fulfill the mandate we have given it.

In addition, as the Commission pursues its research, it is discovering new aspects of the story of Holocaust assets that hadn’t previously been understood. The Commission’s research may be unearthing an alarming trend to import into the United States through South America, art and other possessions looted from Holocaust victims. Pursuing these leads will require the review of additional thousands of documents.

The Commission is also finding aspects of previously known incidents that have not been carefully or credibly researched. The ultimate fate of the so-called “Hungarian Gold Trains”—for example—a set of trains containing the art, gold, and other valuables of Hungarian victims of the Nazis that was detained by the liberating US Army during their dash for Berlin has not been carefully investigated.

In another area of our research, investigators are seeking to piece together the puzzle of foreign-owned intellectual property—some of which may have been owned by victims of Nazi genocide—the rights to which were vested in the Federal government under wartime law.

For all of these reasons and more, I am introducing today with Senators BOXER, DODD and GRAMS the “U.S. Holocaust Assets Commission Extension Act of 1999.” This simple piece of legislation moves to December, 2000, the date of the final report of the Presidential Advisory Commission on Holocaust Assets in the United States, giv-

ing our investigators the time to do a professional and credible job on the tasks the congress has assigned to them.

This bill also authorizes additional appropriations for the Commission to complete its work. I strongly urge all of my colleagues to join me in support of this necessary and simple of legislation.

As we approach the end of the millennium, the United States is without a doubt the strongest nation on the face of the earth. Our strength, however, is not limited to our military and economic might. Our nation is strong because we have the resolve to look at ourselves and our history honestly and carefully—even if the truth we find shows us in a less-than flattering light.

The Presidential Advisory Commission on Holocaust Assets in the United States is seeking the truth about the belongings of Holocaust victims that came into the possession or control of the United States government. All of my colleagues should support this endeavor, and we must give the Commission the time and support it needs by supporting the U.S. Holocaust Assets Commission Extension Act of 1999.

## TRIBUTE TO ARMY SPECIALIST T. BRUCE CLUFF

Mr. HATCH. Mr. President, I rise today to pay tribute to Army Specialist T. Bruce Cluff of Washington, Utah. Specialist Cluff was one of five American soldiers from the 204th Military Intelligence Battalion stationed at Fort Bliss in El Paso, Texas, who perished when their U.S. Army surveillance plane crashed in the rugged mountains of Colombia while conducting a routine counter narcotics mission in conjunction with the Colombian government.

I am deeply saddened by the loss of this fine young man while in the service of our country. This is a greater tragedy by the fact that Specialist Cluff leaves behind a wife, Meggin, and two young children, Maciah and Ryker, with another child yet to be born. My heart and my prayers go out to them as well as to their extended family.

I also acknowledge and extend my sympathies to the families of the other four American soldiers who perished in the crash. I especially hope that Meggin Cluff, her children, and the other families of these soldiers will feel the immense gratitude that we have for the sacrifice of their loved ones.

Indeed, Specialist T. Bruce Cluff and his crew mates are heroes, as are all of the men and women of our armed forces who everyday unselfishly put life and limb at risk to defend our great nation. Specialist Cluff and his Army unit were engaged in a different type of war. Illegal drug trafficking has become the scourge of our society, and we are determined to stop this practice at its very roots.

The men and women of our armed forces assisting in these offshore interdiction efforts will not be deterred by

the tragic loss of this aircrew. In fact, I suspect they and their families will be all the more motivated to continue the "war" against drug trafficking. We should all take due notice of the costs associated with this effort, including the first loss of military lives. We should be unrelenting in our opposition to and our pursuit and prosecution of traffickers as well as pushers of dangerous drugs.

May God bless the memories of Specialist Cluff and his fellow crew members, and give comfort and peace to their families. And may we remember and continue to defend the principles for which these brave young people fought and died for. We owe that commitment to them, to their families, and to those who will continue their work.

### MICROSOFT

Mr. GORTON. Mr. President, as we approach the August recess, my constituents at Microsoft face the task of battling the Department of Justice, DOJ, as well as their competitors in the courts, while continuing to run one of the most successful companies in one of the most competitive industries in American history. I would like to share some interesting developments that have arisen since I last took to the floor of the U.S. Senate to speak to this issue.

Specifically, USA Today recently reported that the Department of Justice is inquiring as to how a possible breakup of Microsoft could be implemented. According to USA Today, unnamed senior officials at DOJ have requested a complex study, which would cost hundreds of thousands of dollars, to assess where Microsoft's logical breakup points would be.

Mr. President, this seems to be putting the cart before the horse. I would hope that the Department of Justice has more important things on which to spend the taxpayers' money. If not, I am aware of several programs included in the Commerce, Justice, State Appropriations bill that could use additional funding.

To put the premature nature of this action in perspective, the findings of fact that summarize the points that each side made during the testimony aren't even due until next week. After Judge Penfield Jackson has had an opportunity to review these documents, the two sides will present closing arguments. Following the closing arguments, Judge Jackson will issue his "proposed findings of fact." In response, the government and Microsoft will prepare another set of legal briefs to argue how antitrust law applies to the facts. Judge Jackson then will hear additional courtroom arguments, and finally issue his "conclusions of law" around November.

Should Judge Jackson rule against Microsoft, a verdict with which I would vehemently disagree, another set of hearings on possible "remedies" would

need to be held. Those proceedings could last several weeks and involve additional witnesses, which would put a final decision off until sometime next spring. Microsoft almost certainly would appeal its case to U.S. Court of Appeals and possibly all the way to the Supreme Court—pushing the time frame out another two years.

Although the timing of this DOJ action is premature, the most intriguing aspect of the July 29, 1999 USA Today article was that the two investment banking firms approached by the DOJ to study the breakup of Microsoft declined the invitation. According to the story, both firms were "worried about the impact of siding with a Justice Department that they say is viewed in the business community as interventionist." If Microsoft were a monopoly, and stifling growth in the Information Technology sector, it seems to me that these technology investment banks would have jumped at the chance to downsize Microsoft in order to open the market to competition, therefore increasing investment opportunities. This is obviously not the case.

Far from being guilty of the charges levied against it, Microsoft is actually winning cases brought by other firms charging anti-competitive behavior. Connecticut-based Bristol Technology Inc., which manufactures a software tool called Wind/U, filed a federal antitrust suit against Microsoft on August 18, 1998. Bristol accused Microsoft of "refusing to deal" because Microsoft wouldn't license the source code for Windows NT 4 under Bristol's proposed more favorable terms. Despite never having made more than \$1.5 million in net profits in their best year, Bristol was seeking up to \$270 million in monetary damages.

Not unlike the suit brought by the DOJ against Microsoft, the Bristol case seemed to be driven more by those trying to gain competitive advantage than by violation of antitrust law. Bristol hired a Public Relations firm to set out its "David vs. Goliath" PR campaign while supposedly negotiating in good faith with Microsoft. A member of Bristol's Board of Directors went so far as to send an email to the CEO and senior management discussing what Bristol was then referring to as the "we-sue-Microsoft-for-money business plan," which he proposed might be funded by Microsoft competitors.

I see it as a disturbing trend to have litigation used as a get rich quick scheme instead of protecting ordinary citizens from harm. It is particularly disturbing that the United States government aids and abets this distortion of the American legal system. The insistence of the Department of Justice on continuing its case, in the face of overwhelming evidence that consumers have not been harmed, not to mention that the industry is booming, sets a poor precedent for Americans to follow and can only serve to encourage this behavior.

Fortunately, Bristol's hometown jury took less than two days to return

a unanimous verdict. Every one of the antitrust charges were dismissed.

As gratifying as the jurors' common-sense decision was in the Bristol case, they did find against Microsoft on one count—and awarded Bristol one dollar in damages. Mr. President [pull out dollar bill?], I would suggest that the Bristol jurors got it exactly right. In fact, I think that's a pretty good precedent to follow in the DOJ case: assess Microsoft one dollar per indecorous email submitted by government lawyers as "evidence" and maybe the total will be a few hundred dollars or so. That wouldn't really give taxpayers much of a return on the estimated \$30 to \$60 million dollars this lawsuit has cost them, but no matter: what's a few million taxpayer dollars in the pursuit of that most critical of federal mandates, enforcing corporate etiquette?

Mr. President, I ask that an article from the August 5th *Investor's Business Daily* addressing this issue be printed in the CONGRESSIONAL RECORD after my remarks.

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

(See Exhibit 1.)

Mr. GORTON. Another interesting development that has arisen since my last speech is the controversy regarding instant messaging technology. Instant messaging, which allows people to chat in real-time with a select list of agreed-upon users, has become the hottest new on-line application. With over 100 million users, instant messaging shows how the Internet is changing the dynamic of the Information Technology industry.

Let me give you a brief description of the controversy. AOL, Microsoft, Prodigy, and Yahoo all have developed competing instant messaging technology. Unfortunately, users of these competing versions could not communicate with each other until Microsoft, Prodigy, and Yahoo released versions of this technology that allow their users to talk to AOL users. AOL responded by shutting out the competition and complaining that the competing technology was the equivalent of hacking into the AOL system. This is the equivalent of MCI and Sprint users not being able to place long distance calls to one another.

Over the last two weeks, AOL and Microsoft have been engaged in a duck and parry routine over the ability of competing technologies to access AOL users, with Microsoft creating new versions as fast as AOL could block them. I hope that the two sides can come to an agreement soon on the development of an industry standard which will allow for open competition in the marketplace.

With AOL having a 20-1 advantage over the nearest rival in the field, they must hope that Milton Friedman's admonition regarding the "suicidal tendencies" of some in the industry in supporting the DOJ's intervention doesn't prove prophetic. I hope that the Justice Department does not feel the