

**Adjudicating History: Politics, Media, History, and the Short Life of the Presidential
Advisory Commission on Holocaust Assets in the United States**

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The presence of the Holocaust in the domestic and foreign policy of the United States under the presidency of Bill Clinton was a curious phenomenon, the seemingly sudden resurgence of an unresolved tragedy that preceded the administration by half a century. It is true enough that the survivors of the Holocaust and their children did not simply disappear after World War II, and the new freedoms of movement and communication afforded by the end of the Cold War undoubtedly helped to prod the concerns of these survivors into the spotlight. Some other motivation seemed to propel the administration towards Holocaust issues, however, a motivation suggested by Undersecretary of State Stuart Eizenstat's assertion that the administration and the nation should cross the marker of the millennium "having attempted a moral accounting of this lingering ledger of grief."¹ The persistent grief of the Holocaust was and remains unquestionable, but the morality of the efforts to address the grievances of the Holocaust in time for the close of the century was far more nebulous.

Eizenstat, the administration's primary representative on Holocaust issues, spoke to what Andrew Bacevich has termed an attempt to "adjudicate history," rewriting the past for an improved future with the hallmarks of "narrative simplicity, moral assertiveness, and a self-

¹ Andrew J. Bacevich, "The World According to Clinton," *First Things* 94 (1999), http://www.firstthings.com/article.php3?id_article=3172.

proclaimed mandate to assign historical culpability.”² Indeed, at the Washington Conference on Holocaust-Era Assets in 1998, Eizenstat commended the assembled nations for their unification on a “set of substantive principles, which while not legally binding represent a moral commitment” that would lead the world towards correcting the wrongs of the Holocaust.³ With the creation of the Presidential Advisory Commission on Holocaust Assets in the United States in 1998, the administration attempted to adjudicate its own history, dedicating a team of researchers to determine the narrative of assets in the United States, hold itself to the “high standard of truth” that characterized its dealings with other nations regarding the Holocaust, and dole out responsibility for the “difficult aspects” of the country’s history.⁴

In its research and operations, the Commission shied away from the heavy-handed rhetoric that established it, opting to approach its work with a less sensational tone bent on uncovering facts. Ultimately, however, the Commission’s attempt at writing a historical narrative was obstructed by its own image as crafted by the administration and the media. Even as the government seemed to speak gingerly of the horrors of the Holocaust, it spoke of its own efforts in broad and righteous strokes, eventually conflating the historical Commission with the type of “moral accounting” described by Eizenstat. It was this image that antagonized key agencies, embroiled the Commission in an issue of indeterminate morality, and prevented it from being received with any kind of trust or authority, a likely outcome given the administration’s haughty attempt to bring what, in garnering support for the Commission, Representative Jim Leach called

² Ibid.

³ Stuart E. Eizenstat, “Concluding Statement: United States,” (address, Washington Conference on Holocaust-Era Assets, Washington, D.C., December 3, 1998), William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Administrative Files Series, Box 137.

⁴ President William J. Clinton, “Statement on Signing the U.S. Holocaust Commissions Act of 1998,” *Federal Register* 34, no. 26 (June 23, 1998): 1195-1196; “Statement on Signing the U.S. Holocaust Commissions Extension Act of 1999,” *Federal Register* 35, no. 49 (December 9, 1999): 2558.

“compassionate closure” to an issue that no amount of payments or finger-pointing could ever put to rest.⁵

Although the return to prominence of Holocaust issues that was seized by the administration can hardly be traced to a single point, perhaps no event was as singularly responsible for the resurgence of such issues in the 1990s as the publication of an article written by Peter Gumbel for *The Wall Street Journal* on June 21, 1995. The report, part of a series commemorating the fiftieth anniversary of the war’s end in Europe, chronicled the efforts of Greta Beer, a woman displaced by the Holocaust who was stonewalled in her efforts to access her late father’s account in a secretive Swiss bank.⁶ Gumbel’s story was hardly groundbreaking – in 1962, the Swiss Parliament enacted a law forcing banks to examine their dormant accounts and return the money to owners and heirs. When the majority of the funds uncovered in the ten-year investigation were denied to claimants and kept by the banks, the process was covered extensively in a German documentary series.⁷ Gumbel’s coverage of Greta Beer, however, brought the issue of Swiss banks to the attention of two individuals who would become key figures at the forefront of Holocaust assets investigations in the United States, Stuart Eizenstat and Edgar Bronfman.

Eizenstat, a U.S. ambassador to the European Union, was recruited in January of 1995 to be the State Department’s envoy to encourage the return of religious property confiscated by Nazi and subsequently Communist governments in Europe, primarily working on the behalf of Jews. Striving to bring the Clinton administration’s respect for the law and minorities to former

⁵ *Congressional Record*. 105th cong., 2nd sess., 1998, 144, no.8.

⁶ Peter Gumbel, “Secret Legacies: Heirs of Nazis’ Victims Challenge Swiss Banks On Wartime Deposits - Do Vaults Still Hold Jewelry Or Cash in Accounts Dating to the Holocaust? - Pressure for Full Disclosure,” *Wall Street Journal*, June 21, 1995, A1.

⁷ Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: PublicAffairs, 2003), 48.

Communist countries, he set the stage for the manner in which the administration would soon demand that those and other countries “account” for the Holocaust.⁸ After reading Gumbel’s article, Eizenstat petitioned for and was promptly granted the permission to extend his efforts to the investigation of Swiss Holocaust-era bank accounts, a decision that would serve as a catalyst for a “diplomatic debacle” between the United States and Switzerland.⁹ Bronfman, president of the World Jewish Congress as well as a close friend and significant financial contributor to the Clintons, learned of the bank issue at a dinner party of Eizenstat’s in 1995. Seeing it as an opportunity to “maintain the WJC’s visibility and obtain justice for claimants,” he dedicated himself and his organization to the pursuit of the bank accounts.¹⁰ When, at a fundraising event for the Democratic Party in his home, Bronfman presented Hilary Clinton with a *New York Magazine* piece on Greta Beer inspired by the Gumbel article, the groundwork was laid for the administration’s involvement in the issue of Holocaust assets - the following day, Bronfman met directly with President Clinton to discuss the possibility of putting the government’s weight behind the issue of the Swiss banks.¹¹ The ensuing saga, including extensive Senate Banking Committee hearings lead by Senator Al D’Amato, diplomatic head butting, and a rash of class-action lawsuits, brought the issue of Holocaust assets in the 1990s to a fever pitch.¹²

⁸ Ibid., 23-24.

⁹ Ibid., 49.

¹⁰ Ibid., 57.

¹¹ Ibid., 66.

¹² The development of the Swiss banking affair is documented exhaustively in several sources: Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: PublicAffairs, 2003); Stuart E. Eizenstat, *Preliminary Study on U.S. and Allied Efforts To Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II*, special report prepared at the request of the Department of State, May 1997, http://www.state.gov/www/regions/eur/rpt_9705_ng_links.html; Stuart E. Eizenstat, *U.S. and Allied Wartime and Postwar Relations and Negotiations With Argentina, Portugal, Spain, Sweden, and Turkey on Looted Gold and German External Assets and U.S. Concerns About the Fate of the Wartime Utasha Treasury*, special report prepared at the request of the Department of State, June 1998, http://www.state.gov/www/regions/eur/rpt_9806_ng_links.html; Jean Ziegler, *The Swiss, The Gold, and The Dead: How Swiss Bankers Helped Finance the Nazi War Machine*, trans. John Brownjohn (New York: Harcourt Brace & Company, 1997).

By April of 1998, the moral imperative cited by Eizenstat in his original task as property restitution envoy began to turn its eye inward, seeking to complement the administration's established record of uncovering the actions of the Swiss and other neutral countries with an internal investigation of Holocaust assets in the United States that would "strengthen further our moral authority and diplomatic credibility."¹³ Citing the administration's commitment to leave "no stone unturned" in its move towards closure on the issue of restitution at the end of the millennium, Eizenstat rallied support for the creation of a commission to handle that task, primarily by billing it as the extension of his popular efforts against the Swiss banks.

Following its introduction, the legislation for the Commission swept through Congress with unanimous bipartisan approval, ushered along by rhetoric that seized the undeniable emotional appeal of the Holocaust – Representative Barbara Kennelly of Connecticut claimed that the Commission's research would allow survivors and their families to "delve into previously untouchable treasures of the heart" – and also utilized widespread approval for Eizenstat's previously issued reports, with Representative John LaFalce of New York citing the uninhibited censure of the Swiss and other "so-called neutral countries" as proof that the U.S. was fully pledged to uncovering the truth.¹⁴ The bill was signed, and on June 23, 1998, the President established the Presidential Advisory Commission on Holocaust Assets in the United States, an entity of twenty-one members chaired by Edgar Bronfman and directed by Kenneth Klothen to operate until December 31, 1999, at which point it would deliver a report complete with recommendations for the administration based on its original research into the location and

¹³ Stuart E. Eizenstat, "Statement of Under Secretary of State Stuart E. Eizenstat Proposing a U.S. Holocaust Assets Historical Commission" (news conference, Washington, D.C., April 1, 1998), William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 146.

¹⁴ *Congressional Record*. 105th cong., 2nd sess., 1998, 144, no.8.

disposition of Holocaust assets in the United States.¹⁵ Upon signing the bill into law, Clinton echoed Eizenstat's words on morality and the millennium, remarking that "to finish the business of the twentieth century" it was necessary to examine "difficult aspects" of the country's own history.¹⁶

Despite the forceful rhetoric that birthed it, the "strong message, both at home and abroad" promised at the Commission's inception floundered thanks to the time-consuming impediments of bureaucracy.¹⁷ Its membership of twenty-one commissioners, for example, was to include nine private citizens, and despite the act's stipulation that members be named within ninety days of its signing on June 23, these private citizens were not named until November and were unable to secure FBI clearance until February of 1999.¹⁸ By the time that the Commission first met to draft its research plan on March 16, 1999, its allotted lifespan of scarcely over nine months seemed strikingly inadequate.

When it became clear that the established reporting date of December 31, 1999, was an impossible goal for the Commission, the House of Representatives once again provided unanimous support, this time in the form of the U.S. Holocaust Assets Commission Extension Act of 1999, which, in addition to extending the Commission's mandate, appropriated another \$2.5 million to back its research. In the Senate, however, the extension act was opposed by D'Amato's successor as head of the Senate Banking Committee, Senator Phil Gramm of Texas,

¹⁵ President William J. Clinton, "Statement on Signing the U.S. Holocaust Commissions Act of 1998," *Federal Register* 34, no. 26 (June 23, 1998): 1195-1196.

¹⁶ President William J. Clinton, "Statement on Signing the U.S. Holocaust Commissions Act of 1998," *Federal Register* 34, no. 26 (June 23, 1998): 1195-1196.

¹⁷ Michael Shapiro, "U.S. Holocaust Probe Is Getting Off to a Slow Start," *Washington Jewish Week*, February 4, 1999, 11.

¹⁸ Kenneth Klothen to Jack Fergesen, memorandum, March 30, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

leading to musings in the press on whether the Commission would be able to continue its work.¹⁹ Warding off the inquiries of Jewish interest groups, Gramm's spokesman reported that his opposition to the authorization of the extension was purely fiscal and not rooted in the Commission's research.²⁰ Regardless of the reason, Gramm relented and on December 5, a harrowing date given the dictated reporting date of December 31 in the unamended legislation, the Senate provided unanimous approval for the extension.²¹ Once again, Clinton hailed the Commission as a demonstration "that we in the United States are willing to hold ourselves to the same high standard of truth about Holocaust assets to which we have held other nations."²²

Even with its working timeframe extended, the Commission was hardly free to go about its research with impunity. The initial budget authorized for the Commission quickly proved to be too little to support its research, primarily because of assumptions that donations would absorb a great deal of the Commission's expenses. Klothen wrote to potential donors that the Commission's needs were "relatively modest," asking for only 3,500 square feet, possibly less if a conference room were to be shared with another organization, and eight offices.²³ Making note of the explicit authority given to the Commission by Congress to accept gifts and donations with the implicit assumption that such donations would augment a meager budget, Klothen posited that without contributions of resources the Commission would find it "extremely difficult... to

¹⁹ James D. Besser, "Gramm Holds Up Holocaust Money," *New York Jewish Week*, November 12, 1999.

²⁰ "Explanations Differ on *Shoah* Bill," *Jewish Daily Forward*, November 19, 1999.

²¹ Presidential Advisory Commission on Holocaust Assets in the United States, "Congress Extends and Boosts Funds for Holocaust Commission", press release, December 5, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 227.

²² President William J. Clinton, "Statement on Signing the U.S. Holocaust Commissions Extension Act of 1999," *Federal Register* 35, no. 49 (December 9, 1999): 2558.

²³ Kenneth Klothen to Jerry Abramson, memorandum, February 4, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 226.

report comprehensive and accurate conclusions to the President and Vice President.”²⁴ The donations did not come, however, and so the \$35,000 appropriated for rent was dwarfed by the \$245,000 spent to procure office space.²⁵ Similarly, the \$93,000 provided for computers and general communications infrastructure was quickly swallowed by the \$600,000 the Commission spent on establishing a network and database for communication between commissioners.²⁶ The Commission’s budgetary strains were further compounded by the cost of ancillary research expenses such as the renting of a comprehensive list of victims from the Yad Vashem Israeli Holocaust museum and access to the Unclaimed Property Clearinghouse’s database that climbed towards \$1 million.²⁷

The meager size of the Commission’s initial budget was the first of its fiscal woes, but it would hardly be the last. P.L. 105-186, the act that created the Commission, authorized a total of \$3.5 million in appropriations for the Commission, approximately \$540,000 in FY 1998, \$2.4 million in FY 1999, and \$480,000 in FY 2000.²⁸ The appropriations for FY 1998 were, as was the case for every year, to be made in equal portions from the Departments of Justice, Defense, and State.²⁹ By the time that the Commission was fully assembled and operational, however, the State department had already spent its \$180,000 of FY 1998 funds. Although Justice did not make its payment either, a promise was made to reprogram its FY 1999 contribution to include

²⁴ Ibid.

²⁵ “Extended Analysis: Language to Amend the U.S. Holocaust Assets Commission Act of 1998 (P.L. 105-186),” William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 178.

²⁶ Ibid.

²⁷ Gene Sofer to Randy Stokes, memorandum, July 28, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

²⁸ Ibid.

²⁹ U.S. Congress. House. *U.S. Holocaust Assets Commission Act of 1998*. H.R. 3662. 105th Cong., 2nd sess. (June 9, 1998). <http://www.gpoaccess.gov/bills/index.html>.

the neglected amount in addition to the base FY 1999 contribution of \$813,000.³⁰ Although the Commission was optimistic that these initial deficits might be accounted for in FY 1999 programming, the second year turned out to be even more disastrous. The Omnibus Appropriations Act of 1999 gave \$813,000 to both State and Justice to be transferred to the Commission, and while State transferred its full amount, the Senate Commerce-Justice-State subcommittee only approved a transfer of \$300,000 from Justice's funds.³¹ In addition, the Department of Defense's appropriations bill completely lacked language giving the Army the authority to make its contribution.³² As a result, the Commission only received \$1.3 million out of the of the \$3 million authorized for it over FY 1998 and FY 1999, less than half of its intended appropriations. Funding for the following year was similarly stunted – in July of 1999, the Senate passed a version of the FY 2000 Commerce, Justice, and State Department appropriations lacking any funding from Justice or State.³³ When the Commission was first established, appropriations for FY 2000 were set as the lowest out of the three years with the assumption that 2000 would see a decrease in intensive and costly research and an increase in efforts to write a comprehensive report on the findings. With the pending prospect of extension proposed by

³⁰ Gene Sofer to Randy Stokes, memorandum, July 28, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

³¹ Presidential Advisory Commission on Holocaust Assets in the United States, "Commission Funding Fact Sheet," William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

³² Kenneth Klothen to Jack Fergesen, memorandum, March 30, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

³³ Gene Sofer to Randy Stokes, memorandum, July 28, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 177.

Representative Rick Lazio in June, however, FY 2000 was soon to become the most costly year of the Commission's lifespan.³⁴

Hoping to bring closure to the fiasco of petitioning for funds, the Commission requested \$3.2 million in FY 2000 appropriations, an amount that would cover the monetary shortfall caused by the inadequate budget on which the Commission was established and allow it to continue its operations into 2001.³⁵ Fortunately for the Commission, the request was backed by the administration, although in a less than forceful manner. In a statement by the Office of Management and Budget, the twenty-eighth and final bullet point in a list of concerns noted that the proposed appropriations would leave the Commission "unable to fulfill its important mandate."³⁶ Ultimately, the Omnibus Appropriations Act of 2000 appropriated approximately \$1.7 million – \$1.2 million from State and \$580,000 from Justice – and the Department of Defense Appropriations Act of 2000 provided just under \$1 million, bringing the Commission nearly \$2.7 million, a substantially smaller amount but one still capable of keeping the Commission alive.³⁷

In addition to the battles waged for time and money, the Commission's main struggle still remained in drawing out millions of classified documents from the World War II era. The difficulty of such an endeavor can be seen in the case of Linda Hunt, historian and author of 1991's *Secret Agenda: The United States Government, Nazi Scientists, and Project Paperclip*,

³⁴ Rick Lazio, "Lazio: Extend the Life of the Presidential Advisory Commission on Holocaust Assets in the United States," press release, June 30, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 146.

³⁵ Gene Sofer to Rob Epplin, memorandum, June 16, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 178.

³⁶ Office of Management and Budget, "S. 1217 – Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2000," statement of administration policy, July 21, 1999, <http://www.whitehouse.gov/omb/legislative/sap/106-1/S1217-s.html>.

³⁷ U.S. Congress. House. *Conference Report on H.R. 3194, Consolidated Appropriations Act, 2000*, H. Rept. 106-479, 106th Cong., 1st sess., *Congressional Record* 145, no. 163, (November 17, 1999): H 12229-1260; *Department of Defense Appropriations Act, 2000* H.R. 2561, 106th Cong., 1st sess., *Congressional Record* 145 (July 22, 1999): H 6253-6295

1945 to 1990. In the process of conducting research for this book, Hunt submitted a Freedom of Information Act request in 1986 to the United States Army, Armament, Munitions and Chemical Command pertaining to documents housed in Edgewood Arsenal. Command Counsel Burton M. Blair, acting under the authority of Richard H. Thompson, the Commanding General of U.S. Army Material Command, responded with an estimate of \$239,680, not including the cost of document reproduction, for the search of the arsenal's historical office alone, and the caveat that the additional search of the arsenal's technical library and other collections would be too costly to even warrant an estimate.³⁸ Unsurprisingly, Hunt requested a waiver of the prohibitively high fee; this request, however, was denied by Blair on the grounds that, because waivers were only warranted in the event that the information would "primarily benefit the general public" and research for a book was "primarily a personal interest," there was no compelling reason to release the information.³⁹ In November of 1997, Hunt filed another FOIA request, this time concerning the German chemical company Degussa, which had been accused of smelting gold looted from Holocaust victims. Over a year after the request was filed, Information and Privacy Coordinator Lee S. Strickland wrote to inform Hunt that the documents, falling under FOIA exemptions (b)(1) and (b)(3), were a classified matter of national security and foreign policy and that the request had been denied in its entirety.⁴⁰ In August of 1998, Hunt submitted yet another FOIA request, one pertaining to chemical warfare in Libya. Although this request was not denied outright, Russel A. Nichols, Chief of the Freedom of Information/Privacy Office wrote to Hunt that in processing her request the Army had "sanitized" information from the records and one page from the records would remain classified, largely due to its connections to the actions of a

³⁸ Burton M. Blair to Linda Hunt, 1986, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Administrative Files Series, Box 135.

³⁹ Ibid.

⁴⁰ Lee S. Strickland to Linda Hunt, December 11, 1998, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Administrative Files Series, Box 135.

foreign government, a standard for classification prescribed in section 1.5(b) of Executive Order 12958, a 1995 order establishing a system for classifying and declassifying national security information.⁴¹ Even in her minor victory, Hunt and other researchers like her still found themselves at the mercy of the Army and its ability to sanitize or remove information that it wished to remain unseen. Although the Commission would wield more clout than an individual historian, it would still face the unspoken concern that documents requested would have to undergo the process of declassification and pass through other hands before reaching the commissioners.

The Commission's concerns regarding declassification were greatly allayed by the assistance of a separate government group. In 1998, Congress lent unanimous support to the Nazi War Crime Disclosure Act, a piece of legislation authorizing the creation of a Nazi War Criminal Records Interagency Group charged with the task of locating and declassifying, "to the greatest extent possible," documents pertaining to Nazi war crimes. In contrast to the rhetoric of Hunt's 1986 FOIA denial, the law's language established the presumption that the disclosure of documents germane to the group's work would be in the best interest of the general public.⁴² When, in January of 1999, President Clinton issued Executive Order 13110 to establish this group with the funding, staff, facilities, and administrative capabilities of the National Archives and Records Administration, the Commission gained a powerful tool for the declassification of documents.⁴³ Indeed, by June of 1996 the Interagency Working Group had made available over 400,000 pages of previously classified documents available for study.⁴⁴

⁴¹ Russel A. Nichols to Linda Hunt, September 18, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Administrative Files Series, Box 135.

⁴² *Nazi War Crimes Disclosure Act*, PL 105-246, 105th Cong., 2nd sess. (October 8, 1998). GPO, <http://www.gpoaccess.gov/bills/index.html>.

⁴³ President William J. Clinton, "Nazi War Criminal Records Interagency Working Group," Executive Order 13110, January 11, 1999.

⁴⁴ U.S. Newswire, "World War II Intelligence Documents to Open at National Archives," June 19, 1999.

Declassification, however, was not the only issue that had historically disrupted probes into dubious United States activity during and immediately following World War II. A number of investigations, such as those conducted by the General Accounting Office in the decades preceding the Commission's work, demonstrated the difficulties inherent in acquiring full records from World War II. At the request of Congress, the GAO conducted two major investigations into whether or not the government had aided the immigration of Nazi criminals to the United States, with reports issued in 1978 and in 1985. The primary targets in these investigations were the Central Intelligence Agency (and the organizations that preceded it, including the Office of Strategic Services and the Central Intelligence Group) and the Immigration and Naturalization Service, both of which were plagued by allegations of misconduct in the years following the war. In 1978, the GAO issued its first report, entitled *Widespread Conspiracy To Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence: Controversy May Continue*. Although, as the report's title suggests, the GAO found no concrete evidence of a conspiratorial obstruction of justice, the report was prefaced with the admission that efforts had been "hindered by the effect of the passage of time on the availability of information and limited access to agencies' records."⁴⁵ Frank C. Carlucci, Deputy Director of the CIA, responded that the agency had been "prepared at all times to make complete files (appropriately sanitized to protect intelligence sources and methods) available for review," a claim which would be put to the test in 1982 when, amidst allegations made public by John Loftus, a former attorney for the Department of Justice's Office of Special Investigations,

⁴⁵ United States General Accounting Office, Comptroller General of the United States, *Widespread Conspiracy to Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence--Controversy May Continue*, GGD-78-73 (Washington, DC: General Accounting Office, 1978), i.

the GAO was instructed to conduct a second investigation.⁴⁶ Loftus aired his allegations on the May 16 edition of the TV program *60 Minutes*, giving it a national audience and sufficient public interest to see the story on the front page of *The Washington Post* the following day.⁴⁷ As promised by Carlucci in 1978, the GAO was given full access to all of the thousands of classified documents it requested from various agencies, yet its final report did not express a great deal of confidence in the research that was done:

We were not denied access to any documents requested; however, intelligence agencies often assign projects innocuous names which do not reflect the projects' purposes and, therefore, we cannot assure that we requested all relevant projects' files. In addition, some documents requested could not be located or had been destroyed. However, these instances were the exception rather than the rule. The deaths of certain officials and the unclear recollections by others of events from the post World War II era made it difficult and/or impossible to reconstruct certain events, circumstances, and situations. As a result, we cannot be completely sure that we have obtained all relevant information or that we have identified all Nazis and Axis collaborators assisted by U.S. agencies to immigrate to the United States.⁴⁸

Even with the Interagency Working Group working on its side, the Commission still faced the challenges that had thwarted investigations of federal misconduct like the GAO's following World War II, namely the imperfect preservation and location of records and the recalcitrance of government agencies. The fact that the GAO, an amply supported arm of Congress, had voiced its inability to complete satisfactory research over ten years prior – due, in part, to deaths and “unclear recollections,” two factors inherently susceptible to time – did not bode well for the

⁴⁶ Kevin C. Ruffner, "CIA's Support to the Nazi War Criminal Investigations: A Persistent Emotional Issue," *Studies in Intelligence* 41, no. 1 (1997): 103-108.

⁴⁷ Dale Russakoff, "American Officials Accused of Aiding Nazi Collaborators," *The Washington Post*, May 17, 1982.

⁴⁸ United States General Accounting Office, Comptroller General of the United States, *Nazis and Axis Collaborators Were Used to Further U.S. Anti-Communist Objectives in Europe--Some Immigrated to the United States*, GAO/GGD-85-66 (Washington, DC: GAO, 1985), iii.

Commission's ability to perform its research in an ideally thorough manner.

Already accustomed to fighting for its lifespan and funding, the Commission soon had the opportunity to resume the struggle initiated by parties such as Hunt and the GAO, this time railing against the reticence of the Army for the sake of its research. On October 14, 1999, the Commission released *Progress Report On: The Mystery of the Hungarian "Gold Train,"* a brief report summarizing findings on the conduct of the American soldiers who seized a train in Werfen, Austria, loaded with the confiscated possessions of Hungarian Jews. According to the report, under the direction of General Mark Clark the contents of the train were declared, despite a myriad of protests from Hungarian Jews, unidentifiable and thus unable to be restituted, leaving the gold, paintings, and other assets rife for sale, outright theft, and general dispersal from their original owners.⁴⁹ Although the Commission noted that American forces "generally did an outstanding and scrupulous job" in the restitution of seized possessions, the incident of the Gold Train was presented as an altogether bizarre departure from official restitution policy for personal gain.⁵⁰

For the most part, the progress report was only a mild commentary on the moral implications of the Gold Train incident, focusing more on the dispersal of goods than the character of the men who handled them. The media, however, seeming to anticipate the same tactics that the United States had used against the Swiss, quickly reshaped the narrative of the report.

A reporter from United Press International covered the story at a distance, noting that "a certain amount of pilfering among U.S. Army commanders" was responsible for the fact that

⁴⁹ Presidential Advisory Commission on Holocaust Assets in the United States, *Progress Report on: The Mystery of the Hungarian "Gold Train,"* October 14, 1999, <http://www.pcha.gov/goldtrainfinaltoconvert.html>.

⁵⁰ Presidential Advisory Commission on Holocaust Assets in the United States, "Briefing by Art Research Staff on the 'Hungarian Gold Train,'" October 14, 1999, <http://www.pcha.gov/991014gtbriefing.html>.

many items on the train seemed to have been “spirited away.”⁵¹ In an article for *The Jerusalem Post*, quotes from the report took on a more accusatory air as the Commission’s statement that the Gold Train incident was a “mysterious example of one egregious failure to follow [restitution] policy” became the indictment writ large that the incident was indicative of the “egregious failure of the United States to follow its own policy regarding restitution.”⁵² In a similar fashion, the Commission’s insistence on crediting the Army for its consistently commendable handling of most restitution issues was relegated, almost as a footnote, to the end of the article. One of the more emphatic interpretations of the report came from the American Jewish Congress, which decried the actions of Clark and his men as “a betrayal of the values our army was fighting for” and a “stain” on the entirety of the Army.⁵³ In the days and weeks following the release of the report, this manner of sensational reporting was the norm. Although one article seemed to more effectively convey the intent of the report by labeling it an attempt on the part of the United States “to admit to past mistakes rather than simply harangue the rest of the world,” it also touched on what would soon become a major issue for the Commission, the dismissal of its findings.⁵⁴ According to Ron Zweig of Tel Aviv University, the report showed “a very basic misunderstanding of the post-war period” and was to be dismissed.⁵⁵

A similar sense of doubt regarding the Commission’s findings was reported in a *Daily Bulletin* article from November 22, 1999. According to the article, the *Napi Magyarorszag*, a daily Hungarian newspaper, had reported the opinion of the Hungarian National World Council, an organization of émigrés living in the United States, that the Commission was “misguided” in

⁵¹ United Press International, “Much Stolen WWII Art Was Never Returned,” October 14, 1999.

⁵² Marilyn Henry, “Report Slams U.S. Over ‘Gold Train,’” *Jerusalem Post*, October 15, 1999.

⁵³ PR Newswire “AJCongress Calls Action of U.S. Soldiers to Steal Gold From Nazi Victims ‘Betrayal of Armies Our Army Was Fighting For’; ‘This Was Bad Behavior Following the Good War,’ October 15, 1999.

⁵⁴ Michael Dobbs, “U.S. Officers Kept Nazi Loot, Inquiry Finds,” *South Florida Sun-Sentinel*, October 14, 1999.

⁵⁵ Ibid.

its belief that the train was laden with the stolen property of Jews. Instead, the Council claimed, the train consisted only of the property of rich Hungarians and, as opposed to being looted by U.S. forces, the property was instead deposited in a nearby Vienna museum “practically intact.” Peter Feldmajer, deputy chairman of the Hungarian Jewish Heritage Foundation, publicly refuted the statement, doubting the existence of the Council’s documents and confirming that the entirety of contemporary accounts identified the train’s cargo as the stolen property of Jews.⁵⁶

When news of the report broke in Austria under the headline “Americans Stealing Like a Magpie,” a former Army secretary from Vienna wrote a concerned letter to the Austrian Ambassador expressing her refusal to accept the claims of the “really impudent article.”⁵⁷ “For myself,” she said, “I want to assure you that I don’t believe this report – I knew US General M. Clark as my main boss, but in my opinion he has been a very honest gentleman.”⁵⁸ Refusals of this manner, altogether cryptic exercises in ignorance of the findings of a Presidential Commission in favor of some anecdotal experience or bias, plagued the Commission in its work.

Doubt of the Commission’s findings was also expressed by more significant entities than ex-secretaries. The Department of Justice’s Office of Special Investigations, for example, when asked to comment on the progress report, questioned “whether the U.S. forces were aware that [the Gold Train’s] contents constituted loot taken from Jews.”⁵⁹ In response, Klothen shared a piece of correspondence from March 25, 1999, from the Hungarian Restitution Mission, Vienna, to the Allied Commission for Austria in which military authorities signed off on descriptions of “properties of Hungarian Jews, such as valuables, jewels, objects of arts, carpets, etc.” said to

⁵⁶ “‘Golden Train’ on Whose Track?” *Daily Bulletin*, November 22, 1999.

⁵⁷ Susanne Haas to Kathryn Walt Hall, November 3, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 153.

⁵⁸ *Ibid.*

⁵⁹ Eli Rosenbaum to Kenneth Klothen, memorandum, October 14, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 153.

“originate from forced deposits made by Jews with the Hungarian Banks... subsequently confiscated by the Nazi-installed Hungarian government... [and] transferred to Austria.”⁶⁰ In this and other incidents, the Commission repeatedly proved that its research was backed by a plethora of primary documents.

In an unsurprising turn of events given the report’s subject matter, the Army also weighed in on the Commission’s research. Speaking to *The New York Times*, P.T. Henry, the Pentagon’s representative to the Commission, assured the paper that the Army was “committed to telling the story” of the Gold Train and was “not going to half-step,” referring to ongoing research at the Army Center for Military History.⁶¹ Despite this assurance, Klothen reported that a query to the Center regarding the Gold Train elicited the response that it contained no Jewish assets, a statement “demonstrably untrue based on the evidence.”⁶²

Even more outlandish was the Center for Military History’s eventual response, a paper entitled *The U.S. Army and Hungarian Holocaust Era Assets*, a telling refutation of the Commission’s findings and an essential misunderstanding of its intent. The paper’s introduction was sufficiently innocuous, serving as a brief contextualization of the investigatory fervor surrounding looted gold and other Holocaust assets and even going so far as to praise the “careful, thorough, and objective efforts by qualified teams of scholars or individual historians” that had greatly furthered public knowledge of the war and were “welcome and should be

⁶⁰ Kenneth Klothen to Eli Rosenbaum, memorandum, October 22, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 179.

⁶¹ Tim Golden, “G.I.’s Are Called Looters of Jewish Riches,” *New York Times*, October 15, 1999, A1.

⁶² Kenneth Klothen to Lynn Nicholas, memorandum, October 21, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 153.

encouraged.”⁶³ These statements only existed, however, to establish a dichotomy between prior research and the findings of the Commission, which the report proceeded to bash as “allegations... accepted as fact and repeated in many newspapers,” that constituted an insult not only to the men involved but also the Army’s “general conduct as an institution.”⁶⁴ The Commission was said to be “irresponsible,” an entity that had tried to “tarnish the reputation of the entire Army and all its soldiers because of the malfeasance of a few” while engaging in the most ignoble act of making “public derogatory generalizations that are known to be unsupported by hard evidence.”⁶⁵ The report asserted that “not a single incident” of looting or dealing property from the Hungarian Gold Train was documented in any way, despite all “allegations that soldiers in Austria were rogues, scoundrels, and thieves.”⁶⁶ The defensive tone of the Center’s report was an unforeseen response to the Commission’s own report, which was much more concerned with the fate of the train’s assets, particularly its paintings, than leveling any censure at the Army⁶⁷. Although President Clinton had remarked upon signing the U.S. Holocaust Commission Act that the nation was “determined to acknowledge and address the fate of Holocaust assets domestically,” such a reaction from the Army to a report pursuing that exact goal suggested a severe discrepancy between rhetoric and response.⁶⁸ It seemed that the Army, perhaps for its familiarity with the imposed sense of morality with which the administration had

⁶³ U.S. Army Center for Military History, *The U.S. Army and Hungarian Holocaust Era Assets*, 1, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 179.

⁶⁴ U.S. Army Center for Military History, *The U.S. Army and Hungarian Holocaust Era Assets: Executive Summary*, 2, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 179.

⁶⁵ *Ibid.*

⁶⁶ U.S. Army Center for Military History, *The U.S. Army and Hungarian Holocaust Era Assets*, 72, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 179.

⁶⁷ For a more aggressive indictment of the Army’s role in World War II, see Kenneth A. Alford, *The Spoils of World War II: The American Military’s Role in Stealing Europe’s Treasures* (New York: Carol Publishing Group, 1994), the research of which served as a basis for the Commission’s Gold Train work.

⁶⁸ President William J. Clinton, “Statement on Signing the U.S. Holocaust Commissions Act of 1998,” *Federal Register* 34, no. 26 (June 23, 1998): 1195-1196.

pursued other nations, was unwilling to be party to such an exercise, even when moral haranguing took a distant backseat to the tracking of assets in the Commission's goals.

Writing to the Commission on September 3, P.T. Henry, the representative who had spoken to *The New York Times*, attempted to address the Army's concern with the report in a less confrontational tone. The report, he alleged, had been released "with little or no discussion among the Commissioners," as the time allotted for review before its release had been too short to allow the Commission to fully review the facts and "gain a full appreciation of their significance."⁶⁹ Clearly concerned with the "considerable media attention" garnered by the report, Henry made stern mention of the Commission's charge "to provide the complete truth" to the public, a charge he felt would be best fulfilled if no reports in progress were released and if any and all agencies referenced in any Commission report reviewed and commented on all research, "preliminary or final, prior to its release."⁷⁰ In turn, Klothen asserted that the commissioners had been given "ample time" to read the report prior to its release, noting that no commissioners were "stifled or prevented" from taking issue with the report or pursuing it in greater depth.⁷¹ The information, having been verified by the staff, was released in an incomplete form because, given the constant influx of new documents, to wait until the report was finalized would be to keep the findings concealed until some indeterminate point in the distant future, "if ever."⁷²

If the Army took issue with the media's portrayal of the Commission's findings, then it was certainly not alone. On December 15, 1999, an exasperated Klothen was forced to make a

⁶⁹ Patrick T. Henry to Edgar Bronfman, memorandum, November 3, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 149.

⁷⁰ Ibid.

⁷¹ Kenneth Klothen to Lynn Nicholas, memorandum, October 21, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 153.

⁷² Ibid.

statement that the Commission was “not a group of rabble rousers” and was committed only to finding the truth about Holocaust assets.⁷³ The progress report on the Gold Train, he explained, had been made public “not to chase headlines” but in hopes of acquiring leads regarding the location of the thousands of paintings dispersed from the train which, given the fact that the Commission’s mandate was to track Holocaust assets that might have come into the possession of the United States, was the only sensible course of action.⁷⁴

This was not the first time that Klothen had expressed the sentiment that the Commission should not be faulted or held accountable for the “shortcomings” of the press. In an October 21 letter to Holocaust historian Lynn Nicholas, he attempted to respond to criticisms she had made of the report, many of them pertaining to its portrayal in the media. “We were very careful,” he explained, “to spell out to the press – particularly *The New York Times* and *The Washington Post* – exactly what the paper said and did not say.”⁷⁵ Given the fact that the Commission was instructed to operate in the public eye, he posited that the best course of action seemed to be to release findings when available and attempt to manage their distribution by the press, even if the resultant reporting was imperfect. The article from *The New York Times* in particular had proven problematic, largely because of a picture, framed on top by the headline “G.I.’s Are Called Looters of Jewish Riches” and on the bottom by a caption regarding “the wealth of Hungarian Jews,” of two hands in a crate of seized Jewish wedding bands.⁷⁶ In an October 28 message to the members of the Commission, director of external affairs Stu Loeser was adamant in noting

⁷³ Kenneth Klothen, statement prepared for the Presidential Advisory Commission on Holocaust Assets in the United States, December 15, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 226.

⁷⁴ Ibid.

⁷⁵ See Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe’s Treasures in the Third Reich and the Second World War* (New York: Alfred A. Knopf, 1994) for a thorough account of the handling of seized art by Nazi and Allied forces. Incidentally, Nicholas’s book was one of those approved by the Center for Military History as “sober, well-researched, and critically well-received.”

⁷⁶ Tim Golden, “G.I.’s Are Called Looters of Jewish Riches,” *New York Times*, October 15, 1999, A1.

that the picture of the wedding bands was “not provided by the Commission in any way, shape, or form.”⁷⁷ Regardless of whatever sense of satisfaction Loeser intended the commissioners to enjoy amongst themselves with the knowledge that they had not contributed to the tasteless juxtaposition, three days after the publication of the article the Editorials page featured a statement from a reader who “very much resented” the presentation of wedding bands as “Jewish riches,” a perception that undoubtedly lead other readers to question the Commission’s morality and intentions.⁷⁸

The offense expressed in that statement was only part of an increasingly uneasy sentiment towards the study of the Holocaust and its fruits. In 1999, a writer for *The Jewish Post of New York* railed against the popular study of the Holocaust, asserting that the trivialization of its unmitigated tragedy by cool historical assessments was a crime tantamount to its denial.⁷⁹ Similarly a writer for *The New York Post* spoke disapprovingly of the “Holocaustologists,” those academics making a career out the “glamorous and exciting field” of Holocaust studies.⁸⁰ Decrying the burgeoning area of interest as one that would slowly replace the “unimaginable horror” of the tragedy with “the mundanities of academic life,” he sought to reinforce the need for moral considerations to temper the historical aspect of Holocaust research.⁸¹ An article in *The New Republic* fretted over the possibility that Jews were “tiring of their history,” forced by the constant resurgence of the painful memories of the Holocaust to shut the tragedy out of their

⁷⁷ Stu Loeser to Presidential Advisory Commission on Holocaust Assets in the United States, October 28, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 147.

⁷⁸ Editorial, *New York Times*, October 19, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 147.

⁷⁹ Gad Nahshon, “The Holocaust Industry,” *Jewish Post of New York*, October 22, 1999.

⁸⁰ John Podhoretz, “Crimes of the Holocaustologists,” *New York Post*, April 21, 1999.

⁸¹ *Ibid.*

minds.⁸² Voices from across the United States and indeed across the world, the majority of them Jews, expressed their doubts that the study of the Holocaust was a worthy endeavor at all.

Even more morally nebulous was the intersection of Holocaust studies with financial considerations seen in the issue of restitution. Many publications posited that the furor for financial restitution brought on by the investigations of Swiss banks and compounded by innumerable lawsuits against corporations throughout the 1990s was skewing the historical significance of the Holocaust itself, that the proliferation of “blood money” as symbolic payments for the redress of wrongs were distorting it into a purely financial tragedy.⁸³ On the eve of one international assets conference, Holocaust survivor Abraham Foxman noted “one has to be very careful so as not to deliver a message that this is the last chapter [of the Holocaust], you pay the bill, you close the books.”⁸⁴ Other voices spoke more favorably of the process of restitution, rarely claiming a lump sum’s ability to right the wrongs of the Holocaust but still accepting of any redress. Israel Singer, secretary general of the World Jewish Congress, claimed that financial rights had been stripped from victims by the Nazis and that anything that could be returned after the fact was a step in the proper direction.⁸⁵

While debate wore on over which side of the restitution issue could claim the moral high ground, the Commission seemed determined to conduct its historical research apart from the issue. When speaking in public of Bronfman’s decision to chair the Commission, the first lady was instructed to relay the idea that, to him, “finding the truth is more important than finding the

⁸² Leon Wieseltier, “Assets,” *New Republic*, November 8, 1999.

⁸³ Richard Wolffe, “Putting A Price On Barbarism,” *Financial Times*, March 6, 1999.

⁸⁴ Daniel Kurtzman, “44 Nations to Gather in D.C. to Discuss Holocaust Assets,” *Jewish Telegraphic Agency*, November 23, 1998.

⁸⁵ *Ibid.*

money.”⁸⁶ This claim, however, did not prevent assumptions from being made that the Commission would contribute to the fight for monetary restitution. Chase Manhattan Corporation, having been accused of being complicit in the seizure of Jewish assets in France, greeted the formation of the Commission with the belief that it would aid with the assessment of their monetary settlements – a bank spokesman “expect[ed] the new commission to be part of the process for resolving the claims.”⁸⁷ Such a utilitarian approach from a company to the Commission is hardly surprising given a trend, largely emerging from the Swiss bank debacle, of corporations hiring historians to flood the National Archives in search of pertinent and redeeming documents. Teams of upwards of forty and fifty researchers hired by organizations such as General Motors and Deutsche Bank became a common sight in the face of a multitude of legal woes facing these businesses, often leading to allegations of questionable research ethics and the employment of historians with favorable views towards corporations.⁸⁸ Accordingly, the association of the Commission with these historians-for-hire months before its initial meeting further obfuscated the role it would take in restitution issues.

With the release of the Gold Train progress report in 1999, outside entities became increasingly curious and occasionally presumptive regarding the outcome of the research. The day after the report was released, *The Jerusalem Post* speculated that the Commission’s findings might see the government “compelled to increase the amount” of its fund for the “redress” of victims of the Nazis.⁸⁹ Similarly, in December a representative of the Hungarian newspaper BLIKK wrote in to the Commission with a straightforward question: “Is the commission

⁸⁶ Stu Loeser to the Office of the First Lady, memorandum, April 16, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Administrative Files Series, Box 133.

⁸⁷ Paul Beckett, “Chase Manhattan May Turn to Panel to Resolve Holocaust-Related Claims,” *The Wall Street Journal*, December 31, 1998, A12.

⁸⁸ Barry Meier, “Chroniclers of Collaboration: Historians Are in Demand to Study Corporate Ties to Nazis,” *New York Times*, February 18, 1999, C1.

⁸⁹ Marilyn Henry, “Report Slams U.S. Over ‘Gold Train,’” *Jerusalem Post*, October 15, 1999.

planning to advise the US government to recompensate Hungary for the goods that disappeared in the United States after World War II, and were the property of Hungarian citizens?”⁹⁰

Connections between the Commission’s work and monetary restitution were not only drawn by outside sources; indeed, Stu Loeser, the Commission’s director of external affairs, remarked in 2000 that it was “on the table” that the Commission might recommend a large compensatory payment from the government.⁹¹ By linking itself to monetary restitution, the Commission entangled itself in a complex web of uneasy sentiments and differing populations, an action that prohibited it from performing its research from a desirably impartial vantage point.

At the same time, the Commission continued its embroilment with the moral implications of Holocaust assets in its dealings with the Library of Congress. In 1945, the Offenbach Arrival Depot was established for the purpose of processing books seized by the Nazis from throughout Europe and restituting them to their original owners, a task supervised and aided primarily by the Library of Congress Mission, an arm of the Library dedicated to purchasing books for its own collections. Operating under strict instructions from Luther H. Evans, the Library’s director, the Mission went about its task of acquiring only those books that had no owner or were produced by the Nazis, remaining scrupulous in following orders from Evans not to acquire any items that might eventually be restituted.⁹² As time wore on and the amount of heirless books that could not be restituted grew larger, the responsibility of distributing these books for the sake of their preservation fell, after a great deal of debate, on the shoulders of the Jewish Cultural Reconstruction Foundation, and by 1952, over 150,000 items from Offenbach had been

⁹⁰ Zsolt Sandor to Kenneth Klothen, December 17, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 149.

⁹¹ Joan Gralla, “Holocaust Panel Might Find U.S. Owes Compensation.” *Yahoo News*, May 4, 2000, http://dailynews.yahoo.com/h/nm/20000504/ts/holocaust_usa_1.html.

⁹² Robert G. Waite, “Returning Jewish Cultural Property: The Handling of Books Looted by the Nazis in the American Zone of Occupation, 1945 to 1952,” *Libraries & Culture* 37.3 (2002): 213-217.

distributed by the Foundation to libraries in the United States.⁹³ Although priority in the distribution process was given to Jewish libraries and institutions, the Library of Congress ultimately received 5,708 of those books.⁹⁴

In 1996, amidst allegations that the collection of the Library of Congress contained a substantial number of misappropriated books, Robert Waite of the Department of Justice's Office of Special Investigations began an investigation of the transfers from Offenbach. His findings, published in a 1999 draft report, suggested that, as per the orders issued by Evans, "the responsible officials took great care to screen out restitutable material" and had acted appropriately in acquiring material from the depot.⁹⁵ When this report came to the attention of the Commission, the examination of the more than 20,000 books transferred from Offenbach by the Mission and the Jewish Cultural Reconstruction Foundation seemed to be a natural course of action; after all, while the items transferred from Germany to the United States were deemed to have no identifiable owners, there was little doubt that the vast majority had originally been looted from Holocaust victims. Writing to Librarian of Congress James Billington, Klothen expressed the Commission's interest in searching the Library's collection for looted books acquired "despite the scrupulousness of the efforts of the past" while repeatedly assuring Billington of the Commission's belief that the Library acted in "good faith" with "dedicated attempts" to retribute all items with identifiable owners.⁹⁶ Despite this fact, Billington's reply suggested that he viewed the Commission's inquiry as an attack of the Library's integrity. Citing the Waite report's assessment that the Library had only acquired items that could not be

⁹³ Ibid., 222-223.

⁹⁴ Ibid.

⁹⁵ Robert G. Waite, "The Handling of Looted Books in the American Occupation Zone, 1944-51: Summary of a Report Prepared by the Office of Special Investigations, U.S. Department of Justice," (1999): 3.

⁹⁶ Kenneth Klothen to James Billington, memorandum, September 14, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 154.

restituted, Billington did not acknowledge the fact that adhering to protocol in transferring books from Offenbach did not preclude the acquisition of looted books that simply had no identifiable heir.⁹⁷ Billington declined Klothen's offer to create a joint committee for the review of facts, appearing to be "unwilling to undertake the kind of transparent, high level effort the Commission's staff recommend[ed]"⁹⁸. Stymied by Billington's defensive position on the issue, the commissioners fumed amongst themselves. Writing to Klothen after a meeting of the Commission on October 14 that left the status of looted books in the Library unresolved, commissioner Ira Leesfield asserted that there was "no debate" that the Library was in possession of the books sought by the Commission and that he, along with the other commissioners, was unsatisfied with the Library's responses to inquiries and incredulous of the notion that the books in question were not fully catalogued and locatable.⁹⁹ "In brief," he explained, "it does not appear that we are getting the full story."¹⁰⁰ That "full story" would not be delivered until nearly a year later, at which point Billington finally deferred to the Commission's inquiries and allowed Arthur Kirsch, a statistician from George Washington University, to review a portion of the holdings of the Library's Hebraic collection and, by extrapolating from a thorough sampling method, provide the preliminary estimate that 2,453 books in the Library bore the Offenbach stamp and were likely to have been looted from

⁹⁷ James Billington Kenneth Klothen, memorandum, October 8, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 194.

⁹⁸ Kenneth Klothen to Presidential Advisory Committee on Holocaust Assets in the United States, memorandum, October 12, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 154.

⁹⁹ Ira Leesfield to Kenneth Klothen, memorandum, October 26, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 154.

¹⁰⁰ Ibid.

Holocaust victims.¹⁰¹ With this breakthrough, the Library grudgingly aligned itself with the Commission. In a statement on September 28, 2000, the Public Affairs Office of the Library bluntly expressed a sentiment that almost read as an admission of defeat: “The Library of Congress is cooperating fully with the Presidential Commission of Holocaust Assets in the United States,” it asserted, “and we will continue to do so.”¹⁰² The sensitivity that the Library showed in this issue regarding its image in the media mirrored a short article from the *Jewish Telegraphic Agency* in November of 1999 in which Loeser explained the possible existence of looted books in the Library’s collection.¹⁰³ Although Loeser made no mention of the Library’s initial recalcitrance, and indeed he mentioned the staff’s cooperation instead, the article was edited four days after its original publication to include a statement from Helen Dalrymple, a Library spokeswoman, that the organization was “cooperating fully” in all efforts.¹⁰⁴ Billington, while still fending off any perceived libelous intent of the Commission with intermittent assertions that the Library’s actions had always been “proper and consistent with the procedures established by the United States Government,” ultimately assented to the Commission’s desire for the Library to acknowledge the unique nature of the items by creating a “virtual library” from the collection of looted books, a project dedicated to making the items and their provenances available to the public, and including certain volumes in a showcase of international treasures.¹⁰⁵

¹⁰¹ Arthur Kirsch to Kenneth Klothen, memorandum, 2000, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 219.

¹⁰² Library of Congress, “Statement of the Library of Congress on Holocaust Assets,” press release, September 28, 2000, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 154.

¹⁰³ Michael Shapiro, “Library of Congress May Have Nazi-Looted Books in its Collection,” *Jewish Telegraphic Agency*, November 11, 1999, <http://jta.virtualjerusalem.com/index.exe?9911115>.

¹⁰⁴ *Ibid.*

¹⁰⁵ James Billington to Edgar Bronfman, memorandum, September 29, 2000, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 154.

Although the Commission was eventually able to draw the information it desired out of the Library, the process by which it imposed its will on the organization was taxing and ultimately unsatisfying. The Library, much like the Army, had received the Commission with the image painted by the administration and the media in mind; it was prevented from accessing the books it desired by notions that it would bring about blame and censure that it did not. Perhaps no statement better encapsulates the twisted morality at play in dealings with the Army and the Library of Congress than one made on October 22, 1999, by commissioner Roman Kent. Referring to the media explosion regarding the progress report on the Gold Train, Kent wrote that he was “very uneasy and disturbed” reading the “derogatory headlines” that abounded in newspapers.¹⁰⁶ His unease did not stem, however, from the fact that the Commission’s intent in reporting its findings had been misconstrued, that its mission to track Holocaust assets in the United States was being obstructed by the erroneous perception that the Commission was intent on the spoliation of the integrity of the nation. Instead, Kent took issue with the way in which the headlines “sounded as if we were describing the conduct of the Swiss and/or Germans.”¹⁰⁷ Kent’s misgivings about the progress of the research were the same ones that rendered federal agencies and the nation unwilling to accept the Commission’s work – when the moral assertions applied against Switzerland and other countries threatened to affect American citizens and institutions, the Clinton administration’s adjudication of history lost its luster.

The Commission released its final report in December of 2000, but it was hard to believe that the work of a team that had been beleaguered and underfunded, categorically misunderstood by the press and the agencies whose cooperation it required, and generally rattled in the morally

¹⁰⁶ Roman Kent to Kenneth Klothen, memorandum, October 22, 1999, William J. Clinton Presidential Library, The Presidential Advisory Commission on Holocaust Assets in the United States, Art and Cultural Property Theft Series, Box 153.

¹⁰⁷ Ibid.

nebulous and increasingly questionable industry of restitutions and the Holocaust as a whole could be the thorough self-examination called for by the administration's rhetoric.¹⁰⁸ Ultimately, however, the difficulties faced by the Commission in conducting its research proved to be unimportant when they were trumped by the timing of its reporting. The Commission's findings were issued in the waning days of Clinton's presidency, with the report being presented in an Oval Office ceremony on January 17, 2001, only a handful of days before the expiration of the term. Although a spokeswoman for President-elect Bush stated that Holocaust issues would be "addressed in due course" under the new chief executive, Eizenstat expressed the uncomfortable reality that there was "no assurance" that the State Department's established pursuance of Holocaust assets would carry over to Bush's administration.¹⁰⁹ As a result, the dealing of the Clinton administration's Holocaust point men assumed an almost manic quality, a "race against time" to cap off the diplomatic efforts of the president's second term.¹¹⁰ The focus of this fervor, however, came not from a mad rush to process the findings of the Commission but instead a desire to conclude monetary restitution agreements with France and Austria. It was this agreement, brokered by Eizenstat, that would serve as the capstone of the administration's efforts. Writing of its negotiation later, Eizenstat would refer to the agreement as a way for the French to enter into the "ambit of human rights," a rite of passage seemingly hinged on the issue

¹⁰⁸ Presidential Advisory Commission on Holocaust Assets in the United States, *Plunder and Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report*, December 2000, http://www.pcha.gov/PlunderRestitution.html/html/Home_Contents.html. For further reading on related topics, see the following: Michael J. Bayzler, *Holocaust Justice: The Battle for Restitution in America's Courts* (New York: New York University Press, 2003); Avi Beker, ed., *The Plunder of Jewish Property During the Holocaust: Confronting European History* (New York: New York University Press, 2001); Jonathan Petropoulos, *Art as Politics in the Third Reich* (North Carolina: University of North Carolina Press, 1999); Elizabeth Simpson, ed., *The Spoils of War- World War II and Its Aftermath: The Loss, Reappearance, and Recovery of Cultural Property* (New York: Harry N. Abrams, Inc., 1997).

¹⁰⁹ David E. Sanger, "Report on Holocaust Assets Tells of Items Found in U.S.," *New York Times*, January 17, 2001.

¹¹⁰ *Ibid.*

of financial restitution.¹¹¹ This, and not the thorough study of a report issued to President Clinton on the week least likely to see it so much as read, was the administration's final word on the matter, and with the Holocaust seemingly accounted for in the most desirable way – monetary settlements and moral culpability for other nations – the Commission and its report were enveloped by the void between two presidencies and consigned to obscurity.

When Eizenstat spoke in 1998 of “completing the unfinished business” of the Holocaust by means of a “moral accounting of this lingering ledger of grief,” he deftly characterized the process by which the Clinton administration addressed Holocaust issues, an approach that tainted the efforts of the Presidential Advisory Commission on Holocaust Assets in the United States. The air of “moral accounting” suggested by signing statements and press releases haunted the Commission, looming over its research and souring its relationships with those who perceived its work not as a series of historical inquiries but as a deliverance of judgment. Eizenstat's characterization of the Holocaust as a “ledger of grief” is fitting given the tendency in the administration and in the public at large to equate justice for Holocaust victims with financial restitution, an association that obscured the Commission's goals. Most importantly, his conception of “completing” the business of the Holocaust is indicative of a larger misunderstanding. In the Commission and in other efforts to adjudicate the history of the Holocaust, the Clinton administration failed to accede to and was ultimately thwarted by the fact that the Holocaust was and remains a tragedy for which the population involved can know no closure of any kind.

¹¹¹ Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: PublicAffairs, 2003), 337.

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