

THE LONG ROAD HOME:
STRUGGLING FOR PROPERTY RIGHTS
IN POST-COMMUNIST EUROPE

HEARING
BEFORE THE
COMMISSION ON SECURITY AND
COOPERATION IN EUROPE
ONE HUNDRED SIXTH CONGRESS
FIRST SESSION

MARCH 25, 1999

Printed for the use of the
Commission on Security and Cooperation in Europe
[CSCE 106-1-3]



Available via the World Wide Web: <http://www.house.gov/csce>

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THURSDAY, MARCH 25, 1999

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC.

The Commission met at 10:00 a.m. in room 2255, Rayburn House Office Building, the Honorable Christopher H. Smith, Chairman, presiding.

Commission Members present: The Hon. Christopher H. Smith; Hon. James C. Greenwood; and the Hon. Michael Forbes.

Congress members present: The Hon. Edward Royce.

Witnesses present: Amb. Stuart E. Eizenstat, Under Secretary of State for Economic, Business and Agricultural Affairs and U.S. Special Envoy for Property Claims in Central and Eastern Europe; Michael Lewan, Chairman, United States Commission for the Preservation of America's Heritage Abroad; Bishop John Michael Botean, Romanian Catholic Diocese of Canton, Ohio; Vladislav Bevc, Executive Officer, American Owners of Property in Slovenia; Jan Sammer, The Czech Coordinating Office; Vytautas Sliupas, "Lithuanian Class Action Complaint Group."

**OPENING STATEMENT OF HON. CHRISTOPHER H. SMITH,
CHAIRMAN**

Mr. SMITH. The Commission will come to order. First, I want to thank everyone for being here, especially our very distinguished witnesses. Sec. Eizenstat will be here very shortly.

The Commission today, ladies and gentlemen, examines one of the most challenging issues confronting post-Communist OSCE countries: how to right the wrongful confiscation of property by former totalitarian regimes.

During and after the Second World War, millions fled from East and Central Europe to escape Nazi and Communist persecution. Most of them lost everything they and their families had earned and built up over many generations—homes, businesses and farms.

In addition, these totalitarian regimes took from religious and ethnic communities tens of thousands of communal properties, such as churches, synagogues, hospitals and schools.

A decade ago, the fall of the Iron Curtain and the end of communist tyranny inspired hope that wrongs committed by previous regimes, including the seizure of private and communal property, would be addressed and redressed by the newly elected democratic governments of Central and Eastern Europe.

For those seeking restitution or compensation, this issue is not in the end just about land or money, but rather about coming to terms with an unjust history in Europe. Seizures of property by fascist and communist regimes occurred in the greater context of religious persecution, suppression of religious freedom, denial of the most basic human rights and civil liberties, and ultimately genocide.

Individuals in religious communities that seek property restitution are, in large part, striving for a measure of justice for the oppression and persecution they and their families suffered in the past.

This process will also help lay the foundation necessary to prevent the history of fascism and communism from repeating itself in the region.

The OSCE participating States have acknowledged the importance of private property rights. The 1990 document of the OSCE Bonn Conference includes a commitment by participating States to “endeavor to achieve or maintain full recognition and protection of all types of property, including private property, and the right of citizens to own and use them as well as the right to a prompt, just, and effective compensation in the event private property is taken for public use.”

As the Helsinki Commission has monitored the property restitution and compensation efforts being made by post-communist countries, I have had to conclude that the efforts to return property to former owners have been uneven and often unsuccessful or, worse, discriminatory. It appears as if the governments in this region want to be perceived as reform governments that distinguish themselves by their willingness to undo what the previous communist regimes have done.

In fact, much of their behavior to date, at least concerning property restitution, undermines that image.

Government officials have lacked the political will to make the difficult decisions necessary to carry out restitution and compensation laws. Discriminatory citizenship restrictions in the laws prevent former citizens from recovering the properties that they or their parents or grandparents owned.

With respect to property restitution, the ill treatment afforded some religious communities suggests that religious inequality and discrimination are often at the heart of a government’s restitution policies rather than economic constraints or other legitimate issues that need to be worked through.

Restitution programs vary from one country to the next, and some countries have not adopted comprehensive restitutions laws at all. As a result, thousands of people, including Americans, have unresolved property claims in Central and Eastern Europe.

Much attention has been given to property restitution in East Central Europe. Last year I and my fellow Commissioners sponsored a resolution eventually adopted by the full House of Representatives that calls

on formerly totalitarian countries to return property to rightful owners or, if that is impossible, to pay prompt, just, and effective compensation.

The Council of Europe and the European Parliament have also called for property restitution. Several months ago the Department of State and the U.S. Holocaust Memorial Museum hosted an international conference that addressed communal property restitution for the first time at an international level.

Timely restitution was strongly urged. I hope we will hear from our witnesses today that our friends and allies in Central and Eastern Europe are heeding these calls and that substantial progress has been made toward resolving the property claims of individuals and communities alike.

Today's hearing has several objectives.

First, to lay down a marker providing the current status of developments regarding property restitution.

Second, to provide clear examples of how a few individuals have succeeded or failed in their effort to recover property.

And, third, to consider future action that may be appropriate for Congress and the administration to further the progress of property restitution and compensation.

Because property restitution is an issue in more than a dozen countries in the OSCE region, our witnesses today will speak about many countries challenged by this issue. Some of our witnesses will focus their testimony on a particular country.

Unfortunately, it is impossible for us to hear testimony from every affected ethnic group or to have witnesses address the status of restitution in each country grappling with this complex issue. We are dealing here with basic principles. We have sought to have a representative sampling of the individuals testifying and have invited others to submit testimony for the official hearing record.

Moreover, the Helsinki Commission's mandate is to monitor and encourage compliance with the Helsinki Final Act and subsequent documents. The Commission is not solely concerned with U.S. victims of expropriation policies, but with the concerns of all victims, and I believe that principle will be reflected in this hearing today.

Let me thank our very distinguished first panel for being here, and I would like to introduce them.

Our first speaker will be Stuart E. Eizenstat, Under Secretary of State for Agricultural, Business, and Economic Affairs. Secretary Eizenstat previously served as Under Secretary for Commerce and as U.S. Ambassador to the European Union in Brussels. In each of these positions and in his current position, he has also served as the U.S. Special Envoy for Property Claims in Central and Eastern Europe. He has worked tirelessly to bring attention to the important subject that we are discussing today.

I would say this parenthetically, Secretary Eizenstat, it was at our last hearing on property issues that the resolution we had passed last year, was suggested by you. So I do thank you for that.

Our second witness will be Michael Lewan, Chairman of the United States Commission for the Preservation of America's Heritage Abroad. Mr. Lewan has served—has twice been appointed, I should say, by Presi-

dent Clinton to lead the Commission for Preservation in its mission to protect and preserve monuments, historic buildings, and cemeteries associated with the foreign heritage of Americans.

In addition, Mr. Lewan runs his own company, which specializes in developing public policy strategies for domestic and foreign companies.

I would ask my good friend from Pennsylvania if he has any opening comments.

Mr. GREENWOOD. My guess is that whatever I could say you have already said better. So I will pass.

Mr. SMITH. OK. Thank you.

Secretary Eizenstat, if you can proceed.

TESTIMONY OF STUART E. EIZENSTAT, UNDER SECRETARY OF STATE FOR ECONOMIC, BUSINESS AND AGRICULTURAL AFFAIRS AND U.S. SPECIAL ENVOY FOR PROPERTY CLAIMS IN CENTRAL AND EASTERN EUROPE

Sec. EIZENSTAT. Thank you, Mr. Chairman.

I cannot tell you how much I appreciate the opportunity that you have afforded me to testify and also for your tremendous leadership in this area.

This process has been critically important to me since 1995, when I was named as Special Envoy on Property Restitution, in addition to my duties as Ambassador then to the EU, and I have continued those in my current position.

Property restitution is part of Europe's unfinished business. It is part of the job of repairing the damage from two of the 20th Century's greatest European disasters. The Holocaust devastated the lives, families, and institutions of European Jewry, and the Nazis and their Fascist allies destroyed or stole vast amounts of Jewish property.

Then after World War II, to compound this, the Soviet army's occupation of Eastern and Central Europe, followed by the installation of Communist regimes, led to massive seizures of both private property and property owned by religious and community organizations.

Since the fall of Communism, nearly every country in the region has begun returning some religious community property. Some have restituted a large part of both communal and private property. Some have done very little.

The process, and progress, in each country is different, reflecting major differences in history and politics. Most have democratic parliaments and carry out restitution through their own laws and procedures and their own particular circumstances. So there is no one solution.

Nevertheless, the basic principle that wrongfully expropriated property should be restituted or, as you have suggested in your opening statement, compensated for applies to them all, and their implementation of this principle is, in our mind, a measure of the extent to which they have successfully adopted democratic institutions, the rule of law, and market economy practices.

As these governments seek to join Western economic and political organizations and to integrate their economies more closely with ours, we expect them to adopt the highest international standards in their treatment of property.

Adopting such standards would also help them attract foreign investors who need to be assured that there is a transparent, fair, and just private property system in place.

Mr. Chairman, Congressman Greenwood, I propose to comment orally on what the U.S. Government has done, including the results of our Washington conference, and then mention the situation regarding property in several countries of the former Soviet Union. My written testimony has a country-by-country status report on real property restitution in the region, and we have tried to give you the most up-to-date summary for each country.

The fact that there have been so many changes in territory, minority populations, political systems, and legal frameworks in Europe in the 20th Century means that there is no simple, one-fits-all policy. It means that our restitution policies have to fit the context of each country, taking into account the highest local standards of justice and contributing to the overall development of democratic and market economies.

We approached this bilaterally and multilaterally. In our bilateral efforts, we routinely raise property restitution with official visitors at all levels from the countries of the region.

Over the years that I have been involved in these issues, I have visited some dozen countries in Central and Eastern Europe; many of them I have visited several times. Last summer, for example, I visited Lithuania and Poland. Since then I have visited Ukraine and Bulgaria (in February) addressing property restitution each time.

Ambassador Henry Clarke, my senior advisor on this issue, has visited Moldova, Romania, Poland, Lithuania, Bulgaria, Slovakia, and the Czech Republic during this period.

We have devoted considerable effort to gathering current information on restitution, and our main purpose has been to advocate further steps in both private and communal property restitution that appear appropriate, and let me say that I have worked on the cemetery issue with Mr. Lewan, and he and his Commission have been genuinely heroic in their work here.

The State Department and U.S. embassies in the region focus on both communal and private property restitution. We are especially sensitive to discrimination against the claims of American citizens, even if we cannot espouse an individual claim or take a position on its merits.

We do this by vigorously advocating fair and expeditious treatment for all such American claims as a group. For example, just 2 days ago our Ambassador in Slovenia did this directly with the Justice Minister in that country.

Even though we cannot provide legal advice directly to a client or a claimant, embassies and consulates do provide information about local laws, judicial systems and claims procedures. They maintain a list of local lawyers and often help explain which officials or agencies can help U.S. citizens in trying to resolve individual claims.

We organized the Washington Conference you were good enough to mention, Mr. Chairman, in December 1998 with 44 countries and 13 NGOs to discuss a variety of issues from insurance to communal property. It was, indeed, the first U.S. Government effort to take a multilateral approach to the issue of communal property restitution.

It was the first international conference among governments, with NGOs participating, on real property restitution. Our goal of return of communally owned property was not challenged and for good reason.

Almost every country in the region has at least returned some property to its original owners out of a sense of justice and a recognition of the importance of revitalizing religious groups in a more tolerant age.

In my remarks to the Washington conference, I outlined a series of best practices appropriate for restitution of communal property seized by Nazis or their fascist allies or later expropriated by Communist regimes without compensation.

While not all these practices have been adopted in all countries, they give us a broad set of concepts and guidelines which we believe countries should consider.

May I please just summarize these? They apply to both communal and private property.

We encourage governments, first, to establish equitable, transparent, and nondiscriminatory procedures to evaluate specific claims.

We also suggest that archival records be opened for facilitating the examination of claims. Where archives have been destroyed, reasonable alternative forms of evidence should be permitted.

National governments should take the necessary steps to insure that their restitution policies are implemented at regional and municipal levels, which often control the bulk of property, and let me stress this.

In many countries—the Czech Republic is a good example—there are Federal decrees that deal with property in the hands of the Federal central government, but they do not cover local and municipal and regional governments, and they, frankly, in most countries control a large bulk of the property, particularly the income producing property.

Owners or their heirs should be eligible to claim personal property on a nondiscriminatory basis without citizenship or residency requirements, a point that you stressed.

Legal procedures should be clear and simple.

Governments at all levels should respect and implement the decisions of courts when these are final. We have instances where courts make decisions. Then they simply aren't implemented.

Restitution claims should be honored before privatization takes place. Governments should be very cautious about privatizing property confiscated by Nazis or Communists whose ownership is in dispute. If that is not done, original owners should have a right to fair compensation, and this is an important point, Mr. Chairman, because we want these countries to privatize property, and yet when they are subject to dispute about ownership, if they are privatized outside this context, it can create problems.

Governments should make provisions for the present occupants of restituted property. If no compensation or alternative accommodations are found for current occupants, many of whom are occupying in good faith, the restitution process will be delayed sometimes indefinitely.

Restitution of property should result in a clear title to the property, including the right to resale, not simply the right to use property. We found in some countries they will say, "OK. We will give you the right to use it," but that could be taken away at any time.

Generally communal property should be eligible for restitution or compensation without regard to whether it had a secular or religious use. Many countries will only allow, quote, unquote, religious property to be returned to religious communities, and defined very narrowly to mean

only churches or synagogues. It does not cover schools; it does not cover community centers; it does not cover other communally owned institutions.

Where local religious communities are very small, as is often tragically the case with Jewish communities, we encourage the establishment of foundations jointly managed by local Jewish communities and international Jewish groups to aid in the preparation of claims for property and to administer restituted property.

Cemeteries and other religious sites, which again, Mike and his Commission have done such a sterling job on, should be protected from desecration or misuse before and during the restitution process.

No country has fulfilled every one of these principles perfectly, but this is not a theoretical list. Every one of these best practices has been adopted somewhere as an important feature of the restitution process. Taken together, they clearly illustrate that property restitution is an integral part of the economic and political reform now underway in Central and Eastern Europe.

We recognize that the basic legal processes involved take time. Some claims can be complex, and where there are serious disputes, they can take long periods of time to resolve.

Nevertheless, we feel strongly that these principles should be adopted now and by all countries. Countries that have embarked on this difficult task should not allow the process to languish, but should press on to bring it to an honorable conclusion.

I am pleased to say that multilateral attention to the process was not a one shot event from the Washington conference. We are very pleased that the Polish government is planning to host an international conference on communal property restitution in November of this year. We commend the Polish government for undertaking this task and making this contribution to the future of Europe.

And because of your personal interest in this topic, Mr. Chairman, we should try to give you the most advanced notice so if your own calendar would permit it, you might wish to participate as well.

Unlike the countries occupied by the Soviet army during and after World War II, much of the expropriation of property in Russia, the Ukraine and Belarus took place, in fact, in the early years following the Russian Revolution.

In these countries, there is little political pressure for reversing those expropriations. People may view them as unjust, but they are not viewed as being posed by a foreign power, and they are no longer part of the living memory of most of the population.

None of these countries has addressed private property seized in the Russian Revolution. That does not mean, however, that the taking of property was legitimate. Quite the contrary, we would welcome restitution or compensation where that is possible and where it would not cause some new injustice.

But the passage of time necessitates that there will unfortunately be historical limits to real property restitution there. Nevertheless, post-Communist revival of religion in the region has brought about the return of substantial numbers of churches, synagogues, cemeteries and other religious communal property.

The countries that were part of the Russian Empire and then went through the Russian Revolution have for generations observed different concepts of private and public property than the U.S. and Western Europe. Each democratic society has to establish basic standards of justice for itself, and those standards must be realistically achievable.

The concept of returning places of worship and related religious properties, again, has been broadly accepted through Europe, and we do expect as these countries continue their transition to market economies that they will adopt ownership standards for private property compatible with the rest of the world.

So in conclusion, Mr. Chairman and Congressman Greenwood, the restitution of property is part of a larger process of obtaining a reasonable measure of justice for the victims of Europe's major twin disasters in World War II: Fascism and Communism.

Justice for the people of Eastern and Central Europe is long overdue, especially so for the double victims of both Fascism and Communism. Having had justice delayed for so long, they are entitled to expect that democratic governments will move promptly to bring closure during their lifetimes.

This will not be easy, but we cannot leave it alone. Restitution of real property or movable property, such as art or financial assets, including insurance, will require the efforts of many courageous people and many countries, and I am very pleased that the Commission on Security and Cooperation in Europe, which you have provided such sterling leadership for, is focusing on this issue again.

Thank you.

Mr. SMITH. Mr. Secretary, thank you for your excellent testimony and for your very dogged determination in trying to resolve this issue against one obstacle after another, including enactments of the parliament. The Czech Republic's recent step backwards in February was another disappointment, but you certainly have been tenacious, and I know we on the Commission are grateful. We will continue to work hand in hand with you.

I would ask Mr. Lewan if he would proceed.

**TESTIMONY OF MICHAEL LEWAN, CHAIRMAN, UNITED STATES
COMMISSION FOR THE PRESERVATION OF AMERICA'S HERI-
TAGE ABROAD**

Mr. LEWAN. Thank you, Mr. Chairman, members of the Commission.

I am grateful for the opportunity to testify today.

The effort to resolve communal property issues is, indeed, the long road home. The historic and moral importance of this journey cannot be underestimated.

Emerging democracies must settle old debts. They must return what was stolen. This is a basic tenet for any free society from which there is no escape, no excuse, and no evasion.

I'm quite honored to be on this panel with Under Secretary of State Stuart Eizenstat. There is no man I admire more in public life today, and when this, the final chapter of World War II, is written, Stu Eizenstat will be seen for the ages as a man of virtue and vision.

In the last 2 years, the Commission for the Preservation of America's Heritage Abroad has been active in the international effort to restitute communal property. Much of our success is due to the strong support we receive from the Congress, especially from Ben Gilman, the Chairman of the House International Relations Committee.

Today, I will speak of Poland, the prewar home to the world's largest Jewish community, Poland, whose soil is soaked with blood, where the loss was so great it cannot be counted; where for 50 years a "pathology of silence" made a mockery of the truth. Yet out of the ashes rises hope for restitution, remembrance, and reconciliation.

When I was a boy, my grandmother lived with us. She was a Hungarian immigrant, a devout Catholic, and like many in her generation, deeply proud to be an American.

Grandma always said to us, "America is a great country. It is full of miracles to share with all."

The next time I visit my grandmother's grave, I will tell her about today. She would be proud of my work, and she would be especially proud of her adopted country, about how we are sharing the miracle of democracy with all the world.

I'm lucky. I can visit the grave of my grandmother to say a prayer, tell her about our family or just reflect on how life has turned out. But for millions of other Americans, and especially Jews, for whom taking care of the dead is a high calling, an obligation, a mitzvah, this has not been possible.

Imagine, if you will, it is 1939, a small town, a shetel, Wyszkov, Poland, a few thousand Jews, a synagogue, a school, a cemetery, a life. In an instant, 800 years of history destroyed; men rounded up and marched into slavery; women, children, the old sent to concentration camps, death sentences, all.

The synagogue was blown up. The cemetery, this quiet, final resting place so reverently cared for, leveled; the tombstones used for a sidewalk in front of Gestapo headquarters.

A horror repeated 1,000 times in the land of Poland, so grotesque it shouldn't be mentioned; so common it is almost forgotten.

The war ends. The cemetery blends into the rural landscape. It disappears from local maps. A farmer plants potatoes. A builder digs a gravel pit. Bones are exposed and heaped into piles of trash. The shetel grows to a city, but no Jews, no survivors return; no visible trace, no outward sign, no remembrance.

Did tyranny win after all? Please, God, a miracle.

As Chairman of the United States Commission for the Preservation of America's Heritage Abroad, I am often asked why should Americans care about crumbling buildings, abandoned cemeteries, or looted libraries. It is because America is a land of immigrants.

Our values are rooted in lands distant in miles and time. As a people, we believe that the fabric of our society is strengthened by visible reminders of our past. The history, culture, politics, sociology, and religion of our forefathers have stamped upon our souls an indelible mark of character.

As the years go by, Americans need to see the sights, hear the sounds, touch the tombstones, feel the pain, and relive the joy of their ancestral past. How else can we understand the present or prepare for the future?

Americans who trace their family roots to Eastern and Central Europe are for the first time able to visit the churches, synagogues, cemeteries, and monuments to which they have such binding ties. What they see often shocks and saddens them.

The Nazi extermination of six million Jews and so many other innocents extended to physical places as well. Schools, libraries, museums, and social halls were all expropriated. Synagogues, churches, and cemeteries were especially sought out for vandalism or destruction.

Under the boot heel of Communism, those remaining sites were left to suffer the ravages of time and nature. Many, if not most, important sites passed into oblivion.

Some did survive. Today there exist hundreds of religious and other communal properties in desperate need of attention. They stand not as a reminder of death and decay, but as a testament to the strength and substance of those vital and vibrant souls that once prayed, sang, studied, and danced and lived life within their walls.

Some sites are artistic treasures and deserve restoration on that basis. Some are sacred and demand the highest degree of devotion.

Picture the moment. It is 1940, Oswiecim, Poland. A Jewish boy named Hirsch lives in an apartment attached to a small synagogue where he helps the rabbi organize the prayer books, sweep the floor, and run small errands. Life is good. Jews and Gentiles live side by side. Together they engage in business and politics, and while they have separate religious and cultural identities, a balance has been struck. Mutual respect prevails.

Hirsch has every reason to believe that his life will be a good one, that his parents will live to a ripe old age. His brothers will have rewarding careers, his sisters fine children, and when he closes his eyes and imagines the future, he sees himself as an old man in the synagogue he so loves, thanking God for providing him with such a rich life.

Then with a thunder clap all good is gone, his family killed, Jews deported to strange places, he to a labor camp, and just across the river not two miles from his beloved prayer house, the death machine Auschwitz is built.

What crazed design of history, what lunatic plan was it that took so much life and turned it into death? Hirsch could only pray as he watched the smoke from so many burning bodies rise. Please, God, a miracle.

We live in an age of miracles. I have seen it in the most unlikely places: Wyszkow and Osciecim in Poland. The miracle is democracy.

Today, a half century since the defeat of Fascism and a decade after the fall of Communism, the American people are helping the nations of Eastern and Central Europe rebuild and retribute what was long ago stolen and believed lost in the vastness of time. Proceeds from the sale or rental of these properties will be of enormous assistance in solving the many social and welfare problems faced by survivor communities.

These funds must also be used for remembrance, to rebuild important synagogues, to properly care for cemeteries, to establish museums to Jewish culture, to create libraries to house the great collections, to build monuments and memorials marking the sites of history's greatest and lowest moments.

Remembrance is in every sense education. Soon no one will be left to describe the horrors of the Holocaust firsthand. This is why it is so very important that we document in detail and portray vividly man's inhumanity to man. Only by teaching the young can the civilized world be assured that the words "never again" will have meaning for all time.

Return with me to the old Jewish cemetery in Wyszkw as the winds of democracy sweep across its landscape, where an unprecedented cooperative effort was undertaken to restore this scarred, yet sacred site. With the help of our Commission, we recovered the tombstones. The city returned the land to the Warsaw Jewish community. The Jewish Historical Institute served as a general contractor. The Polish Federal Government provided memorial tablets. The architectural design and construction was supervised by a Christian volunteer. A neighboring farmer deeded adjacent land and provided a right-of-way to the site. The Catholic Church and countless generous souls from around the world, Jew and Gentile alike, provided significant financial and spiritual support that will perpetually provide for the cemetery's care.

Today this site is visited by hundreds of pilgrims. It is vandal-free and, indeed, has become a place of great pride for the citizens of Wyszkw, a model for all to follow.

This is restitution. This is remembrance.

Now let me tell you of reconciliation. I stood witness with the American ambassador as nearly 1,000 townspeople came to the rededication of the old Jewish cemetery, bearing floral wreaths and gifts of food and money.

I watched acts of love, acts of peace as 25 elderly Jewish survivors from Wyszkw, their children and grandchildren embraced the Poles, as tears of joy and sadness mixed with calls for forgiveness and understanding.

I know this town and these people are forever changed. Tyranny lost in Wyszkw. Thank you, God. A miracle.

Recall young Hirsch, now a man in his 70s. Was it luck alone that let him live when 144 of his relatives were killed and 6 million of his race perished? Was it a quirk of fate that his home and his synagogue remain standing today when all others were destroyed? Was it an accident of history that in this place of death, this Auschwitz, that Jewish life could be reborn?

Thanks to the vision of a New York businessman, Fred Schwartz, the Lomdei Mishnayot Synagogue in Oswiecim was rededicated last November. For the first time in more than 50 years, prayers echoed through the Shul. More than 200 people, Jews, Americans, Catholics, Poles, Israelis, were greeted by the President and Prime Minister of Poland.

The hard work of the city's mayor, two American ambassadors, the Catholic Church, and numerous other American and other Polish citizens made this possible. It will be used as a prayer house and a cultural center focusing on Jewish life in prewar Poland. It will have a kosher kitchen and a theater that, thanks to Steven Spielberg, will show video clips of survivors from Oswiecim telling their life story. It will be a place of quiet contemplation, education, fellowship, open to peoples of all faiths.

This is restitution. This is remembrance.

Now let me tell you of reconciliation. On that special November day, just across the square the

Catholic Bishop Tadeuz Rakocy celebrated a high mass in honor of those who died in the Holocaust. What a moment it was when at the end of the mass the Bishop personally greeted the many Jews attending with words of peace as the great church organ played the Hebrew hymn "Shalom Alechim."

Listen to the words of Hirsch Kornreich, now an American citizen, as he sat in his beloved prayer house that day so many years later.

“It breaks my heart to come to this place. I used to pray here as a child. My father, my grandfather and his father, too. I am a bridge between what it was like and the future. It is good that next to the camp of death will be a camp of life.”

Thank you, God. A miracle.

I know with continued American support and leadership, the new democracies of Eastern and Central Europe will meet the challenge of restitution. We must urge these governments to pass laws that broadly define communal property. These laws must be honored by the local governments who have all too often blocked implementation.

Full access to documents, deeds, and titles must be allowed. Government funds should be provided so that communities can retain needed legal and audit services. Reasonable time limits should be imposed so all parties can know this process will end at a date certain.

Private foundations must be established to prepare claims and administer restituted properties and proceeds.

And finally, to be credible, all interested parties must have a place at the table.

Today we begin to build on the foundations of yesterday a new and better tomorrow. Listen to the haunting words of Elie Weisel.

“Teachers and their pupils, mothers and their infants, rabbis and their followers, rich and poor, learned and illiterate, prince and beggar, all pushed inexorably toward death. ‘Father,’ a young boy asks, ‘is it painful to die?’

“Think of something else, my son. Think, of tomorrow.”

My friends, Jews and Gentiles alike, we are that tomorrow. So as we continue our work to retribute, remember, and reconcile, let us commit together to build a future that honors the past. The age-old places, values, traditions, and observances so critical to survival must never be lost as new generations make their way.

This is our legacy. This is our burden. This is our miracle to share with all the world.

Thank you, sir.

Mr. GREENWOOD. Thank you, Mr. Lewan.

That testimony was heartfelt. It was poignant and was excellent, very helpful.

As you have noticed, Chairman Smith had to go off to another obligation. He should be back relatively soon.

The gentleman from California, Mr. Royce, was here briefly and has asked that a statement that he has with regard to a specific constituent be entered into the record, and without objection, since I do not object, that will happen.

And I would like to pose a question to you, Secretary Eizenstat, and I am going to provide a little bit of background prior to the question.

Hundreds of American citizens with property claims in Central and Eastern Europe have contacted the Helsinki Commission seeking assistance with their claims. A universal complaint that we hear from these individuals is that the State Department is unwilling to assist them with their claims because of the “espousal doctrine.”

This doctrine is described to property claimants as a State Department policy “not to pursue settlement of claims of those United States citizens who were not United States citizens at the time that their property was confiscated or expropriated.”

This practice is said to rest upon the “universally accepted principle of international law that a state does not have the right to ask another state to pay compensation to it for losses or damages sustained by persons who were not citizens at the time of the loss or damage.”

The question is: isn't it really the case that while the espousal doctrine may preclude the U.S. Government from including the value of these naturalized citizens' claims in the formal claims settlement agreements that the U.S. Government negotiates with foreign countries, it does not preclude U.S. Government officials from discussing the claims of these naturalized citizens with foreign authorities or advocating on their behalf when they are being discriminated against or denied their legal rights in the foreign country?

Sec. EIZENSTAT. Well, it is an important question and a very difficult one for us because obviously our instinct is to try to help every American citizen who has a legitimate claim.

Our legal advisors have told us that there is no basis under international law to present and espouse an individual's claim to a foreign government unless they were U.S. nationals at the time that the property was originally expropriated.

So what we try to do is the next best thing. First, we try to take the position as I have indicated that as a policy matter there should be nondiscrimination against U.S. citizen claims. There should not be residency requirements. There should be expeditious and transparent processes for the return of property, and this is what I press and what Ambassador Clarke and others in the department press when we meet with senior officials from all these governments.

Second, we do try to provide assistance through our embassies and in Washington, in our consular services. We provide lists of lawyers who can help their claims. We provide general information regarding the foreign laws that would govern the claims, and where appropriate, we provide status inquiries regarding particular claims with a foreign government.

So it is a difficult situation, but we try to do the best we can under the legal constraints we have had imposed upon us by this interpretation.

Mr. GREENWOOD. Thank you, sir.

Mr. Lewan, a question for you if I might.

Mr. LEWAN. Yes, sir.

Mr. GREENWOOD. The Commission for Preservation seems to be involved especially in endangered Jewish religious and cultural sites because of the Holocaust. Does the Commission assist any other ethnic groups in preserving their heritage?

Mr. LEWAN. Yes, sir, we do. I am pleased to say though in disclosing fully the enormity of the Holocaust experience has directed our Commission toward doing more work that would affect the Jewish community, we have active projects helping Christian and Orthodox Catholic communities in Slovakia, in Armenia, in the Czech Republic, in Ukraine, in Lithuania, Estonia, and Latvia.

For example, our Commission helped the restoring and rebuilding of an old Methodist church in the Slovak Republic. We provided planning assistance for the refurbishing of a Medieval monastery in Armenia, and an interesting story, Congressman, is a building in Slovenia in the city of Maribor, which is nearly 1,000 years old, which for its first 500 years served as a synagogue, and then after the Jews were expelled during the Inquisition, it became a Catholic Church.

And the government of Slovenia, the city of Maribor, working with us, are now restoring that building as a museum to the religion of the peoples of Slovenia, a remarkable achievement, and I think will be one of Europe's premier spots to look at how religious life flourished and occasionally did not do so well in that part of the world.

So we are quite proud of our efforts in Europe and elsewhere.

Mr. GREENWOOD. Let me return to Secretary Eizenstat.

Several years and several trips to Central and East Europe later and in light of the progress that has been made, as well as the obstacles that have yet to be overcome, do you still believe that we should pursue an international standard concerning restitution and compensation for property takings? If you could see the standard advanced in this area, what kind of commitment would you want to see adopted?

Sec. EIZENSTAT. It is very difficult to adopt one simple set of standards given the complexity of the situation and the diversity of the situation in so many different countries with different histories and population movements, but the kinds of principles that I laid out both at the Washington conference and in my testimony today, I think, are the ones that we ought to try as much as possible to embody in resolutions, in Council of Europe efforts, so that there are at least some general principles and general standards that countries can be measured against.

I don't know that that can necessarily be put into a treaty, but I do think that there ought to be international norms, and I think that the ones that I have suggested are part of that.

I'm hopeful, Mr. Greenwood, that coming out of the conference in Poland in November that there can be an impetus given to the adoption of these kinds of principles.

For example, at the Washington conference, we adopted, although they were voluntary, we adopted a set of principles for the return of looted art. Forty-four countries agreed on that.

I would hope that is the kind of thing we could achieve at the conference in Poland so that there are at least a set of general principles, knowing that there will be local variations, that we can measure performance against.

Mr. GREENWOOD. Turning back to you, Mr. Lewan, the Helsinki Commission has closely watched the treatment afforded to the Romani minority in OSCE states and in several hearings has addressed the lack of respect afforded by some governments to Romani human rights.

In the context of property restitution, we have heard a few anecdotes suggesting that Roma are not being treated fairly in the implementation of property restitution laws. For example, in Romania, the restitution process is clearly pro-tenant. Even when original owners have successfully reclaimed ownership rights in the property, they are usually unable to retake actual possession from the entrenched tenants.

The exception to this seems to be when the tenants are Romani; the authorities are more willing to evict them. The question is have you had the occasion to discuss property restitution with Romani individuals. What is your sense of how Roma are being treated in the process of property restitution in these countries?

Mr. LEWAN. I wish, Congressman, that I could tell you more about this issue. This has only infrequently come up with our Commission, and it has really only come up abroad when a foreign government official inquires whether we are interested also in the Romani people.

The short answer is we would be and are willing to be. We are now conducting a survey of cultural and historic sites in Romania where Romani sites will be part and parcel of that study, but up to this point we have taken no particular action that would be helpful to their cause.

Sec. EIZENSTAT. If I may just comment on that, Congressman Greenwood, the specific issue of the treatment of the Roma minority has not come to our attention on property restitution. The community has not presented this as an issue for us.

However, we have tried to reach out to the Romani population in a number of ways. First, they had official representation at the Washington Conference on Holocaust assets and the opportunity to make a presentation.

Second, with our encouragement, the initial Swiss fund that was set up a couple of years ago, some 12 percent of all the assets of that fund will go to the Romani population.

Third, we are working closely with the OSCE and with the Commission to address human rights issues involving the Romani population and will continue to raise our concerns on a bilateral basis with countries in which there are human rights problems.

If, in fact, the community has concerns on communal property, we will obviously be glad to address those, but they simply have not come to my attention.

Mr. GREENWOOD. The Chairman has returned, and I yield back.

Mr. SMITH. Thank you, Mr. Greenwood. I appreciate that, and thank you for chairing in my absence.

I believe Mr. Greenwood asked you about the espousal policies, but just to add my voice as well in terms of the issue, Secretary Eizenstat, I would hope that everything that could be done will be done to ensure that naturalized Americans who were formally Czech citizens are not construed to be in any way, shape or form second-class citizens.

I know the letter of the law certainly seems to preclude them from being included, but another front, it seems to me, has to be open to ensure that, again, they're not put in that inferior status.

In that regard, you may want to respond further on that or elaborate U.S. policy, with regard to the Czech citizenship. As I mentioned earlier, we were disappointed when they moved back and did not accept the amendment in February proposed in the parliament.

And then there was talk of dual citizenship, and then additional talk there would be no extension of the deadline, thereby again fencing out those people and barring them from applying for their stolen properties.

What can be done? I have met with more parliamentarians from the Czech Republic on this, including the Speaker in the past and others. I have raised it as aggressively, and Mr. Hoyer has been there, the Ranking Member of our Commission, and it seems as if we are hitting a brick wall. Is there anything else you think we can be doing in this regard?

Sec. EIZENSTAT. I appreciate the work you have done, and we have also been involved with it. It is a concern.

This whole issue of discrimination against people based on their citizenship is something that is perhaps the biggest deterrent to private property restitution, and we have encouraged governments to avoid that.

For example, in Poland, they are proposing a new draft law, we hope, quite soon to the parliament, and they have assured us time and again that that will be nondiscriminatory, and Polish-American citizens will be able to sue.

Now, as for the Czech Republic, I think we have just to keep pushing, and the fact that you have raised it yet again with me and highlighted some backsliding that has occurred is an incentive for us to press even harder for it, and we will try to do so in the next couple of weeks.

Mr. SMITH. I do appreciate that. Again, I really do think we are working as a partnership because we certainly want the identical goals.

Let me just ask you with regards to religious discrimination and property restitution. Are you aware of instances of religious discrimination impeding the process of property restitution?

Sec. EIZENSTAT. Well, I do not want to allege religious discrimination, but it is a point of fact that in many of these countries, the return of Catholic Church property and Orthodox Church property has proceeded at a much faster pace with much less difficulty than has the return of Jewish communal property.

One must draw his or her own conclusions as to the reasons, but that is a fact, and that is why in many cases although we are very much making efforts across religious boundaries, we are not trying to only represent a particular religious group. The fact is, as Michael was saying, that we tend to spend more time on Jewish communal properties precisely because those have been the ones that have been most difficult to get restituted.

Mr. SMITH. What role do you think non-governmental organizations can play? Have they been effective?

You know, usually in the listing of human rights or the cataloging of human rights issues, Amnesty and all of the human rights NGOs usually have so many other issues, especially torture and things like that, maybe not in Central Europe, but certainly around the globe.

NGOs, what can they do?

Sec. EIZENSTAT. This is a good point. I think that NGOs can and should do more to look at the issue of property rights and not simply individual human rights, obviously as important as human rights are; that they focus more on the human deprivation that occurs when someone's property can't be returned.

Now, there are some NGOs that, in fact, have devoted a great deal of time to this. For example, the American Jewish Committee, Rabbi Andrew Baker has done a superb job of raising this issue throughout Europe. The World Jewish Congress, Israel Singer, Edward Bronfman and his colleagues have done also an extraordinarily good job, and indeed, they are helping to manage some foundations where there are very tiny Jewish communities.

It is very important that NGOs, like the World Jewish Congress, and I will give you an example in Poland of what can be done, but it has not yet been done.

There is a 5-year statute of limitations in terms of filing claims for what may be between three and 5,000 pieces of communal property that the Jewish community has yet to get back. In order to present claims to the Commission, the Polish Government is open for business on this. They are really willing to be very forthcoming.

But the claims are lagging, and the reason they are lagging is because there are differences between the local Jewish community and the international Jewish community on the management of these properties.

What the World Jewish Congress or others could do is to provide legal services and technical assistance to research the claims for these three to 5,000 properties without which the local community does not have the capability to handle it.

So we hope that this dispute can be resolved quickly and promptly and that funds can be used for this legal and technical assistance. So that is another area where NGOs can be very important.

Mr. SMITH. Mr. Lewan, what Eastern or Central European countries or does the Commission for Preservation have formal agreements of cooperation with? Are there any countries in Central or Eastern Europe with which the Commission for Preservation has sought an agreement, but has failed for some reason?

Mr. LEWAN. We have as part of our charter the obligation to come to formal agreements with Eastern and Central European countries. To date we have agreements with Ukraine, Romania, the Czech Republic, the Slovak Republic, Slovenia, and we have declarations of cooperation, which we consider agreements, though they are less comprehensive, with Poland, Estonia, Latvia, and Lithuania.

We are very close, I am happy to say, to signing agreements with Bosnia and with Bulgaria, and I hope later this spring to come to closure with Hungary, which, on one hand, has been one of the most progressive of all the Eastern European countries on communal property issues, but we have yet to be able to close on an agreement with them.

I cannot tell you that any country has been uncooperative. We are severely limited by resources. So we can only do what we can do. All of us serve as volunteers, as you know, Mr. Chairman. So we can only focus on one or two countries at a time.

I'm hopeful that we will be able to go in the next year or so into the former Soviet Republics, Uzbekistan and countries like that, where we also have a charter.

Mr. SMITH. Well, all of us on the Commission have been very impressed with the creativity and also the commitment that you and your Commission have made.

Mr. LEWAN. Thank you.

Mr. SMITH. It is extraordinary.

Mr. LEWAN. Thank you.

Mr. SMITH. I want to thank our very distinguished witnesses and ask one final question, Secretary Eizenstat.

Is there anything else we should do as a Commission? Would another resolution be helpful?

Sec. EIZENSTAT. Yes, I appreciate that.

First, I very much appreciated your follow-up last year.

I think that I would suggest three things. No. 1, is that when you and your colleagues travel abroad to this region, to make this an issue that you raise. It is simply often not, to be frank.

When the Codels come, if you can send an E-mail to all of your colleagues who are going out for the Easter break and for other breaks to Central and Eastern Europe asking that they raise this as an issue, we

will be glad to try to furnish talking points. It would be enormously helpful if that happens so that the burden is not solely on your shoulders.

Second, when the traffic comes the other way and you have senior officials from governments in Central and Eastern Europe who see not only the administration, but come to Capitol Hill, as they, of course, always do, it would be very useful if key members of the House Foreign Relations Committee, the Trade Committees, those that foreign officials would normally see, if this is a talking point on the agenda there.

And, third, I think that resolutions would continue to be useful so that the countries know that this was not a one time deal and that there is a continuing interest in this, and we would like to work with you on that.

Mr. SMITH. I appreciate it. They are very good recommendations, and we will follow up on each of them.

I will also look to raise this issue in some way or find some means of raising it at the Parliamentary Assembly in St. Petersburg. So far there are a number of members on both sides of the aisle who are planning to go on that trip. We will have our Senate counterparts there as well.

Sec. EIZENSTAT. You know, one other thought, and that is when I was in Brussels, there are NATO parliamentarian meetings, North Atlantic parliamentarian meetings that have been well established for four or five decades. This is not an issue.

And we now have three Central European countries who are members of NATO, and I think it is an appropriate thing to say to them that as you are now part of this Western family, it is reasonable to adopt Western standards in terms of property restitution, and this, again, could be mentioned at the interparliamentary discussions.

Mr. SMITH. An excellent idea. Thank you.

Mr. LEWAN. Mr. Chairman, if I could make one addition to the Secretary's statement, I would like to see the President of the United States use some opportunity during the NATO celebration ceremonies in late April to both applaud those countries, Poland, Hungary and Czechoslovakia for all that they have done in this regard and to challenge those countries and others to continue to do more.

The eyes of the world will be upon Washington then, and what better place to do it and what better person to say it?

Mr. SMITH. Sec. Eizenstat might have even more influence in getting that accomplished.

Mr. LEWAN. We will help him write it.

Mr. SMITH. Thank you very much.

Mr. LEWAN. Thank you.

Mr. SMITH. And keep up the good work. Thank you for being here and helping our Commission do its job. We appreciate it.

I welcome our second panel to the witness table at this point. Our first witness will be Bishop John Michael Botean, from the Romanian Catholic Diocese of Canton, Ohio. Bishop Botean's diocese here in the United States, which is part of the Romanian Byzantine Rite Catholic Church, also commonly known as the Greek Catholic Church, has been actively involved with the church's struggle in Romania to recover property taken from it in 1948 when the Communists decreed that the Greek Catholic Church be submerged within the Orthodox Church.

Our second witness will be Dr. Vladislav Bevc, who was born in Slovenia before it became part of the Socialist Republic of Yugoslavia, and is now an American citizen. He has been active for many years in promoting the cause of property restitution in Slovenia.

In 1994, he organized a group known as American Owners of Property in Slovenia, and we welcome him here as well.

Jan Sammer was born and raised in Czechoslovakia, and in 1966 immigrated to Canada. For the past 8 years, he has been involved in the struggle for property restitution and democracy in the Czech Republic.

Mr. Sammer publishes a Czech language circular, and last year formed the Czech Coordinating Office to organize and disseminate information, and to coordinate the advocacy efforts of the Czech ex-patriots on the issue of property restitution and democratization in the Czech Republic.

And finally, Vytautas Sliupas was born in Lithuania and left in 1944, ahead of the advancing Red Army. Mr. Sliupas is now a U.S. citizen. He is a frequent contributor of articles in the Lithuanian press in the United States, and in recent years has created several nonprofit organizations, one of which collects historical materials related to Lithuanian American heritage.

Two years ago he also organized a class action complaint of Lithuanian Americans fighting for restitution of nationalized properties in Lithuania.

Bishop, if you could begin.

**TESTIMONY OF BISHOP JOHN MICHAEL BOTEAN, ROMANIAN
CATHOLIC DIOCESE OF CANTON, OHIO**

Bishop BOTEAN. Mr. Chairman, I am once again grateful for the opportunity to present testimony to this Commission regarding certain aspects of the human rights situation in the country of my ethnic heritage, Romania.

Last year I had occasion to present written testimony when the topic at hand was religious intolerance. This year, while the topic has changed, the issue has largely remained the same.

Last year I was able to address the "what" of religious intolerance. This year I mean to focus on the "how," namely, the unabashed refusal by the Government of Romania to return property confiscated by its precedent regime.

There is a popular Romanian joke which describes men from three different areas of the country, two of whom accidentally sit upon a thumbtack only to sneak it underneath his neighbor. Finally the tack finds itself beneath the fellow from Transylvania, incidentally the part of Romania that has the most Catholics, but he does not bother to remove it, shrugging his shoulders instead in resignation: "If you have to, you have to."

In much the same manner, Romania's national misery, rather than being done away with, is simply passed around from one group to another in a perennial contest of one-upmanship, as if one's own bad estate could be ameliorated by making the next guy even worse off. It is the familiar game of the poor and powerless. The only rationale I can conceive of for this, if you will, game of ecclesiastical "Monopoly" now being played with church lands and buildings.

It must be said that some progress has been achieved even though most of this has been in the form of promises rather than results. But even getting the promises can be considered a step in the right direction.

However, of the more than 2,000 churches confiscated by the Communist government in 1948 and given to the Romanian Orthodox hierarchy in the forced “merger” of the two religious groups, I believe that fewer than 50 houses of worship have been returned to their rightful owners. In many, if not most, cases, the Romanian Greek-Catholic Church’s title to the property is clear, such as for our Cathedral in Cluj and for churches in the villages of Iclod and Ardud that I would bring to your attention had I the time.

Meanwhile the bulk of my co-religionists, however, still worship in the open air, in cemeteries, schoolrooms and public parks.

I’d like to be unambiguous about the point I wish to make. This discussion is not about sectarian conflict. I am not asking the U.S. Government to interest itself in making peace between two churches, nor would it be appropriate for it to attempt to do so.

The point is rather the answer to a very simple question. Since it was the Government of Romania in 1948 which unjustly seized the property of the Romanian Greek-Catholic Church, what has the Government of Romania done to satisfy the demands of simple justice and return that which it has stolen?

By way of answer, I would like to enter into evidence this book, whose title translated is *The Persecution of the Romanian Greek-Catholic Church Under the Democratic Regime Inaugurated in November 1996, Volume 1, November 1996 to October 1998*, by the Rev. Dr. Anton Moisin.

Father Moisin is the coordinator of the New Memorandist Movement that has been documenting this specific area of human rights abuses in Romania since the fall of the Ceausescu government in 1989.

In his accompanying letter to President Clinton and to the U.S. Congress, he indicates that four more volumes are in preparation and could be published if he could obtain the funding to do so.

Among the documents in this volume is an interpellation by his brother, Senator Ioan Moisin, directed toward the Minister of Justice on March 2, 1998. He points out that the decree which legally dissolved the Greek-Catholic Church in 1948 specifically directed that “mobile and immobile property of the central and statutory organizations of the former Greek-Catholic religion will be given to various departments and institutions,” and specifically that “Cathedrals, churches, chapels, and buildings for divine worship, as well as monasteries and hermitages with their surrounding gardens and lands, to the Romanian Orthodox Church and its various components in the territory in which these goods are found.”

Furthermore, this decree instituted an interdepartmental commission to handle the transfer of property.

He goes on to indicate that the Secretariat of State for Religions, in a letter of December 15th, 1997, notes that this commission never functioned. No documents relating to it may be found in the archives of the Secretary of State for Religions or in those of any other ministry. Likewise, no documents attesting to it may be found in the archives of the Greek-Catholic Church.

This letter notes further that “the Greek-Catholics’ possessions were taken by local administrative organs with the help of the Securitate after the arrest or removal of those responsible for these goods: (bishops, priests, religious superiors, deans), and then given over to various specialized institutions of the state according to the nature of each item. Cathedrals, churches, monasteries, parsonages and cemeteries were given over to the Romanian Orthodox Church.” Senator Moisin then asks the Minister of Justice why, since the decree dissolving the Greek-Catholic Church was abrogated in 1989, this specific legislation remains in effect and whether the minister intends to propose the abrogation of it as well.

The issue of local versus national efforts to resolve the property issue is significant, as I will indicate momentarily.

Again, since the government took our churches, why can it not—or will it not—give them back to us? Is it because fledgling democracies simply cannot ignore the fact of some 80 percent of its electorate is nominally Orthodox? That at least would be understandable and would, no doubt, arouse the sympathies of anyone who has ever run for elected office.

Still, since when do human rights, including the right to worship freely and to possess property, require the ratification of a majority?

Furthermore, allow me to wonder aloud whether this state of dispossession of the Greek-Catholic Church is actually the will of the majority of Romanians or whether it is merely the will of a few in Romanian society who are in control of such things and have been since well before the revolution of 1989.

Still, Romania has made shows of openness and religious tolerance, including the international conference sponsored by the Community of San Igidio of Rome and held in Bucharest last year entitled “Peace Is the Name of God.” Yet when the Bishop of the Greek-Catholic Diocese of Cluj Gherla, Archbishop George Gutiu, attempted to enter and take possession of his cathedral □*after it had been repeatedly returned to him by court order*, □what ensued was violence and grand demonstrations by the Orthodox clergy of the region.

This event received international attention, though I was told by one of my fellow bishops that the press accounts were slanted and exaggerated. Still, it was a distasteful affair which resulted in the Vatican’s encouragement of the formation of an Orthodox-Catholic dialog to deal with the issue.

Not surprisingly, the biggest event of the year for Romania will be the visit of His Holiness, Pope John Paul II, in May. In its own perverse way, this “new” show of religious tolerance throws the light of truth upon this event, showing that there is no intention whatsoever by any significant segment of Romanian society to see Greek-Catholic Church property returned.

The Holy Father has been working very hard to help bring about a reintegration of the Catholic and Orthodox Churches worldwide. The property issue in Romania is the single largest obstacle currently on the ecumenical horizon.

His Holiness has desired to visit Romania since at least 1995 and has been invited by President [Emil] Constantinescu and the Government of Romania to make the visit. However, he would not make this historic

first visit by a Roman pontiff to a predominantly Orthodox country since the Great Schism of 1054 without the consent of the Romanian Orthodox hierarchy.

Now, there have been two meetings to date of the inter-church dialog group I mentioned a moment ago, and a third one is scheduled for this October. During these meetings, the Orthodox party made it a fundamental condition of their granting consent for the papal visit that the Catholic party "renounce its claims to its properties" at the National legislative and judicial levels and seek to resolve each matter locally on a case-by-case basis.

Astonishingly, the Greek-Catholic hierarchy agreed to this, considering the Pope's visit worth this sacrifice, as if they had a real choice.

That having been accomplished, there was nothing to prevent the Pope's visit, and indeed, Patriarch Teoctist issued a formal invitation following a meeting of the Holy Synod of the Romanian Orthodox Church.

It soon became apparent that not all was as it had been hoped for. Following the invitation, it became clear that the Pope's visit was to have a strictly "ecumenical" and not a pastoral tone. In short, the Pope would be permitted to visit Bucharest only.

The patriarchate at first attempted to blame the Vatican for this limitation, citing the Pope's health, but sources within the Orthodox Church, according to press accounts, say otherwise.

Thus, when Pope John Paul II visits Romania he must stay out of the regions of Transylvania and Moldova, the regions which hold virtually the country's entire Catholic population.

Such restrictions on his travel were not acceptable to His Holiness when he visited Cuba recently. In an incredible display of self-abnegation, however, he consented to be told where he may and may not go by his brothers, the Orthodox bishops of Romania. What Fidel Castro could not do in Cuba, Patriarch Teoctist and the Pope's own humility accomplished in Romania.

The Romanian press is understandably having a field day with this turn of events, and I must say that our church may turn out to be the winner of this particular public relations battle, which is unspeakably sad. It is not public relations we want. It is our churches and monasteries, our convents and schools. It is the places our parents and grandparents built, often enough with their own hands.

However, we have agreed not to seek legislative or national judicial relief. Instead, our bishops will turn to the local arena for each chapel and altar, each steeple and pew.

I'm sure that they will continue to find what they have found until now: police cordons, gangs of drunken thugs, and locks on the door, the "locks of hatred and intolerance," as one Romanian journalist put it.

Greek-Catholics in Transylvania once again find themselves sitting on a tack that their brothers put beneath them, accepting it because they must. However, in the words of the pastoral letter written recently by the Greek-Catholic bishops to their faithful, in order to console them about the limited nature of the upcoming papal visit, "Let us try to go beyond the sadness which has filled your heart (□*John* □16:6), and let us all accompany the Holy Father in prayer at the graves of our bishops who were martyred for the catholic and apostolic faith."

I appreciate your invitation and the opportunity to be here today.

Mr. SMITH. Bishop, thank you very much for your testimony.

We will have some questions shortly. I would say to all of our witnesses there is a vote now on the floor. We will take a very short break, and as soon as that vote is over, I will be back along with some of our Commissioners as well.

OK. So I apologize for that, but we do need to take a short break. We will stand in recess for about 15 minutes. (Whereupon, the foregoing matter went off the record at 11:17 a.m. and went back on the record at 11:48 a.m.)

Mr. SMITH. The Commission will continue its sitting.

I want to apologize. There was a second vote added onto the first, which made it even longer than it should have been. So I do apologize.

Some of my fellow Commissioners will be on their way over. They wanted to be here. One member said he has three hearings going on simultaneously, and he has not figured out how to be at all three yet, but he will be coming, as well.

Dr. Bevc, if you could please go.

**TESTIMONY OF VLADISLAV BEVC, EXECUTIVE OFFICER,
AMERICAN OWNERS OF PROPERTY IN SLOVENIA**

Mr. BEVC. Mr. Chairman, thank you for convening this important hearing today and for inviting me to discuss the status of property restitution in Slovenia.

At the end of 1991, the Slovenian parliament enacted the restitution law. This legislation held forth the promise of reinstatement of fundamental values of a democratic and civilized society, personal freedom, respect for human rights, and market economy based on private ownership without which there can be no real democracy.

The promise was short-lived. The Communists and their political heirs soon regrouped and turned out the democratic government. They continue to hold most of the responsible political and economic positions in Slovenia and are blocking in every way they can the implementation of restitution. They are not returning the communal halls of the Sokol gymnast organization either.

The Council of Europe called upon all former Communist countries to retribute unjustly confiscated property to the original owners and repudiated the legacy of Communist totalitarianism. The Slovenian parliament made it clear where it stands by voting down a proposed resolution that would repudiate the country's totalitarian past.

The regime wants continued control of all economic resources. With all of the economic resources in the hands of one party, there can be no democracy. Think how many of you could be elected if all the resources were in the hands of one party.

Our demands for restitution of our assets are confronted with a systematic obstruction of the law, revealing the intent to continue the unjust practices of the past. In most cases, the authorities simply do not move on our claims. In numerous instances the authorities refuse to return the confiscated property and continue to trade with it.

The law required that restitution be the first phase of the privatization process. The record is dismal. Fifty-three percent of 37,000 claims were granted by May 1997, hardly a sincere effort in implementing a 6-year-old law.

The total value of restituted property was only 22 percent of the total claimed amount. The government still holds more than three quarters of claimed property, amounting to about \$3 billion.

Filed claims and documents are often conveniently lost. Records cannot be found. Moratoria are enacted which can only be reversed by the constitutional court. Persons with the poorest qualifications are assigned to processing the cases. Every decision ordering restitution or compensation is automatically appealed. The appellate authority postpones action on them indefinitely.

For 7 years the Slovenian Government tried all it could to vitiate the restitution law. In the fall of 1998, the parliament enacted the revisions of the restitution law of 1991 proposed by representatives of the Communist continuity.

The Slovenian Government and its diplomats represented the revisions as an improvement designed to speed up the completion of the restitution process. The revisions would, among other things, effectively bar American citizens from asserting their claims. Eventually the constitutional court voided that provision.

As a result of the revisions, the administrative units have been flooded by counterclaims of those that hold and use nationalized properties. The processing of the unresolved claims has ground to a halt, precisely the effect desired by the regime.

Property rights are one of the mainstays of all other human rights. People whose property can be taken away at the whim of the government can never be politically independent. The ability of a government under any pretext to seize private property provides an incentive for its officials to violate human rights of persons whose property they covet by charging them with offenses against the regime, such as the exercise of the freedom of speech, religion, association, press, travel, and the like.

Restitution is important because of its meaning to the individual who wants to get back his home or his ancestral land.

Congress now requires that United States foreign policy take into account human rights observance by foreign countries, and that country reports be submitted to Congress by the Department of State annually. The reports do not address violations of property rights because the Department of State does not consider property rights to be human rights, but rather economic rights. Still, economic rights of workers are included in the reports.

It would be highly desirable that the Congress reaffirm its intent that it wants to be informed about the observance of the human right to own and enjoy property in the annual reports of the Department of State.

Representatives of the United States at the highest level have often urged Slovenian Government officials to resolve fairly and timely the outstanding restitution claims. It is not realistic to expect that Slovenia will settle an obligation of several billion dollars solely on the recommendation of the United States without tying it to something Slovenia wants, such as foreign aid, membership in NATO, loans, and the like.

It is the policy of the Department of State not to represent formally claims of the United States citizens who were naturalized after the title of the property in question was first disturbed. This policy denies us an equal protection of the laws.

Our case involves property rights conferred by Slovenian restitution law of 1991 on all qualified claimants, some of whom were then American citizens. These American citizens are experiencing a *de facto* denial of their claims.

Department of State should pursue a direct settlement of American claims against Slovenia. America leads in establishing new international laws, and contrary to what Secretary Eizenstat said, in all deference, I would say it can open a new area here.

How can the Congress help? The Foreign Assistance Act of 1961 provides for sanctions to be imposed upon a government that violates property rights of American citizens. The law should be used to suspend assistance to Slovenia until such time as Slovenia fully and fairly settles all the outstanding restitution claims.

A strong mandate from the Congress would be needed if words calling for respect of human rights are to be matched by deeds.

Thank you, Mr. Chairman, for the opportunity to discuss these important issues. I would be happy to answer any questions.

Mr. SMITH. Thank you very much, Dr. Bevc, for your excellent testimony, and at the end of everyone's testimony we will be asking some questions.

I want to mention we have been joined by Commissioner Forbes from New York.

Mr. Sammer.

**TESTIMONY OF JAN SAMMER, THE CZECH COORDINATING
OFFICE**

Mr. SAMMER. Mr. Chairman and members of the Commission, thank you for inviting me to speak here on the subject of restitutions of confiscated property in the Czech Republic. This is one of the most memorable moments in my life, as it gives me the opportunity to contribute to the recovery and development of justice and democracy in the country of my birth.

I was born in 1920 in Pilsen, Czechoslovakia, escaped with my family in 1966. We were accepted by Canada and became Canadian citizens. I have remained active in the Czech issues since the Velvet Revolution, and in property restitution and in democratization issues.

It is very interesting to see how the Czech Republic's restitution laws and their application have been influenced by the evolution of the political climate in the Republic. In the first months after the overthrow of the Communist regime, there was a feeling of joy and euphoria. Members and functionaries of the Communist Party waited in silence to see what will happen to them.

In 1990, the parliament passed the first restitution law. It did not contain any restrictive or discriminating conditions. I know of a U.S. citizen who successfully claimed a previously confiscated hotel in Prague under this law.

In the same year, the parliament struck all Communist era criminal verdicts and confiscations as of the day the verdicts were originally pronounced. So that strictly legally speaking, no confiscation took place up to 1990. For that reason, we maintain that all confiscations were actually done in 1991 by the new government through its discriminatory restitution laws at a time when American Czechs already had their U.S. citizenship.

In 1991, a year had passed since the Velvet Revolution, and none of the people responsible for the misery of millions were punished. The former Communists started influencing political and economic life again. They had the connections, the know-how, and the money.

They started acquiring businesses and often became employers of victims of the Communist regime. That year new laws were passed to govern property restitution and compensation. By this time the laws contained restrictive and discriminatory conditions for restitution.

One such condition is that claimants must have Czech citizenship. Without it one not only cannot receive restitution, but cannot even buy his own home from the present occupant if he wished so.

Here the fact that I ended up immigrating to Canada played an important role in my ability to claim back my property. Had I ended up in the United States instead of Canada, I could have claimed nothing under the Czech Republic's property restitution laws.

Unlike Czech Americans, I have always kept my Czech citizenship. I was not affected by the treaty signed in 1928 between Czechoslovakia and the United States that said that a citizen of either country ultimately loses his original citizenship if he became a citizen of the other country.

My own family's attempts to recover confiscated property show the discriminatory impact of this citizenship requirement. Before World War II, my father bought an apartment house in Prague that the Communists later nationalized. My father's four children inherited the house. Two of the children never left the Czech Republic. I went to Canada, and the heirs of my sister came to the United States.

Under the restitution laws, we got back three-quarters of this apartment house. The fourth quarter, which belongs to my two nephews who are U.S. citizens, is still held by the state, and they cannot get it.

There is another big hurdle for restitution for all claimants. One has to prove that the so-called current owner enjoyed some sort of favoritism. The properties, mainly family homes, have been acquired almost exclusively by the members of the Communist Party. It is almost impossible for the plaintiff to prove after several decades that the defendant acquired the property for an unfair price or under special treatment, which they did.

Today the government claims that acquisition of confiscated properties has been done in good faith and that a democratic government defending property rights cannot return properties to their original owners without thereby committing more injustices.

The seized properties were never acquired in good faith. Properties left by the Jews who perished in camps or properties abandoned by people who were jailed, executed, or chased out of the country by the Communist regime were acquired by Communists as their loot. Everybody knew that these properties are still stained by tears and blood of the victims.

It is important to know that some properties, mainly the Jewish ones, have been confiscated twice, the first time during the war, and although after 1945 there were provisions enacted for their return to their original owners or their heirs, the Communist coup prevented this, and the properties have been confiscated again.

I would like to mention the state of the justice system in the Czech Republic. Most judges have been educated in Marxist-Leninism and acquired their law degrees during the Communist era. It is often difficult for them to render a verdict that is favorable to a stranger from overseas and unfavorable to a local influential citizen.

We believe that the courts are politically influenced. No case is known in which a private home acquired by a Communist was ever returned.

Rightful owners should receive physical restitution of property in most cases and monetary settlement just in exceptional cases. The decision about our property should be ours. We may want those properties for ourselves, for our relatives, or for sale. We want to avoid the bickering over prices, and payments to which monetary compensation can lead.

Above all, we want to convince the Czech people that there can never be any plundering of property and exploiting of misery of neighbors again.

I will conclude by asking you, Mr. Chairman, and, indeed, the Congress of the United States, to use your influence in world affairs to help correct the injustices done during the totalitarian era in order to educate the people of the affected countries and to restore in their minds the feeling that justice still prevails in this world.

Otherwise it will be very difficult, if not impossible to build a properly functioning economic and justice system in the Czech Republic or any of the countries that we have discussed at this hearing.

Thank you.

Mr. SMITH. Mr. Sammer, thank you for your fine and very comprehensive testimony, and you think it is an honor to be here. It is an honor to have you and your fellow witnesses who have done so much for those who have had their property stolen and on behalf of other human rights. So we are privileged to have you here. Thank you for being here.

Mr. SAMMER. Thank you.

Mr. SMITH. Mr. Sliupas.

TESTIMONY OF VYTAUTAS SLIUPAS, LITHUANIAN "CLASS ACTION COMPLAINT GROUP"

Mr. SLIUPAS. Mr. Chairman, listening to Mr. Sammer's testimony, if we just delete the words "Czech Republic" and substitute with "Lithuania," it is identical almost.

Mr. Chairman, since my testimony has been copied and distributed, I will abbreviate it a little bit, skipping the less important points so there is more time for questions.

Mr. Chairman, Mr. Forbes, thank you for giving me this opportunity to testify in front of this distinguished group. I appreciate your making my full statement a part of the record.

I was born in Lithuania in 1930. I came to the United States in 1947 as a Displaced Person and became an American citizen.

After a career as a professional engineer and manager, I am now retired, and I reside in Burlingame, California.

For the past 8 years, I have been actively seeking the return of expropriated property in Lithuania. My efforts have been widely publicized in the Lithuanian and Lithuanian American press, and as a result I have been contacted by more than 80 people, Americans, Canadians, Australians, Lithuanians, and Jews, who asked me to help them with their restitution claims also.

Therefore, today, as I testify before you, I have the backing of many persons who have encountered severe problems in recovering their rightful properties in Lithuania.

In 1940, the Soviet Union forcibly annexed Lithuania, Latvia, and Estonia. This act was never recognized by the United States. All private properties then were "nationalized."

Then in 1941, Germans came, but did not return these properties. When the Red Army reoccupied Lithuania in 1944, many thousands of Lithuanians fled to the West and later emigrated to the United States, Great Britain, Canada, Australia, and South America. This situation existed until the collapse of the Soviet Empire in 1990/91.

In 1990, Lithuania regained its independence from the Soviet Union. A year later, Lithuanian parliament adopted a law that provided Lithuanian citizens whose properties had been confiscated with an opportunity to reclaim their properties.

Ever since Lithuanian Americans have been trying to regain their properties or their rightfully inherited properties that were "nationalized." My better word for that would have been "confiscated" or "stolen" by the Soviets.

We were optimistic because having grown up in America, in the land of freedom, we assumed that the same respects for personal properties would be rapidly reestablished in Lithuania. We have been sorely disappointed.

Instead of regaining properties, we have been subject to abuses, discriminations, insults, double talk, broken promises, and outright lies by the Lithuanian Government officials at all levels. Sorry to say, but the ingrained "homus sovieticus" mentality, which is the mentality of the Soviet man, still exists in Lithuania today.

For more than 8 years I have tried to regain my father's property in Palanga to establish a memorial dedicated to my father. My father came to the United States before the turn of the century. He became American citizen and was very active in the Lithuanian American affairs. In America, he was known as the "Champion for Lithuania's Independence."

After World War I, he returned to the newly independent Lithuania, participated in its politics and in the academic life, and even served as the first mayor of Palanga.

Since 1989, I tried every which way I could think of to regain my father's property, which by his written testament was left to me. Every year I visited Lithuania, submitted all of the required documentation, followed all of the required steps outlined in the ever changing laws, opened and closed every bureaucratic door. I hired a lawyer, but made very little progress.

Finally, in 1993, the Minister of Culture wrote me an official letter in which he agreed to return the house. Unfortunately, he was soon transferred to another ministry, and his successors reneged on his promise. Since then I have encountered nothing but a "stonewall of bureaucratic resistance."

The problem is that in Palanga, the Ministry of Culture nominally uses my house as a museum to my father, but this is only a front. In reality, the Ministry of Culture has converted my property into their summer vacation home for the key employees of the ministry.

They have remodeled 15 rooms for their use as a vacation facility. They even rent them out to visiting Americans and Lithuanians. This is in violation of existing Lithuanian laws, but the ministry officials do not care. They act as if they are above the law.

I petitioned all of the past ministers, Prime Ministers, the Ministers of Culture under whose jurisdiction my stolen property is administered. I appealed to the leaders of the parliament, even to the Lithuanian presidents, in person and in writing, but did not get any help from even one of them.

The Helsinki Commission wrote several letters to the Government of Lithuania on this and on other similar cases. Even the U.S. Congress passed a resolution last year, Resolution 562, for which I thank you, Mr. Chairman.

But the Lithuanian *nomenclatura* paid no attention.

The latest situation in Lithuania, I would like to skip this for the interest of time because it is all written in there, but the conclusion for that is, in conclusion, overseas residents are not being properly or justly treated. Even the latest Lithuanian laws for restituting justly claimed properties do not comply with the basic standards found in the West, and they violate the United Nations' universal declaration of human rights.

Now, my last section is recommendations and suggestions for you as government assistants. Since a new property grabbed by the government of independent Lithuania were cured after the Soviet system collapsed and the newly and illegally confiscated—they call it “privatized”—properties rightfully belong to many U.S. citizens, we believe this matter requires a closer scrutiny by the U.S. Government.

We are also somewhat puzzled by the State Department's reluctance to get involved on behalf of U.S. citizens seeking to recover their properties in Lithuania.

The U.S. Government provides generous aid to many countries, including Lithuania. We wish this aid to continue with the hope that Lithuania will achieve a true democracy and a viable economy.

However, as American taxpayers, we feel cheated when we see our tax dollars flowing to a government that, because of our American citizenship and other excuses, refuses to return properties that were unjustly taken from us or from our parents.

In the 105th Congress, the House of Representatives passed Resolution 562 regarding properties wrongfully appropriated by formerly totalitarian governments. While the support of the Congress is greatly appreciated and while the resolution made a few headlines in the Lithuanian newspapers, unfortunately it did not impress the Lithuanian Government.

It is clear that actions rather than words should now be in order. If the Lithuanian Government refuses to abide by the moral and legal obligations spelled out in the United Nations' universal declaration of human rights, then one logical solution could be to deduct appropriate amounts of funds from the U.S. aid of all types going to Lithuania properly to compensate U.S. citizens whose property was grabbed by the post-Soviet era Lithuanian Government.

And this compensation should be paid now, not in 10 or 20 years, and should be based upon the current market values, not upon some fictitiously low values decided upon by the local government officials who may be open to corrupt practices.

This would be but one option. It unfortunately would not help many others who are not U.S. citizens, nor those still living in exile in Siberia because they have no place to return to in their native land, nor even those thousands of Lithuanians in their own country who are mistreated by the unscrupulous officials and the old Soviet-styled laws.

Lithuanian parliament should be induced to change these laws without delay, to become compatible with those in the West. The inefficient and corrupt court system should be drastically changed so that people in Lithuania could be assured of speedy, fair, and just treatment under the laws that apply equally to all.

Finally, the Lithuanian Government must enforce such laws timely and vigorously and not wait for years and years until there may no longer be any rightful owners left to benefit from them.

Only then can Lithuania hope to be admitted as an equal in the Western organizations.

Thank you, Mr. Chairman. To my verbal testimony here, I would like just to add a few more pages of written testimony.

Mr. SMITH. Without objection, your full statement, including the additional pages, will be made a part of the record, and that goes for all of our witnesses.

Thank you for your fine testimony.

Commissioner Forbes has to get back to a hearing. Many appropriations committees are meeting this week, and unfortunately many other committees of Congress as well. I am missing one elsewhere in the building right now, and again, that is why people are coming in and out. I think you understand. Nevertheless, it does not in any way dilute or diminish the real concern that all of us have about this.

There's a really good understanding on the part, I think, of both sides of the aisle of this issue. We will stay at it, and we have a very dedicated staff, as you know.

Mr. Forbes.

Mr. FORBES. Thank you very much, Mr. Chairman.

And I do appreciate all of you being here today. I am frustrated because I have to be in five places at the same time this late morning, and I apologize because it is no measure of the concern I have for this issue.

I think there are many, many Americans, naturalized Americans, who share the frustrations that you have had in having your family's property returned.

One of the questions I have, if I might, I know that the reference has been that the physical restitution of the property, rather than monetary restitution, is the preferred solution, and I guess initially I would certainly understand an emotional tie to stolen family property and the like.

If you would, what would you or members of your organizations do with the properties if you were able to receive actual restitution?

Mr. SLIUPAS. May I answer?

Mr. SMITH. Please, if you would, yes.

Mr. SLIUPAS. One reason we are reluctant to accept monetary restitutions is because it is a fictitious value. It is not the market value. They decide how much you would get, and they say that, for example, for land you can be paid by the year 2006, for properties by the year 2010. Well, we are not going to be around here then most likely.

If I got my property back, I have plans in Lithuania because my father was a well-known man in Lithuania, and I want to establish a memorial for him. Right now there is a fictitious museum in there.

I have a lot of information here. Establish a museum there. Within the property there are other rooms in there. I would like to establish, for example, a read room in English literature. I have many books. I have about 4,000 books there. I want to transfer.

I want to give another room to organization of the former deportees to Siberia. They have no place to meet.

Another room, I want to give it to the Boy Scouts.

And the main part of the building, I want to make it into a cultural center where people would meet, recite, piano recitals, speeches, and so on. In other words, I want to make it a cultural center, not a vacation spot for the ministry.

Mr. FORBES. If one of you gentlemen might comment on the European Union and what they have said officially or unofficially about restitution.

Yes.

Mr. SAMMER. We would like to know actually more about the European Union and their attitude. We know that there was a resolution by the European parliament in 1995, which was very forthcoming, but I also know that no claims have been—whichever have been forwarded to the court in Strasburg, everything has been returned, and there is a Czech lady at the court who is signing all of the refusing letters. Her name is Hubalkova (phonetic). We do not know who she is. I think it is at her whim whether she passes on the claim or whether she refuses it.

Nothing has been decided ever at the Strasburg court, and nothing has been accepted. This is our big question.

Mr. FORBES. Mr. Chairman, I have additional questions, and I do apologize for having to leave, but I would like to be able to submit them for the record.

Mr. SMITH. Absolutely. Thank you, Mr. Forbes.

Mr. FORBES. Thank you.

Mr. SMITH. Bishop Botean, let me ask you. Secretary Eizenstat, whom you heard testify earlier, suggested that even when the Federal authorities, even when the president or prime minister of an offending country says something or his parliament does something substantive, that very often at the local level there is a reluctance to play ball and to comply and to make full restitution.

You've pointed out that in the agreement that has been hatched, the Federal fix seems to be evaporating and the full burden is being placed on the local level. It seems to me that the barrier now to an honest adjudication of this issue has been set back significantly because the local level is where very often the problems are the most acute.

How would you respond to that?

Bishop BOTEAN. Mr. Smith, I think your analysis, as well as Mr. Eizenstat's, is correct. It seems the whole point of the agreement was to render any further discussion of the issues nugatory because it is precisely the local level where the problems are.

I don't know that the agreement that was signed to, which is Phase 2 of the three-phase meeting process of some kind, has given away the farm completely. I think that remains to be seen. Much of it, especially the first meeting, was geared toward agreeing on some common principles. There was not much of that, but what there was was at least a willingness to talk.

The second phase was a renunciation of the claims at that sort of national level, although it was not a matter of renouncing the claims per se, the properties per se. It was a matter of renouncing a certain modus operandi as far as getting back these properties.

And so I presume that every effort will be expended on the local level, but I also presume that there will not be a whole lot of success because even when there is success at the level of the adjudicature, for instance, as it was with the cathedral in Cluj, people show up anyway and fights happen.

And we had the incredible irony of one of our bishops who passed away recently having to give permission to the occupying Orthodox community who wanted to paint the inside of the cathedral in Oradea because the city said, "Well, it is a Greek-Catholic Church. So we have to go to Bishop Hossu for permission to do that," and he gave the permission, but when he died, of course, they would not allow him to be buried in this cathedral, which was historically the Greek-Catholic cathedral of the city.

That's just one of the more kind of poignant examples, but it is not the only one.

Mr. SMITH. You know, Secretary Eizenstat wisely suggested that members of Congress raise the confiscated properties issues with delegations as they travel, whether it be during the Easter break or any other time, which members of the Commission do. I think it was a very good suggestion.

It seems as if we also need to be meeting with the clerics who in prior years we would be meeting with trying to get a cataloguing of human rights abuses. Now we have to start invoking "thou shalt not steal" and what are you doing to rectify an earlier theft.

Let me just ask you. The papal visit, you mentioned that the Pope may be barred from going any place else other than Bucharest; is that correct?

Bishop BOTEAN. He will not be going anywhere other than Bucharest. The program has been set.

Mr. SMITH. Did he want to? Do you know?

Bishop BOTEAN. That is certainly what has been said. It is widely presumed and, you know, reasonable sources that have appeared in the press have said that the Pope specifically wanted to go to Cluj, to see Cluj and Bacau in Moldova, and that was just not going to wash.

Mr. SMITH. Well, was that a political decision made by the government or was that a clerical, ecclesiastical decision?

Bishop BOTEAN. There were two articles that recently appeared in an expatriate newspaper called *România Liberă*. One says that it was definitely the Vatican's own request. The other one says that it was definitely not the Vatican's own request. Exactly what is behind it is unknown to me because I was not involved in the negotiations on any side.

Most of this comes from, unfortunately, a paucity of personal information, but I have been following the press rather closely on it.

Mr. SMITH. If there had been any barrier, it would be most unfortunate because I think Romania has made some very fine strides in some areas of human rights protection, particularly under President Constantinescu, whom I knew before he was elected and certainly was elated when he got elected.

It would be ironic that even during Nicolae Ceausescu Billy Graham was permitted to go to Oradea and elsewhere and I went to Oradea and went all over the country, (maybe the □*securitate* didn't like it, but we certainly did it), but the man that brings probably the greatest hope and peace, and a sense of reconciliation to society wherever he goes would be in any way precluded travel rights.

I while not getting into the negotiation between the Vatican and Bucharest, it is something I think we should be mindful of. If the Pope wanted to go somewhere else, hopefully they would permit that.

Bishop BOTEAN. The hope is that a subsequent visit will be explicitly pastoral, and that is one thing that our bishops have used, as I mentioned before, to console the Catholics in the main.

Mr. SMITH. Mr. Sliupas, you have talked about legal representation and the issue of property appraisal. In a situation like this, where you have people who have agendas in driving that price down and paying a pittance of what it truly is worth, what has been the differential when compensation has been paid in lieu of full restitution?

Mr. SLIUPAS. Well, in the first place, the houses have been privatized with a fictitious money issued, not cash, but it was some coupons given, and of course, it was the government officials that grabbed these coupons, and with these coupons they have privatized housing.

One of my 80-people complaint, that his three story building was bought or privatized for coupons which were worth about 20 U.S. dollars in the heart of the big city. The house would be valued now at at least a couple hundred thousand dollars, for \$20. So that is the problem.

And one reason is here when they determine how much they are going to pay you, you are not allowed to challenge them in court. You have no way of challenging them. You have to take it or leave it. That is one thing.

Another thing is in my particular case in here, they are playing a dishonest game with me. Last summer I received a letter from the Deputy Minister of Culture, in which he states that they are willing to return the house to me, provided, you know, they can keep my little house/garage where they have seven rooms in there.

I countered it back to them. I said, "Fine, but I agree you can stay there. You can have your vacation in there, but the property has to belong to me because according to the law you cannot separate the garage from the main building. Otherwise you are going through a completely different"—he knew this thing, but he wrote the letter to me.

Now, my lawyer from Lithuania just sent an E-mail to me recently. He said there was a cabinet meeting during which there was a discussion of this nonreturnable properties list. My property was not initially on that list, but during the meeting the Ministry of Culture tried to inject my house into that list.

Fortunately, the other ministers said, "Well, OK. Let us see. Let us coordinate, and we will do it next time."

In other words, they are not honest. In one letter they say they will return it, and when I am asleep, so to speak of, they try to pass into or put it into the list of nonreturnable properties.

And if the cabinet ministers decided to pass that one, I have no other recourse. That is not honesty.

Mr. SMITH. Just for the record, would all of you agree that it is a false remedy to talk about compensation? In the end, it does have surface appeal, but if you are ripping off the true owner by giving him or her inadequate amounts. Is that pretty much your testimony?

Mr. BEVC. If I may, for instance, they decided to pay me for my father's house and they gerrymandered the lot. It was a little over an acre in total. Out of the rest they made building lots which go at premium, but to me they will pay this, they say, as a field. In reality it would be worth \$53,000, and I am going to get \$2,000, which I would take just to get rid of it, and even that miserable decision was appealed by their compensation fund on grounds that the ordering paragraph should have two subparagraphs.

This is now going to the Ministry of Agriculture, which will sit on it indefinitely. Basically they killed it.

Mr. SAMMER. Mr. Chairman, there is a great moral issue in this, in this decision whether it should be physical or monetary because if it is monetary, the state will pay us. Why? Those people who were at the root of all this misery, they will escape every responsibility. So the next time in 10 years, it may happen again, right?

Why should the state, which is really impoverished now, pay us? Now we will be hated by many of people because they will say it is coming out of their taxes to pay Americans, Canadians, and so forth.

No, we should get the physical property, and this will be a lesson forever after.

Mr. SMITH. As for the current occupants, do they tend to be people who are the original thieves?

Mr. SAMMER. Mostly, mostly, yes, or their children, mostly.

Mr. SMITH. Mr. Sliupas, you talked about your utilizing a lawyer and you tried to go through the courts. Aren't most of the judges who would adjudicate these issues men or women trained by the communists originally and would have a jaundiced view of this whole proceeding?

Mr. SAMMER. Yes. In the part that is written, which I skipped verbally, it answers that yes. The legal system is still following the old Soviet standard. The judges are still old judges, and of course sorry to say, they are open to corrupt practices.

Mr. Chairman, before I conclude, I presume we are drawing close to an end now; I would like to on our behalf thank you for a great job that you and your Commission are doing, but especially I would like to thank your staff. Ms. Maureen Walsh, Ms. Erika Schlager, and John Finerty. These are the three people I dealt with, and they are fine people.

Mr. SMITH. They are the three most important people I deal with, too. They do an excellent job, and Dorothy Taft, our Chief of Staff. So I join you in your thanks.

Have any of you others, in your respective countries, tried to utilize the court system to no avail, finding that the judges would take the view of?

Mr. BEVC. We know of cases where the lower courts in Slovenia would invariably decide for the government, that is, against the claimant, and if you really want to have anything done, you have to go to either supreme court or to constitutional court.

For example, people whose property was confiscated by the Nazis who then later returned and the Communists confiscated their property as German, and people who then claimed that property got court decisions that nothing was confiscated from them, that this was German property, and they are not entitled to restitution of any kind.

I give some examples in the end of my testimony.

Mr. SMITH. Thank you.

Mr. Sammer?

Mr. SAMMER. There was even a statement by a judge when a lawyer approached her after an unsuccessful attempt. She said, "We have been told not to return those properties."

They have schooling, schooling for judges. We question why do judges have to be schooled, and we do not know really what is happening at those schoolings or what happened in the past. They are indoctrinating them. We are sure of that.

Mr. SMITH. Do you know—and this is something we should check as well—whether or not there is guidance issued by the justice department, or the equivalent, in these countries, as to what the judges should do in handling these cases?

Mr. SAMMER. There is.

Mr. SMITH. There is?

Mr. SAMMER. There is.

Mr. SMITH. We ought to get copies of that. We do that with our own INS. I chair the Subcommittee on International Operations and Human Rights, and we are always checking the guidance and finding occasionally that the guidance given to the INS adjudicators turns out to be contrary to what the letter and certainly the spirit of the law is.

We ought to check out the guidance as that is a place to raise the issue as well. Otherwise it is another dead end street.

Mr. BEVC. They do not release these instructions in Slovenia, but once I talked on the telephone to the case worker in my case and said, "Where do you get your instructions?"

And she said from Prime Minister [Jana] Drnovsek. So, write the person to whom American officials have made representations about restitution.

Mr. SMITH. That is very good insight.

Let me ask you, what has been the experience of members of your associations who have requested Department of State or consular help in your respective countries?

Mr. BEVC. Well, we get usually a form letter from Mr. [Ronald] Bittauer in the State Department that we have not exhausted local legal remedies and, of course, that we were not citizens at the time when the property was first disturbed, but we believe that we were. We were when we were conferred the right to the property again in 1991.

The other thing is sometimes our members call the American Embassy in Slovenia, and we have gotten then a call from the Embassy not to send these people there for assistance.

So I think it is a little bit different than saying that the embassy provides assistance and checks on local things. They would prefer not to disturb their relationship they have with the local government.

Mr. SMITH. Is that the same?

Mr. SAMMER. It is the same, and I wonder, first, whether the Helms-Burton law would somehow apply to our countries because it is the same situation.

Mr. SMITH. You have a right in our courts to pursue this?

Mr. SAMMER. The Cubans also became citizens only after. This is one thing. In the Czech Republic, there is a special case. There is a special case because those relics have been all eradicated and canceled. So it is only the new government who really made those confiscations. Legally speaking, it is the new government.

Mr. SLIUPAS. There are new confiscations now.

Mr. SMITH. Is there a definitive list—I know we have lists and everyone has lists—of who is actually living in the properties, from diplomats to government officials?

I'll never forget Jesse Helms' staff made a visit to Nicaragua several years ago and compiled a list of more than 200 of the creme de la creme of the government in Managua who lived in confiscated properties. For example, the mayor of Managua, and all these other people, and every one of them was living in a confiscated property. I wonder if that kind of list is also available in each of your respective countries, and whether or not, you know, the elite are actually living in confiscated properties.

Mr. VINATORU. I can provide that. I am from Romania. My name is Vinatoru.

Mr. SMITH. Briefly.

Mr. VINATORU. Hi. My name is Mihai Vinatoru. I am from Romania. I am the President of the Committee for Private Property, and I will provide you with the list of 100 Romanian Government officials living in confiscated houses.

And I want also to bring up or to answer a question that you put out earlier about Council of Europe procedure. Each country ratified the charter a different time. Romania signed on June 20th, 1994, and any claim we make or any Romanian citizen that makes a claim gets a standard letter almost like the State Department letter stating the confiscation took place before Romania joined the Council of Europe. So your claim does not apply.

Mr. SMITH. So this process "grandfathers" the theft.

Mr. VINATORU. Right, and I know of five Romanians that challenged the law 112 of 1995 that is after Romania joined the European court, and that challenge was also turned down because the map of it, repairing that law, was before Romania signing the law. So all of the confiscations were earlier than '95. So they refused to look at it.

Mr. SMITH. Thank you.

Mr. SLIUPAS. Mr. Chairman, may I?

Mr. SMITH. Yes.

Mr. SLIUPAS. In this document that I am submitting to you, there is an addendum of five specific cases. One case is written by Ms. Klimas who spent the whole year in Lithuania on a Fulbright Scholarship studying this problem, and her report is here, and in that report she says that when the Lithuanian Government encouraged the Lithuanians living overseas in 1991 to claim their properties, the people who sent the letters in, they made the list, who was claiming them, and those were the properties first privatized.

And who privatized them? The powers who were in power. It was according to that list. That was privatized first.

Mr. BEVC. Now, there is one concern that I have about the origin of the property which the American Embassy purchased in Yugoslavia, in Slovenia in Ljubljana. The Deputy Chief of Mission told me that they checked the records and that the house had passed into the ownership of the Yugoslav Government in 1941 or so.

I do not know how. I do not know that that government was collecting such houses, and I think it would be a bad image for the United States to purchase property that has been confiscated, if it has been confiscated.

Records, of course, are not open like here where you can go and check out the title to a property for many years back.

Mr. SMITH. In other words, lead by example.

Mr. SLIUPAS. I would not buy anything from them that they have not acquired legitimately.

Mr. SAMMER. To answer your question, Mr. Chairman, we started working on an Internet page where we would list all the properties, their addresses, the original owner, and the buyer, and what affiliation he had with the party, whether he was a member of the Communist Party, and we only started it now, but it will be available in a few weeks.

And we issued such questionnaires on the basis of which this page will be prepared in Czech and in English, hopefully.

Bishop BOTEAN. I do not know if you are planning to go back to an earlier question about experience of local courts. We had one case that became a little bit tense for a while. A church in Satu Mare, in the region of Satu Mare, a place called Ardud; the pastor who had been Orthodox became Greek-Catholic, as so many did because they came from Greek-Catholic families and what-have-you, became Greek-Catholic himself along with a majority, in fact, about 85 percent of the parishioners of this parish who were of Greek-Catholic origin.

In fact, a local newspaper published an extract from the record of title showing that the church belonged to the Greek-Catholics. It still said that, "Greek-Catholic Church."

The remaining Orthodox community and the new Greek-Catholic community had arranged a schedule of alternative services, and things seemed fine. The local bishop, of course, literally cursed everyone who participated in that, and what happened ultimately in the court was that despite the 85 percent of the parishioners wanting to become Greek-Catholic, despite the fact that they were getting along, from what I understand, with the Orthodox community that was still using the building, the president of the local court in Satu Mare wanted the priest arrested and the Greek-Catholic community forbidden to use the building. This is an order given without right of appeal at any level.

And, in fact, until his bishop, the father's bishop, Bishop Virgil Bercea, started writing the Nuncio in Bucharest, Cardinal Sodano at the Vatican, President Constantinescu and so forth, he insisted that he be arrested in place of this priest, and if not, he was going to go to Bucharest and begin a hunger strike, and it kind of took that rather dramatic state of affairs to get things settled down.

But as it happens, I have got copies of all of the correspondence and a number of articles here that I will submit, along with my testimony.

Mr. SMITH. Thank you very much.

I do want to thank our very distinguished witnesses for your testimony, and we certainly have a lot of follow-up to do. You have given us more work to do, and we—staff and members—welcome it with open arms. I do want to thank you.

We must make this more of a priority, that has come through very clearly. There are more mine fields and brick walls out there, and they seem to be getting worse rather than better, with compensation being a bogus attempt to try to rip off Americans and other people who have had their property stolen.

So we need to raise it to the highest levels. Again, we should try to hold the administration to account, trying to get the consulates and the State Department to be more energized on the issue is something we can also attempt to do.

I will again introduce a resolution, to try to at least keep the issue alive rhetorically.

You mentioned foreign aid deprivations as one approach. Our foreign aid is not very significant to some countries in question. Like Slovenia, there is not all that much that we do provide, but maybe there would be some way of linking that would be non-humanitarian assistance because I think the humanitarian funds do have to flow as unhindered as possible. We can be looking into that as well.

You've given us lots of ideas, and most importantly, or equally important, you have given us the real lay of the land, a great snapshot as of today so that we can go forward.

This will not be the last of the hearings that we have, even this year, on this issue. I do want to thank you again for your tremendous testimony, and I think all of your respective constituents should be very proud that you have given Congress this testimony. This forum will be amplified. There may be only a few members who were here today, again, because of such a busy schedule, but we will find ways of making sure that more Members are involved.

I do think Secretary Eizenstat's idea was a good one. Briefing books, maybe just five pages or three pages, that lay out succinctly and exactly what the problem is could be prepared for every government to government, parliamentarian to parliamentarian, every group meetings that we have starting with this recess that is coming up. This issue should be raised because it is often not.

As difficult and as important as the Kosovo crisis, the bombing and all of those other issues are, this issue cannot get lost in that fog. I want to thank you again for your fine testimony. We'll do what we can.

The Commission is adjourned.

(Whereupon, at 12:47 p.m., the Commission hearing was concluded.)

WRITTEN STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL, CO-CHAIRMAN

Mr Chairman, I want to thank you for scheduling this important hearing on property rights in post-Communist Europe. Since the fall of the Berlin Wall, many countries whose development was frozen while they were under Soviet domination have attempted to solve the difficult problems of property restitution and compensation left by the Nazis and the Communists.

Today's witnesses will bring us up to date on this complicated situation. There have been several significant developments since our last hearing. I want to join with the Chairman in welcoming our distinguished panels of witnesses, and in particular Undersecretary of State Stuart E. Eizenstat, whose expertise in this area is unmatched.

Many Americans are affected by this issue, either because they fled the Nazis or the Communists themselves, or because their parents did. In too many cases, people were fortunate just to get out with their lives, and left behind the work of generations. With the fall of the Wall, they hope for justice — either by recovering the stolen property, or by receiving compensation for it. In addition to private property, Nazi and Communist governments seized communal properties.

This Commission examined this issue in a 1996 hearing. Since that hearing, the House passed the Chairman's resolution, H. Res. 562, calling for the return of property to its rightful owners or fair compensation for it. The Council of Europe and the European Parliament have also called for action.

An international conference held in Washington in December 1998 addressed communal property restitution. The delegations were unable to solve individual property restitution or compensation because of domestic political issues.

There is no international requirement that countries must make property restitution or provide compensation for confiscated properties. However, if a legal process for property restitution or compensation is established, international law requires that it be nondiscriminatory and be implemented under the rule of law. Too many processes do not meet this standard.

The Helsinki Commission has received many messages from individuals with unresolved property claims. This issue matters to thousands of people who came to the United States because they faced religious, ethnic or political persecution. Over the past several decades, the United States has negotiated settlements with many governments covering American citizens' losses from nationalization of property. Many people from those countries are now American citizens but can't share in settlements between the United States and their former countries because they were not American citizens when their property was taken. These claimants must seek redress in their former countries.

The problem with this requirement is that many governments have taken timid and discriminatory steps toward resolving the property restitution and compensation issue. In fact, former citizens of these countries who became American citizens after the Nazis or the Communists drove them out are victims of this lack of political will.

Property restitution and compensation are not, however, favors these newly free countries do for those who fled for their lives. They are essential steps forward in their own economic and political development. Set-

... tling ownership of stolen property and compensating the victims is a big step toward solving past political disputes that have been buried, in some cases, for half a century.

Successfully responding to property claims means establishing the rule of law in these societies. It means making justice a real principle to which the political leadership is devoted and for which they are willing to make sacrifices. Settlement of these claims is also necessary to enhance foreign investors' confidence that property they rehabilitate or build from scratch will be treated fairly and legally. This is a key part of a successful transition to a market economy.

I look forward to hearing the testimony of our distinguished witnesses on how well these countries are doing.

Thank you, Mr. Chairman.

**WRITTEN TESTIMONY OF UNDER SECRETARY OF STATE
STUART E. EIZENSTAT**

Mr. Chairman, and members of the Commission:

Thank you for the opportunity to testify on the process of restitution of property that was wrongfully seized by fascist and communist regimes in central and eastern Europe. This process has been important to me both personally and officially since 1995, when I was named U.S. Special Envoy on Property Restitution in Central and Eastern Europe, in addition to my duties as Ambassador to the European Union. I have continued with that responsibility as Under Secretary in the Department of Commerce and now at State.

Property restitution is part of Europe's unfinished business. It is part of the job of repairing the damage from two of the 20th century's greatest European disasters. The Holocaust devastated the lives, families and institutions of European Jewry, and the Nazis and their fascist allies destroyed or stole vast amounts of Jewish property. After World War II, the Soviet Army's occupation of eastern and central Europe, followed by the installation of communist regimes, led to massive seizures of both private property and property owned by religious and other community organizations.

Since the fall of communism, nearly every country in eastern and central Europe has begun returning religious community property. Some have restituted a large part of both communal and private property. Some have done very little. The process, as well as the progress, in each country is different, reflecting major differences in their histories and current politics. Most of these countries have democratic parliaments, and they carry out restitution through their own laws and procedures and in accordance with their own particular circumstances. So it is unrealistic to expect them all to follow a single solution.

Nevertheless, the basic principle that wrongfully expropriated property should be restituted (or compensation paid) applies to them all, and their implementation of this principle is a measure of the extent to which they have successfully adopted democratic institutions, the rule of law with respect to property rights, and market economy practices. As these governments seek to join western economic and political organizations, and to integrate their economies more closely with ours, we do expect them to adopt the highest international standards in their treatment of property. Indeed, in 1995 the European Parliament called on central and eastern European countries, including many candidates for membership in the European Union, to adhere to such standards. Adopting such standards would also help these countries attract foreign investors, who want to be assured there is a transparent, fair and just private property system in place.

Mr. Chairman, I propose first to examine first what the U.S. Government is doing in this area, including the results of the Washington Conference on Holocaust-era Assets, and then give you a country-by-country status report on real property restitution in the region.

WHAT THE U.S. GOVERNMENT IS DOING

The fact that there have been so many changes in territories, minority populations, political systems and legal frameworks in Europe in the 20th Century means that we cannot have a simple, one-size-fits-all policy. It means that our restitution policies must fit the historical con-

text of each country, must take into account the highest local standards of justice, and ideally should contribute to the overall development of democratic and market economy values in each country.

We approach this both bilaterally and multilaterally. In our bilateral efforts, we routinely raise property restitution issues with official visitors of all levels from the countries of the region. Over the years I have been involved in these issues, I have visited some dozen countries in central and eastern Europe, many several times. Last summer I visited Lithuania and Poland, and since then I have visited Ukraine and Bulgaria, and addressed property restitution each time. Ambassador Henry Clarke, my Senior Advisor for Property Restitution, has visited Moldova, Romania, Poland, Lithuania, Bulgaria, Slovakia and the Czech Republic during this period. We have devoted considerable effort to gathering current information on restitution, and our main purpose has been to advocate further steps in private and communal property restitution that appear appropriate for each country.

The State Department and U.S. Embassies in the region focus on both communal and private property restitution. We are especially sensitive to discrimination against American citizens' claims, even when we cannot espouse an individual claim or take a position on its merits. We do this by vigorously advocating fair and expeditious treatment for all such claims as a group—as, for example, our Ambassador in Slovenia did with the Justice Minister just 2 days ago. Even though we cannot provide legal advice to a claimant, Embassies and Consulates can and do provide information about the local laws, judicial system, and claim procedures. They maintain a list of local lawyers, and often explain which officials or agencies may be of assistance as American citizens attempt to resolve their claims.

We organized the Washington Conference on Holocaust-era Assets, in early December 1998, with 44 countries and 13 non-governmental organizations to discuss a variety of issues from art and insurance to communal property. The Conference included both a plenary and a working group session on communal property restitution. This was the U.S. Government's first attempt to take a multilateral approach to this subject. It was also the first international conference among governments, with non-governmental organizations participating, on real property restitution. We did not expect to reach a consensus, but we did want to generate an exchange of ideas that would promote the restitution process. Our overall goal of communal property restitution—justice for those communities persecuted by the fascist or communist regimes, or both—was not challenged. And for good reason: almost every country in the region has returned at least some communal property to its original owners, out of a sense of justice, and out of recognition of the importance of revitalizing religious groups in a more tolerant and pluralistic age.

In my remarks on communal property to the Washington Conference, I outlined a series of principles and "best practices" appropriate for restitution of communal property seized originally by the Nazis or their fascist allies, generally from Jewish communities, or later expropriated by communist regimes without compensation. While not all of these practices have been adopted in all countries, they give us a broadly applicable set of concepts which countries should consider.

Since this hearing is addressing restitution of both communal and private property, there is a longer list of principles and best practices we would like to see adopted.

- We encourage governments to establish equitable, transparent and non-discriminatory procedures to evaluate specific claims. In most countries this requires national legislation.
- Access to archival records needed for the process should be facilitated by the government whenever necessary. Where archives have been destroyed, reasonable alternative forms of evidence should be permitted.
- National governments should take the necessary steps to ensure that their restitution policies are implemented at regional and municipal levels of government, which often control the bulk of the property. We recognize that this may involve constitutional problems, but fairness demands some uniformity of policy and administrative practice.
- Owners or their heirs should be eligible to claim personal property on a non-discriminatory basis, without citizenship or residence requirements.
- Legal procedures should be clear and simple.
- Governments at all levels should respect and implement the decisions of courts when these are final. (In some countries, government agencies continue to occupy properties for years after they have been awarded to the original owner, without making any plans to move.)
- Restitution claims should be honored before privatization takes place. Governments should be very cautious about privatizing property, confiscated by the Nazis or Communists, whose ownership is in dispute. If this is not done, original owners should have a right to fair compensation.
- Governments should make provisions for the present occupants of restituted property. In most cases, those using the property now had no hand in the expropriation. If no compensation or alternative accommodations are found for the occupants, the restitution tends to be delayed, sometimes indefinitely.
- Restitution of property should result in a clear title to the property, generally including the right of resale, not simply the right to use property, which could be revoked at a later time.
- Generally, communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Too many countries restrict restitution to only narrowly defined religious properties, excluding the return of parochial schools, community centers, and other communally owned facilities. We recognize that governments may need to set some limits on the classes of property to meet other standards of equity (for example, large agricultural or forest land holdings).
- Where local religious communities are very small, as is often the case with Jewish communities, we encourage the establishment of foundations, managed jointly by local Jewish communities and international Jewish groups, to aid in the preparation of claims and to administer restituted property. Such foundations enable international groups to share the burdens, and potentially some of the benefits, of the restituted property.

- Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process.

This is admittedly a long list, and perhaps no country has fulfilled every principle perfectly. But it is not a theoretical list either: every one of these “best practices” has been adopted somewhere as an important feature of the restitution process. Taken together, they clearly illustrate that property restitution is an integral part of the economic and political reform now underway in central and eastern Europe. It reflects, and contributes to, the development of democratic and pluralistic institutions. By establishing new legal protections for private and other non-state ownership, property restitution helps establish a sound basis for a market economy.

We recognize that the basic legal processes involved in restitution take time, some claims can be very complex, and where there are serious disputes it takes even longer to resolve them. It is safe to assume that any restitution case involving valuable property is likely to be complicated. Jewish property may have been confiscated twice. Documentation may be lost. There are probably rival claimants. There may be different options possible for restitution, compensation, privatization or retaining state control. Each country will insist on working through these complexities within its own legal framework and political context.

Nevertheless, we feel strongly that these principles should be adopted now. Moreover, countries that have embarked on this difficult task should not allow the process to languish, but should press on to bring it to an honorable conclusion. Justice will not become easier as time passes; we have already seen too often that justice delayed can be justice denied.

I am pleased to say that multilateral attention to the process of property restitution in Europe was not a one-shot event. The Polish Government is planning to host an international conference on communal property restitution in November of this year. We know from our own experience that holding a conference on such a complex and potentially controversial topic is not easy, and we commend the Polish Government for undertaking this task and making this contribution to the future of Europe.

While the United States is fortunate not to have suffered the massive expropriations of central and eastern Europe, we also have a role to play in determining what happened to moveable assets seized by Nazis, some of which came under our control. Just last week I attended the initial meeting of the Presidential Advisory Commission on Holocaust Assets in the United States, chaired by Edgar Bronfman. It has two tasks: to conduct original research on the collection and disposition of Holocaust era assets that came under the control of the U.S. Government after 1933, and to review research being conducted more broadly in the public and private sectors. We find that the Commission will not be able to conclude its work by the end of 1999, and therefore will be asking Congress to extend its mandate to the end of the year 2000.

RECENT DEVELOPMENTS IN CENTRAL EUROPE

Bulgaria, which I visited in early February, has returned substantial amounts of communal and private property since the early 1990's, although the administrative processes have been difficult and efforts of the courts to resolve complex cases have sometimes taken years. Many important properties remain in dispute, notably those belonging to the

Jewish community and the Catholic and Orthodox Churches. For example, in 1996 I testified before this Commission that the Bulgarian Supreme Court had upheld a finding that 49 percent of the Rila Hotel should be returned to the Jewish community. This has not happened. Subsequent changes in Bulgarian legislation, including a new law on privatization adopted at the request of the IMF, and challenges to the original court decision have further delayed settlement of this issue. We are continuing to pursue this issue aggressively.

Agricultural land redistribution from collective farms to former owners is still underway, following changes in the law to permit the former owners to reclaim their original land rather than shares allocated by the farm directors. Forest and farmland can only be returned to Bulgarian citizens; non-Bulgarian citizens can (and do) receive other property, but if they are not permanent residents they must dispose of the property.

The 1997 "Luchnikov" law established a broad, nondiscriminatory procedure to compensate former owners for property which could not be returned (for example, because buildings had been destroyed or rebuilt after the expropriation). The period for claims under this new procedure ended in November 1998, overwhelming district governments with applications. As a result, the deadline for appeals in cases where the authorities fail to reply has been extended to the end of 1999.

Croatia's Law on Compensation for Property Taken During Yugoslav Communist Rule permits only people who were Croatian citizens when the law was passed (January 1, 1997) to receive restitution or compensation. The Department has objected to this discriminatory legislation at the highest levels of the Croatian government, and during the fall of 1998 we attempted to negotiate a solution to ensure that U.S. citizens could apply. In my letter to Foreign Minister Granic, I pointed out that the continued inability of U.S. citizens to receive equal treatment risks discouraging U.S. investment. Unfortunately, American citizens remain unable to file claims under this law. We will continue to work on resolving this inequity.

The Czech Republic probably has had the sharpest internal conflicts over Catholic Church property restitution of any country in the region. 175 monasteries and other properties were returned to Catholic orders under laws passed in 1990 and 1991, but the current government is generally opposed to Catholic property restitution. In February 1999 a national commission was formed to address church-state relations, including property restitution, for all faiths, but the churches and the government disagreed sharply over its composition even before it could meet.

Most Jewish communal property in the hands of the Czech national government and the city of Prague has been returned, amounting to about one-third of the community's priority list of 205 properties they want restituted. Most of the remaining two-thirds, which have not been restituted or compensated, are Jewish communal properties held by other local authorities or turned over to third parties. These properties were not covered by the 1994 Federal decree which returned property held by the National government, because only a new law would have the power to require local authorities to reconstitute the property.

A separate national commission has been formed, to examine property restitution issues arising from the Holocaust, including both individual and community real property and other assets held by victims of

the Nazis. Restitution in this context seems to enjoy greater government support and we are hopeful that this commission will create a breakthrough in restituting Jewish assets.

In February the government opposed a bill in Parliament which would have removed the citizenship requirement for private property claims, but it also introduced legislation to permit dual citizenship for Czech Americans. We will continue to press the Czech government to permit American citizens to claim their former property.

When Estonia became independent, the government returned confiscated property belonging to Christian denominations, but the small pre-war Jewish community had rented most of its communal facilities. One parcel of land was restituted, and the government assisted the Jewish community to acquire the building on that property. Estonian private property owners have been able to reclaim their property if they filed before the deadline, irrespective of present citizenship.

Hungary was an early leader in passing and implementing legislation for private and communal property restitution and compensation. Several thousand religious community property claims have been resolved through negotiation or by government decisions, and about \$100 million has been paid in compensation. 818 properties remain under negotiation between the government and the Catholic Church. In October 1998 the Jewish community waived claims to about 150 properties in exchange for annual support payments from the government (which other religious organizations also receive); the Jewish community has actually received four or five buildings in restitution and is negotiating for another 10 to 15.

Private property has been restituted under a 1992 law, amended in 1997, which has no citizenship or residency requirement. Hungarian Holocaust victims even receive a modest monthly pension from a foundation that receives government compensation for heirless private Jewish property.

Recently the relationship between the Jewish Community and the Hungarian government has seriously deteriorated, as result of a law providing about \$136 to the heirs of those who died in the Holocaust. This very small figure compares to about \$4500 paid to heirs of those convicted and executed for political crimes. Jewish organizations have asked Jewish beneficiaries to reject the compensation, and about 1000 of the 67,000 checks sent to Jews in Hungary and other countries have been returned.

Latvian law provides for the restitution of confiscated property to former owners or their heirs. The law does not discriminate on the basis of citizenship or residency. If the original property cannot be returned, local authorities offer another property or compensation in the form of vouchers. Most communal property cases, Jewish and Christian, have already been adjudicated and property rights restored, although a few long-standing cases are still being negotiated. Private properties now occupied by economically productive facilities have been particularly difficult to resolve. Claimants are frequently reluctant to accept alternative properties when their value is difficult to establish.

Lithuania has restituted both private and religious property, but the government has not always turned over buildings awarded to religious communities by the courts. For example, during my visit last summer the Jewish community gave me a list of nine properties which courts had awarded to them which were still occupied by government agen-

cies. The Catholic community has been more successful in having property returned to it than the Jewish community, which is badly splintered. As in other countries, the Jewish community cannot afford to repair or maintain all of the religious property they have received, which includes 26 synagogues.

Until now, the definition of religious property has excluded communal property for secular use. I was very pleased to learn, just last week, that the government has sent a draft law to parliament, which would greatly expand the kinds of communal property that could be restituted. It would include social facilities, schools and sports clubs, and would be applicable to all ethnic and religious groups in Lithuania. We have long urged such a broader definition of communal property and very much hope it will receive prompt approval by the parliament.

The Lithuanian government is considering the establishment of a special foundation, which would receive property and funds for use of the Jewish community, and to provide protection for cultural monuments.

Lithuanian law provided for the restitution of private property only to Lithuanian citizens, and the deadline for filing claims has passed. A requirement for permanent residence was dropped. Some Lithuanian-Americans were able to reclaim their former citizenship, a number of successful claims were made in Lithuanian courts, and others are pending. Statistics on the overall number of properties returned are not available.

Poland has established four separate commissions to process claims of the Catholic, Lutheran and Orthodox Churches, and the Jewish community. About 1800 Catholic properties have been returned or compensated, and another 800 are still under consideration. Thousands of Jewish communal properties served Poland's 3.5 million Jews before the Holocaust, but tragically only a few thousand Jews remain in Poland.

Negotiations have been underway for at least a year between the World Jewish Restitution Organization (WJRO) and the Union of Jewish Congregations in Poland to form a foundation to assist with the reclaiming and managing of these properties. Despite agreement on many points, those negotiations have not yet concluded successfully. So far, the Jewish community has applied for about 250 properties. As time passes without outside help, it is becoming less likely that all of the Jewish communal property can be reclaimed before the deadline in 2002. When I was in Warsaw last summer, I urged both sides to find acceptable compromises and conclude the agreement, and have discussed this several times with officials of the WJRO since then.

The Polish government has been preparing draft legislation for the restitution or compensation for private property, or "reprivatization," but the draft has not yet been presented to parliament. We have been assured on several occasions that it will permit Polish-Americans to file claims for property they or their families owned.

Romania's Parliament has debated new legislation for property restitution in recent months, and it remains a major domestic political issue. Private property claims face a chaotic legal situation in the courts. The government has found it difficult to return limited amounts of communal property to religious and ethnic communities by decree, because partial solutions raise questions of fairness. The Greek Catholic or Uniate Church, which was banned by the communist government, has large and serious claims against both the government and the Romanian

Orthodox Church. Romania badly needs comprehensive, nondiscriminatory laws and procedures for restitution of private and community-owned buildings and urban property.

Restitution of farmland has advanced the most: it has reversed collectivization and amounts to a major agricultural reform. On February 25, the Romanian Senate passed a draft law for privatization and/or restitution of state-owned farmland, not including forests, which awaits action by the lower house of parliament. This measure, like earlier measures dealing with collective farms, would entitle former owners to receive up to 50 hectares.

Slovakia has made progress in returning communal property to Jewish and Christian organizations, including about 60 percent of Catholic claims. State organizations have not always vacated the buildings that were legally restituted, and many claims remain in dispute before the courts. Property built upon by the state is not restituted, and no mechanism for compensation is available for the original owners, at least so far.

The Jewish community opened a new home for the elderly in November 1998, in a large building in downtown Bratislava that had been restituted and then reconstructed. The reconstruction was financed in part with compensation by the Czech and Slovak governments for gold taken from Slovak Jews in 1940. The gold had been melted down by the Nazis, captured by the Allies at the end of World War II, held by the Tripartite Gold Commission, and returned to Czechoslovakia at the end of the cold war. The nursing home was also financed in part with a grant from the Conference on Jewish Material Claims. But many Jewish properties are in poor condition and beyond the means of the community to restore.

Slovak citizenship is a requirement for private property claims, but we believe Slovak-Americans were generally able to reclaim their citizenship and their property within the deadline.

Restitution of property seized by Yugoslavia's communist government remains one of the most divisive issues in Slovenia. In July 1998, under pressure to reduce a backlog of problematic cases, the parliament amended the 1991 denationalization law. However, some of these amendments appeared designed to protect vested interests. In October 1998, the constitutional court annulled several of them, including one which would have barred the Catholic Church from benefiting from restitution of "feudal" property. The court also struck down differential treatment of Slovenes versus non-Slovenes, for those who were Yugoslav citizens at the time of expropriation, and it permitted those who lost Yugoslav citizenship in the wake of World War II to benefit from the law. Yet the restitution process remains stalled. We look to Slovenia to demonstrate its commitment to the rule of law and to private property rights with concrete progress on restitution.

COUNTRIES WHICH WERE PART OF THE FORMER SOVIET UNION

Unlike the countries occupied by the Soviet Army during and after World War II, much of the expropriation of property in Russia, Ukraine and Belarus took place in the early years following the Russian Revolution, including the 1920's and early '30's. The rationale was much the same—Marxism-Leninism, repression of religious activity, and centralizing control—but in these countries there is little political pressure for

reversing the expropriations. People may view the expropriations as unjust, but they are not viewed as imposed by a foreign power, and they are no longer part of the living memory of most of the population.

None of these countries has addressed private property seized in the Russian Revolution. While there may be cases in which a court or administrative procedure has awarded the return of a home or other personal property, in general there are no laws or broadly applicable procedures for restituting private property seized so long ago.

Of course this does not mean that the taking of this property was legitimate—quite the contrary. In 1933, the Soviet Union agreed to provide to the U.S. partial compensation for property seized from U.S. citizens up to that time. Shortly before the collapse of the Soviet Union, we were negotiating with it over the remainder of the compensation. Our claims to amounts still owed by the Soviet Union's successor states remain outstanding.

In the cases of Russian Revolution expropriations other than those where the U.S. has espoused claims, we would welcome restitution or compensation where this is possible, and where it would not cause some new injustice. But the passage of time necessitates that there will unfortunately be historical limits to real property restitution.

Nevertheless, the post-communist revival of religion in the region has brought about the return of substantial numbers of churches, synagogues, cemeteries and other religious community properties.

Belarus has returned substantial amounts of Christian communal property even without a specific law on restitution, although few statistics are available. The largest church, the Russian Orthodox, has apparently not had significant difficulty obtaining restitution. The Catholic Church has also not had a major problem receiving almost all its former cathedrals; it controls some 280 buildings altogether. Only the Belarusian Ministry of Culture has been slow in returning concert halls and libraries. The sharply reduced Jewish population of some 100,000 has not done so well. While it is not clear whether the Jewish community has received five properties or 14, clearly it has received far less than the 100 properties it has claimed.

In Russia, hundreds of buildings controlled by the Federal Government have been returned to religious communities under a Presidential Order of April 23, 1993. Estimates of properties returned at the regional or municipal level range up to several thousand. The large majority have gone to the Russian Orthodox Church, reflecting the relative strength of that religion prior to 1917, when it was not easy for other religions to erect buildings, and its relative negotiating influence in recent years. Synagogues and some other Jewish community properties have also been gradually returned, with cooperation in some regions and disputes in others.

Ukraine has returned some places of worship to all of the major religions, except the Lutheran Church, but all religious communities have encountered problems in reacquiring valuable churches or synagogues that are being used for other purposes, such as concert halls. Returned buildings are generally for the exclusive use of the religious community rather than for ownership, which has seldom been transferred. Last July, President Kuchma issued a Presidential decree protecting all cemeteries from misuse or privatization.

Ukraine as yet has no legislation to permit the restitution of secular property that belonged to religious groups, such as schools, community centers or other facilities. However, there is a draft law before Parliament, which would significantly broaden the categories of property owned by religious communities that could be restituted. On February 22, President Kuchma responded to appeals from virtually all religious groups by instructing the State Property Fund to take measures to ban the privatization of property formerly owned by religious communities, which they feared would preclude its eventual restitution.

Moldova, most of which was not part of the USSR between the two World Wars, has no general statute on restitution, but a mixture of laws, decrees, judicial decisions and local practices. One law for rehabilitation of politically repressed or exiled persons includes restitution of confiscated property, and this law has been extended to religious communities as well as individuals. It does not have citizenship or residency requirements.

Moldova has returned practically all of the properties of the Moldovan Orthodox Church, mainly through administrative means. The small Jewish community has received property in Chisinau for its current needs, but this amounts to only a tiny fraction of its property before the Holocaust. There are synagogues in Chisinau and six other towns.

The Moldovan government does not consider claims of former owners when distributing agricultural land through its privatization program. Forests are public lands and not subject to restitution.

The countries that were part of the Russian Empire, and then went through the Russian Revolution, have for generations observed different concepts of private and public property than the United States or Western Europe. Each society—especially each democratic society—must establish basic standards of justice for itself, and those standards must be realistically achievable to some degree, and not perceived as hopeless. The concept of returning places of worship and related religious properties has been broadly accepted throughout Europe, even in countries where that means looking back to the time before 1917. Those countries which experienced the Russian Revolution have not chosen to turn the clock back to 1917 for restitution of private property. We, as outsiders, need to take those standards into account, even as we urge them to adopt Western standards of ownership. We do expect, as these countries continue their transition to market economies, that they will adopt ownership standards compatible with the rest of the world economy.

Mr. Chairman, the restitution of property is part of a larger process of obtaining a reasonable measure of justice for the victims of Europe's major human disasters of the 20th Century. Justice for the people of eastern and central Europe is long overdue. This is especially true for those who were "double victims" of both fascism and communism. Having had justice delayed for so long, they are also entitled to expect that democratic governments will move as promptly as possible to bring closure during their lifetimes. This will not be easy, and we cannot do it alone. Restituting real property, or moveable property such as art, or financial assets such as insurance, will require the efforts of many honorable and courageous people in many countries. I am pleased that the Commission on Security and Cooperation in Europe is focussing on this issue again, and I invite your questions.

**QUESTIONS SUBMITTED FOR THE RECORD BY CHAIRMAN
CHRISTOPHER H. SMITH TO UNDER SECRETARY OF STATE
STUART E. EIZENSTAT**

Question. After World War II, the Government of the Federal Republic of Germany generally provided restitution or compensation to individuals whose real properties located in West Germany had been confiscated by the National Socialist regime. Since Germany's unification in 1990, the German Government has also provided restitution or compensation to people whose properties in East Germany were expropriated by the Government of the German Democratic Republic after 1949. On the other hand, properties that were expropriated in East Germany during Soviet occupation between 1945-49 have been sold by the German Government on the open market rather than being restituted to the original property owners. Have you looked into the reasons for this disparate treatment? Is there a legitimate reason for the German Government to treat this one group of property owners differently than other groups?

Answer. German Property expropriated under Soviet authority from 1945-1949 falls into several categories: land and other assets obtained during the war by convicted Nazi war criminals, as well as property belonging to Germans accused of being Nazi war criminals; the so-called "Junker" estates—very large properties owned by Prussian aristocrats; and thousands of small and medium sized farms, factories and other productive assets.

Beginning in the 1950's, the West German government made payments to some of those who lost property during the Soviet occupation of 1945-49 and who had applied for such payment before unification. The Germans used the German term for "offsets" as opposed to "compensation" for such payments to make the point that the German government was not responsible for the property loss. Because of this semantic distinction, some of those who lost property under the Soviet occupation claim that they were not "compensated."

During unification negotiations the two German Governments agreed to recognize the Soviet expropriation as legitimate. After unification, the German supreme court confirmed the legality of the unification agreement regarding Soviet-expropriated property. Since then, some 20 per cent of these expropriated properties were sold on the open market. The remaining properties were leased or sold at preferential prices, including to previous owners. However, of the original 13,699 expropriated properties, only a small percentage has been purchased by former owners. In 1994 the FRG enacted a compensation scheme for property confiscated during 1945-49 in the Soviet Zone of occupied Germany. It is our understanding that some compensation may be available to former owners. However, it is also our understanding that under the German-German agreement on unification, confirmed by the German supreme court, it is not possible for former owners to seek restitution of properties.

According to German government officials, the reason for treating differently claims for property lost during the 1945-49 Soviet occupation, had to do with Soviet-German agreements made at the time of unification. The Soviets needed to ensure that their actions from 1945-49 were considered both legal and irreversible. Former Chancellor Kohl has said that the German Democratic Republic made it a condition of the unification talks that no decisions taken by the Soviet Occupation

Authority could be changed. (GDR Prime Minister DeMaziere presented these demands during the unification talks.) The Unification Agreement of August 31, 1990 explicitly precludes the restitution of those properties expropriated on the basis of Occupation Law between 1945 and 1949. The German Federal Constitutional Court confirmed the legality of this provision in a ruling on April 23, 1991, which concluded that equal treatment of property owners was secondary to overriding foreign policy considerations that had to be taken into account to achieve the goal of unification.

Question. Ten years ago, Titina Loizidou a Greek Cypriot was denied access by Turkish occupational forces to property she owns in the occupied area of Cyprus. As a result, she filed suit against the government of Turkey in the European Court of Human Rights. In December 1996, the Court decided in her favor and ordered Turkey to pay compensation. Although Turkey recognizes the jurisdiction of the European Court, it has refused to comply with the Court's order in the Loizidou case. What can be done to make Turkey comply with its international obligations to respect human rights in the Loizidou case?

Answer. Since the U.S. is only an observer in the Council of Europe, we have no direct involvement in the Loizidou case. It is up to the member states of the Council of Europe to determine how to implement the European Court of Human Rights decision. That said, the Loizidou case is one more reason why it is in Turkey's interest to engage in negotiations for a comprehensive settlement on Cyprus. We have made this point to the Turks, as well as to COE member states.

Property issues, such as those raised by the Loizidou case—along with security, territory, and constitutional arrangements—are the core issues of the Cyprus dispute that need to be addressed in comprehensive settlement talks that put all the issues on the table. We are continuing our efforts to convince the Turkish side that such negotiations are in their interest.

**WRITTEN TESTIMONY OF MICHAEL LEWAN, CHAIRMAN,
UNITED STATES COMMISSION FOR THE PRESERVATION OF
AMERICA'S HERITAGE ABROAD**

Mr. Chairman, Members of the Commission on Security and Cooperation in Europe, I am grateful for this opportunity to testify today. The effort to resolve communal property issues is indeed, "the long road home." The historic and moral importance of this journey cannot be underestimated. Emerging democracies must settle old debts. They must return what was stolen. This is a basic tenet for any free society from which there is no escape, no excuse, no evasion.

I am quite honored to be on this panel with Under Secretary of State Stuart Eizenstat. There is no man I admire more in public life today. When this, the final chapter of World War II is written, Stu Eizenstat will be seen for ages as a man of vision and virtue.

In the last 2 years the Commission for the Preservation of America's Heritage Abroad has been active in the international effort to restitute communal property. Much of our success is due to the strong support we receive from the Congress, especially Ben Gilman, the Chairman of the House International Relations Committee.

Today I will speak of Poland, the pre-war home to the world's largest Jewish community. Poland, whose soil is soaked with blood; where the loss was so great it cannot be counted. Where for 50 years a "pathology of silence" made a mockery of truth.

Yet, out of the ashes rises hope for restitution, remembrance and reconciliation.

When I was a boy, my grandmother lived with us. She was a Hungarian immigrant, a devout Catholic, and like many in her generation, deeply proud to be an American.

Grandma always said to us, "America is a great country—it's full of miracles to share with all."

The next time I visit my grandmother's grave, I will tell her about today. She'd be proud of my work and she'd be especially proud of her adopted country. About how we are sharing the miracle of democracy with all the world.

I'm lucky! I can visit the grave of my grandmother, to say a prayer, tell her about our family or just reflect for a moment on how life has turned out.

But for millions of other Americans, and especially Jews, for whom taking care of the dead is a high calling, an obligation, a mitzvah, this has not been possible.

Imagine! It's 1939, a shetel, Wyzkov, Poland, 5,000 Jews, a synagogue, a school, a cemetery, a life.

In an instant, 800 years of history, destroyed. Men rounded up and marched into slavery. Women, children, the old sent to concentration camps. Death sentences all.

The synagogue was blown up. The cemetery, this quiet, final resting-place, so reverently cared for leveled. The tombstones used for a sidewalk in front of Gestapo headquarters.

A horror repeated a thousand times in the land of Poland. So grotesque it shouldn't be mentioned; so common it is almost forgotten.

The war ends. The cemetery blends into the rural landscape. It disappears from local maps. A farmer plants potatoes. A builder digs a gravel pit. Bones are exposed and heaped into piles of trash. The shetel grows

to a city. But no Jews. No survivors return. No visible trace. No outward sign. No remembrance. Did tyranny win after all? Please god, a miracle!

As Chairman of the United States Commission for the Preservation of America's Heritage Abroad, I am often asked, "why should Americans care about crumbling buildings, abandoned cemeteries or looted libraries."

It is because America is a land of immigrants.

Our values are rooted in lands distant in miles and time. As a people, we believe that the fabric of our society is strengthened by visible reminders of our ancestral past.

The history, culture, politics, sociology, economy, and religion of our forefathers have stamped upon our souls an indelible mark of character.

As the years go by, Americans need to see the sites, hear the echoes, touch the tombstones, feel the pain, and relive the joy of our ancestral past. How else can we understand the present or prepare for the future?

Americans who trace their family roots to Eastern and Central Europe are, for the first time, able to visit the churches, synagogues, cemeteries, and monuments to which they have binding ties.

What they see often shocks and saddens them. The Nazi extermination of six million Jews and so many other innocents extended to physical places as well. Schools, libraries, museums, and social halls were all expropriated. Synagogues, churches, and cemeteries were especially sought out for vandalism or destruction.

Under the boot-heel of communism, those remaining were left to suffer the ravages of time and nature. Many, if not most, important sites passed into oblivion.

Some did survive! Today, there exist hundreds of religious and other communal properties in desperate need of attention. They stand now not as a reminder of death and decay, but as a testament to the strength and substance of those vital, vibrant souls that once prayed, sang, studied, danced, and lived within their walls. Some sites are artistic treasures and deserve restoration on that basis, some are sacred and demand the highest degree of devotion.

Picture the moment. It's 1940, Oswiecim, Poland.

A Jewish boy named Hirsch lives in an apartment attached to a small synagogue where he helps the Rabbi organize the prayer books, sweep the floor and run small errands.

Life is good. Jews and gentiles live side by side. Together they engage in business and politics. And while they have separate religious and cultural identities, a balance has been struck. Mutual respect prevails.

Hirsch has every reason to believe his life will be a good one. That his parents will live to a ripe old age. That his brothers will have rewarding careers. That his sisters will have fine children. When he closes his eyes and imagines the future he sees himself as an old man in the synagogue he so loves, thanking God for providing him such a rich life.

Then, with a thunderclap, all good is gone. His family is killed, Jews are deported to strange places. He to a labor camp. And just across the river, not two miles from his beloved prayer house, the death machine called Auschwitz is built.

What crazed design of history; what lunatic plan was it that took so much life and turned it to death.

Hirsch could only pray as he watched the smoke from so many burning bodies, "please God, a miracle!"

We live in an age of miracles! I've seen it in the most unlikely places, Wyszkov and Oswiecim, Poland. The miracle is democracy.

Today, a half-century since the defeat of fascism and a decade after the fall of communism, the American people are helping the nations of Eastern and Central Europe rebuild and reconstitute what was long ago stolen and believed lost in the vastness of time.

Proceeds from the sale or rental of these properties will be of enormous assistance in solving many social-welfare problems faced by survivor communities.

We must also use funds for remembrance. To rebuild important synagogues; to properly care for cemeteries; to establish museums to Jewish culture; to create libraries to house great collectibles of Judaica; to build monuments and memorials marking the sites of history's greatest and lowest moments.

Remembrance is in every sense, education. Soon no one will be left to describe the horrors of the Holocaust first-hand. That is why it is so very important that we document in detail, and portray vividly, man's inhumanity to man. Only by teaching the young can the civilized world be assured the words, "never again" will have meaning for all time.

Return with me to the old Jewish cemetery in Wyszkov, as the winds of democracy sweep across its barren landscape. Where an unprecedented cooperative effort was undertaken to restore this sacred, yet sacred site. With the help of our Commission, the tombstones were recovered, the city returned the land to the Warsaw Jewish community. The Jewish Historical Institute served as general contractor. The Polish Federal Government provided the memorial tablets, the architectural design and construction was supervised by a Christian volunteer, a neighboring farmer deeded adjacent land and provided a right of way to the site. The Catholic Church and countless generous souls from around the world provided significant financial and spiritual support that will perpetually provide for its care.

Today the cemetery is visited by hundreds of pilgrims. It is vandal free and indeed is a place of pride for the citizens of Wyszkov. A model for others to follow.

This is restitution, this is remembrance.

Now let me tell you about reconciliation!

I stood witness as nearly 1,000 townspeople came to the rededication of the old Jewish cemetery bearing floral wreaths, gifts of food and money. I watched acts of love, acts of peace. As 25 Jewish survivors from Wyszkov and their children and grandchildren embraced the Poles; as tears of joy and sadness mixed with calls for forgiveness and understanding, I know this town and these people were forever changed.

Tyranny lost! Thank you God, a miracle!

Recall young Hirsch, now a man in his seventies. Was it luck alone that let him live when 144 of his family and 6 million of his race were killed? Was it a quirk of fate that his home and beloved synagogue remain standing when all others were destroyed? Was it an accident of history in this place of death, Auschwitz, that Jewish life could be reborn?

Thanks to the vision of a New York businessman, Fred Schwartz, the Lomdei Mishnayot synagogue was rededicated last November. For the first time in over 50 years, prayers echoed through the Shul. Over

200 people, Poles, Jews, Americans, and Israelis were greeted by the President and Prime Minister of Poland. The hard work of the city's Mayor, the American ambassador, the Catholic Church and countless other American and Polish government officials and private citizens made this possible. It will be used as a prayer house and a cultural center focusing on Jewish life in pre-war Poland. A kosher kitchen, a theatre which, thanks to Steven Spielberg, will show video clips of survivors from Oswiecism telling their life story. It will be a place of quiet contemplation, education and fellowship, open to people of all faiths.

This is restitution. This is remembrance.

**WRITTEN TESTIMONY OF BISHOP JOHN MICHAEL BOTEAN,
ROMANIAN CATHOLIC DIOCESE OF CANTON, OHIO**

Mr. Chairman, Senator Campbell, distinguished members of the Commission,

I am once again grateful for the opportunity to present testimony to the Helsinki Commission regarding certain aspects of the human rights situation in the country of my ethnic heritage, Romania. Last year I had occasion to present written testimony when the topic at hand was religious intolerance; this year, while the topic has changed, the issue has in large measure remained the same. Last year I was able to address the "what" of religious intolerance; this year, I mean to focus on the "how," namely, the unabashed refusal on the part of the government of Romania to return property confiscated by its precedent regime.

There is a popular Romanian joke which describes men from three different areas of the country, two of whom accidentally sit upon a thumbtack, only to sneak it underneath his neighbor. Finally, the tack finds itself beneath the fellow from Transylvania, incidentally the part of Romania which has the most Catholics. He doesn't bother to remove it, shrugging his shoulders instead in resignation: "If you have to, you have to." In much the same manner, Romania's national misery, rather than being done away with, is simply passed around from one group to another in a perennial contest of one-upmanship, as if one's own bad estate could be ameliorated by making the next guy even worse off. It is the familiar game of the poor and powerless, the only rationale I can conceive of for this, if you will, game of ecclesiastical "Monopoly" now being played with church lands and buildings.

It must be said that some progress has been achieved, even though most of this has been in the form of promises rather than results, but even getting the promises can be considered a step in the right direction. However, of the more than 2,000 churches confiscated by the Communist government in 1948 and given to the Romanian Orthodox hierarchy in the forced "merger" of the two religious groups, I believe that fewer than 50 houses of worship have been returned to their rightful owners. In many if not most cases, the Romanian Greek-Catholic Church's title to the property is clear, such as for our Cathedral in Cluj and for churches in the villages of Iclod and Ardud that I would bring to your attention had I the time. Meanwhile, the bulk of my co-religionists still worship in the open air, in cemeteries, school rooms, and public parks.

I would like to be unambiguous about the point I wish to make: this discussion is not about sectarian conflict. I am not asking the U.S. Government to interest itself in making peace between two churches, nor would it be appropriate for it to attempt to do so. The point is, rather, the answer to a very simple question: since it was the government of Romania in 1948 which unjustly seized the property of the Romanian Greek-Catholic Church, what has the government of Romania done to satisfy the demands of simple justice and return that which it has stolen?

By way of answer, I would like to enter into evidence this book, whose title, translated, is *The Persecution of the Romanian Greek-Catholic Church Under the Democratic Regime Inaugurated in November 1996*:

Volume I (November, 1996—October, 1998), by the Rev. Dr. Anton Moisin. Father Moisin is the Coordinator of the “New Memorandist Movement” that has been documenting this specific area of human rights abuses in Romania since the fall of the Ceausescu government in 1989. In his accompanying letter to President Clinton and the U.S. Congress, he indicates that four more volumes are in preparation and could be published if he could obtain the funding to do so. Among the documents in this volume is an interpellation by his brother, Senator Ioan Moisin, directed toward the Minister of Justice on March 2, 1998. He points out that the decree which legally dissolved the Greek-Catholic Church in 1948 specifically directed that “Mobile and immobile property of the central and statutory organizations of the former Greek-Catholic religion will be given to various departments and institutions,” and specifically that “Cathedrals, churches, chapels and buildings for divine worship, as well as monasteries and hermitages with their surrounding gardens and lands—to the Romanian Orthodox Church and its various components in the territory in which these goods are found.” Furthermore, this decree instituted an interdepartmental commission to handle this transfer of property.

He goes on to indicate that the Secretariat of State for Religions, in a letter of December 15, 1997, notes that this commission never functioned. No documents relating to it may be found in the archives of the Secretariat of State for Religions or in those of any other ministry; likewise, no documents attesting to it may be found in the archives of the Greek-Catholic Church. This letter further notes that “the Greek-Catholics’ possessions were taken by local administrative organs with the help of the Securitate, after the arrest or removal of those responsible for these goods: bishops, priests, religious superiors, deans, and then given over to various specialized institutions of the state, according to the nature of each item. Cathedrals, churches, monasteries, parsonages and cemeteries were given to the Romanian Orthodox Church.” Senator Moisin then asks the Minister of Justice why, since the decree dissolving the Greek-Catholic Church was abrogated in 1989, this specific legislation remains in effect, and whether the Minister intends to propose the abrogation of it as well (v. Moisin, pp. 106-107, emphasis added). This issue of local, versus national, efforts to resolve the property issue is significant, as I will indicate momentarily.

Again, since the government took our churches, why can it not—or will it not—give them back to us? Is it because a fledgling democracy simply cannot ignore the fact that some eighty per cent of its electorate is nominally Orthodox? That, at least, would be understandable, and would no doubt arouse the sympathies of anyone who has ever run for elected office. Still, since when do human rights, including the right to worship freely and to possess property, require the ratification of a majority? Furthermore, allow me to wonder aloud whether this state of dispossession of the Greek-Catholic Church is actually the will of the majority of Romanians, or whether it is merely the will of a few in Romanian society who are in control of such things and have been since well before the revolution of 1989.

Still, Romania has made shows of openness and religious tolerance, including the international conference sponsored by the Community of San Egidio of Rome and held in Bucharest last August, entitled “Peace is the Name of God.” Yet, when the bishop of the Greek-Catholic Diocese of Cluj-Gherla, Archbishop George Gutiu, attempted to enter and

take possession of his cathedral after it had been repeatedly returned to him by court order, what ensued was violence and grand demonstrations on the part of the Orthodox clergy of the region. This event received international attention, though I was told by one of my fellow bishops that the press accounts were slanted and exaggerated. Still, it was a distasteful affair which resulted in the Vatican's encouragement of the formation of an Orthodox/Catholic dialog to deal with this issue.

Not surprisingly, the biggest event of the year for Romania will be the visit of His Holiness, Pope John Paul II, in May. In its own perverse way, this new "show" of religious tolerance throws the light of truth upon this event, demonstrating that there is no intention whatsoever on the part of any significant segment of Romanian society to see Greek-Catholic church property returned. The Holy Father has been working very hard to help bring about a reintegration of the Catholic and Orthodox churches worldwide. The property issue in Romania is the single largest obstacle currently on the ecumenical horizon. His Holiness has desired to visit Romania since at least 1995, and has been invited by the President and Government of Romania to make this visit. However, he would not make this historic first visit by a Roman Pontiff to a predominantly Orthodox country since the Great Schism of 1054 without the consent of the Romanian Orthodox hierarchy.

Now, there have been two meetings to date of the inter-church dialog group I mentioned a moment ago, and a third one is scheduled for this October. In the course of these meetings, the Orthodox party made it a fundamental condition of their granting consent that the Catholic party renounce its claims to its properties at the National legislative and judicial levels, and seek to resolve each matter locally on a case-by-case basis. Astonishingly, the Greek-Catholic hierarchy agreed to this, considering the Pope's visit worth this sacrifice, as if they had a real choice. That having been accomplished, there was nothing to prevent the Pope's visit, and indeed Patriarch Teoctist issued a formal invitation following a meeting of the Holy Synod of the Romanian Orthodox Church.

It soon became apparent that not all was as it had been hoped for. Following the invitation, it became clear that the Pope's visit was to have a strictly "ecumenical," and not a pastoral, tone. In short, the Pope would be permitted to visit Bucharest only. The patriarchate at first attempted to blame the Vatican for this limitation, citing the Pope's health, but sources within the Orthodox Church, according to press accounts, say otherwise.

Thus, when Pope John Paul II visits Romania, he must stay out of the regions of Transylvania and Moldova, the regions which hold virtually the country's entire Catholic population. Such restrictions on his travel were not acceptable to His Holiness when he visited Cuba recently. In an incredible display of self-abnegation, however, he has consented to be told where he may and may not go by his brothers, the Orthodox bishops of Romania. What Fidel Castro could not do in Cuba, Patriarch Teoctist and the Pope's humility accomplished in Romania.

The Romanian press is, understandably, having a field day with this turn of events, and I must say that our Church may turn out to be the winner of this particular public relations battle, which is unspeakably sad. It is not public relations we want. It is our churches and monasteries, our convents and schools. It is the places our parents and grandparents built, often enough with their own hands. However, we have agreed not to seek legislative or national judicial relief. Instead, our bishops

will turn to the local arena for each chapel and altar, each steeple and pew. I am sure that they will continue to find what they have found until now: police cordons, gangs of drunken thugs, and locks on the door, the “locks of hatred and intolerance,” as one Romanian journalist puts it.

Greek Catholics in Transylvania once again find themselves sitting on a tack their brothers put beneath them, accepting it because they must. However, in the words of the Pastoral Letter written by the Greek-Catholic bishops to their faithful in order to console them about the limited nature of the upcoming Papal visit, “Let us try to go beyond the ‘sadness which has filled your heart’ (John 16:6), and let us all accompany the Holy Father in prayer, at the graves of our bishops who were martyred for the catholic and apostolic faith.”

The following document is the English translation of a letter (dated December 12, 1998) written in Romanian by the Rev. D. Anton Moisin, Str. Stadionului, 10/4, 2342 Victoria (Jud. Brasov), Romania, Telephone: +40 (68) 241022

The letter is addressed to President William J., Clinton and the members of the U.S. Congress. The original document has also been included herewith.

TRANSLATION

The New Memorandist Movement of Transylvania, Romania, wishes to cite continuing persecution against Romanians of the Greek-Catholic religion, in union with Rome, by the democratic regime installed in Romania in November 1996. The Romanian Greek-Catholic Church, in union with Rome, was persecuted by the Communist regime from 1948 until 1989. After that, it was persecuted by the false democratic and neo-Communist regimes from 1989 to 1996, and has continued through the current democratic regime from November of 1996 through December 1998. This situation continues until this present time with no end in sight.

As evidence in support of these accusations, we present you with the first volume of a written work, *Persecution of the Romanian Greek-Catholic Church United with Rome under the Democratic Regime Inaugurated in November 1996*. □ In this volume, we present over 200 localities from Transylvania where there exists tension between the Fundamentalist Orthodox and the Greek-Catholics during the period between November 1996 and October 1998. These localities include: Alba, Arad, Bihor, Cluj, Maramurea, Satu-Mare, Timis, Brasov, Sibiu, Hunedoara, Carae-Severin, Bistritz-Nasaud, Salaj, etc. The Romanian Greek-Catholic faithful continue to be victims of death threats, calumny, violence, impeded entrance into Greek-Catholic churches (churches which were stolen from them by the Orthodox with the help of the Communist regime). They [the Orthodox] refuse to ring the bells for burial services, they sabotage and terrorize the Greek-Catholic faithful at every opportunity.

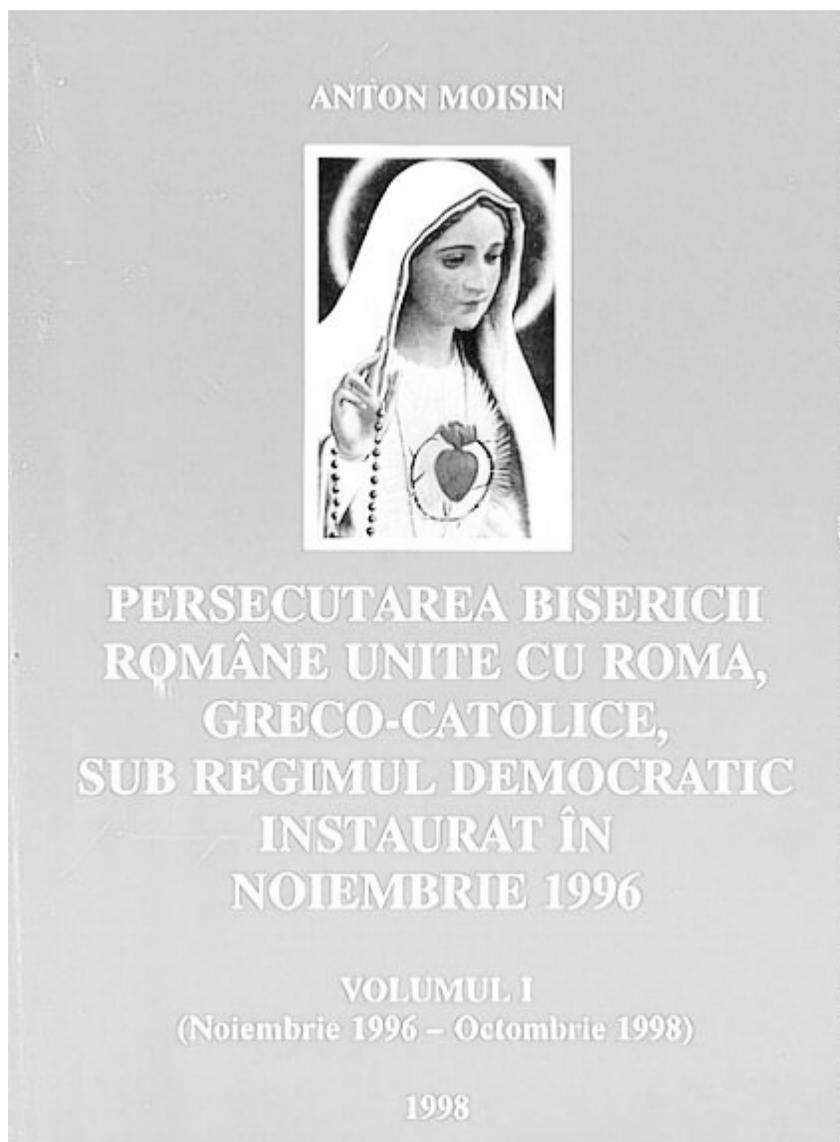
We have enough materials [documenting this persecution] to fill three additional volumes about persecution which took place between 1996 and 1998. However, we do not have sufficient funds available to publish additional volumes. (The publication of one volume is \$1,400 and we only hand funding for the publication of one volume).

We mention that, versus the 1989 to 1996 period, between 1996 and 1998 the persecution of Greek-Catholics intensified in the southwest, west, northwest and northern parts of Transylvania, and it continues with even greater strength elsewhere.

We ask for your intervention on behalf of the rights of the Romanian Greek-Catholics and in particular ask that the nearly 2,500 churches that were stolen be restored to us along with other institutions and properties [belonging to the Romanian Greek-Catholic Church].

*In the name of the New Memorandist Movement
Rev. Dr. Anton Moisin, Coordinator*

FRONT COVER OF REV. DR ANTON MOISIN'S BOOK. A COPY OF THIS BOOK IS AVAILABLE AT THE OFFICES OF THE CSCE, WASHINGTON, DC.



BACK COVER OF REV. DR ANTON MOISIN'S BOOK, INCLUDING ISBN NUMBER. A COPY OF THIS BOOK IS AVAILABLE AT THE OFFICES OF THE CSCE, WASHINGTON, DC.

Prigoana dezlănțuită de comuniști contra Bisericii Române Unite cu Roma, Greco-Catolice la 1 septembrie 1948 continuă de 50 de ani fără întrerupere. În prezentul volum am menționat peste 200 de localități cu tensiuni între ortodocși și greco-catolici între noiembrie 1996 – octombrie 1998. La circa 50 dintre ele am oferit și amănunte. Mai mult nu ne-a permis spațiul (limitat de posibilitățile financiare reduse pe care le-am avut pentru tipărire). Aceste localități sunt din județele Alba, Arad, Bihor, Cluj, Maramureș, Satu Mare, Timiș, Brașov, Sibiu, Hunedoara, Caraș-Severin, Bistrița Năsăud, Sălaj etc. Lovituri, amenințări cu moartea, calomnii, violențe, împiedicarea intrării în bisericile unite, refuzul înapoierii bisericilor unite furate, refuzul tragerii clopotelor și sabotarea înmormântării uniților, bătaie, nedreptate și teroare – iată chipul „democrației“ pentru românii uniți între 1996 – 1998! Mai aveam materiale pentru cel puțin încă 3 volume, referitoare la aceeași perioadă. Christos a fost prigonit, batjocorit și răstignit în Transilvania sub actualul regim după cum a fost sub comunismul stalinist (1944 – 1965), sub comunismul naționalist (1965 – 1989) și sub democrația criptocomunistă (1989 – 1996). Între 1996 – 1998 persecuția s-a intensificat față de perioada anterioară în sud-vestul, vestul, nord-vestul și nordul Transilvaniei și bântuie cu tărie în alte părți.

Pr. Prof. Dr. Anton Moisin

ISBN 973-98401-1-6

WRITTEN TESTIMONY OF VLADISLAV BEVC, AMERICAN OWNERS OF PROPERTY IN SLOVENIA¹ AND SLOVENIAN ASSOCIATION OF FORMER OWNERS OF EXPROPRIATED PROPERTY²

Mr. Chairman and members of the Commission, thank you for convening this important hearing today and for inviting me to discuss the status of property restitution in Slovenia.

INTRODUCTION

The Slovenian Association of Former Owners of Expropriated Property and its affiliate, American Owners of Property in Slovenia represent the interests of over 200,000 Slovenians (ten percent of the total population of Slovenia) and 480 citizens of the United States whose property was seized by Slovenia's former communist regime after the end of World War II.

BACKGROUND

To achieve total economic and political control, the communist regime carried out expropriations on a massive scale in the years 1945 through 1948, altogether 48,000 properties of the class enemies representing 69 percent of all capital invested in industry were confiscated. The government seized businesses, manufacturing plants, financial institutions, apartment houses, shops, buildings, agricultural lands, and forests.

RESTITUTION LAW OF 1991

At the end of 1991, when Slovenia seceded from Yugoslavia, the Slovenian Parliament enacted the Restitution [Denationalization] Law. This important legislation held forth the promise of reinstatement of fundamental values of a democratic and civilized society: personal freedom, respect for human rights, and market economy based on private ownership without which there can be no real democracy. It was intended to make amends for the political, moral, and material wrongdoing of the communist regime, to restore the seized properties to their owners or their heirs and to affirm the right to personal property as provided by the Slovenian Constitution and the Universal Declaration of Human Rights (Article 17). The promise was short lived. The communists and their political heirs soon regrouped and turned out the democratic government.³ They continue to hold the majority of the responsible political and economic positions in Slovenia and are blocking in every way they can the implementation of restitution. They also continue holding our property or try to transfer it to their supporters.

SLOVENIAN GOVERNMENT POLICY

The Council of Europe called upon all former communist countries, such as Slovenia, to retribute unjustly confiscated properties to the original owners and repudiate the legacy of communist totalitarianism if they truly desire to become democratic countries.⁴ Ironically, on December 10, 1997—the Human Rights Day—Slovenia's Parliament made it clear where it stands by voting down a proposed resolution that would repudiate the country's totalitarian past. The regime wants continued control of all economic resources. With all the economic resources in the hands of one party there can be no democracy. Think how many of you could be elected if all the resources were in the hands of the other party.

EFFORTS TO RECOVER OUR PROPERTY

Our demands for restitution of our assets are confronted with a systematic obstruction of the law, revealing the intent of the government to continue the unjust practices of the past. In most cases we have exhausted all available legal remedies because the authorities simply do not move on our claims. In numerous instances the authorities refuse to return the confiscated property and continue to trade with it. Take the case of Adolf Prah, founder of a textile factory. In 1941 the Nazis deported him and seized his factory. When he returned in 1945, he was allowed to rebuild his factory only to see it nationalized as soon as it was running well. Since 1947, the owner, and later his heirs, have been claiming repayment of the liquid assets as provided in the law. No payment has been made to this day. The case is winding through all the possible administrative and judicial obstacles an obstructionist system can devise. The government did agree to award them some substantially devalued shares of company stock but even this has not yet been delivered.⁵

OBSTRUCTION OF RESTITUTION

The law required that restitution be the first phase of the privatization process. The record of its implementation is dismal. According to the report of the Slovenian Ministry of Justice, 53 percent of 37,000 claims were granted by May 1997. Hardly a sincere effort in implementing a 6-year old law. The total value of restituted property was even smaller: only 22 percent of the total claimed amount. The Government still holds over three quarters of claimed property amounting to \$2.7 billion. Favorable decisions have been rendered mainly in cases of supporters of the regime. Filed claims and documents often are conveniently lost, records cannot be located by the authorities, moratoria are enacted which can only be reversed by the Constitutional Court, persons with the poorest qualifications are assigned to processing the restitution cases, personnel is on an extended leave, every decision ordering restitution or compensation is automatically appealed, either by the Slovenian Indemnity Fund or the local authorities holding the property, the appellate authority postpones action on them indefinitely.

SLOVENIA ATTEMPTS TO ABROGATE THE RESTITUTION LAW

For 7 years the Slovenian government tried all it could to vitiate the Restitution Law. In the fall of 1998 the Slovenian Parliament enacted revisions of the Restitution [Denationalization] Law of 1991 proposed by representatives of the communist continuity.⁶ Although the real intent of the revisions was to abrogate the Restitution Law, the Slovenian government and its diplomats represented the revisions as an improvement designed to speed up the completion of the restitution process. The revisions would, among other things, effectively bar American citizens from asserting their claims⁷ and create other obstacles to restitution.⁸ Eventually, the Constitutional Court voided the provision barring American citizens from claiming restitution.

CONSEQUENCES OF THE REVISION

As a result of the revisions, the administrative units have been flooded by counterclaims of those that hold and use nationalized properties. The processing of the unresolved claims has ground to a halt—precisely the effect desired by the regime.

PROPERTY RIGHTS AS BASIS OF OTHER HUMAN RIGHTS

Property rights are one of the mainstays of all other human rights. People whose property can be taken away at the whim of the government can never be politically independent and cannot support political parties of their choice. The ability of a government under any pretext to seize private property provides an incentive for its officials to violate human rights of persons whose property they covet by charging them with offenses against the regime such as the exercise of the freedom of speech, religion, association, press, travel and the like. The government would also be reluctant to carry out expropriations if it knew that there would be an international outcry.

Restitution is important because of its meaning to the individual who wants to get back his home or his ancestral land.

RESPECT FOR HUMAN RIGHTS AS A CORNERSTONE OF THE FOREIGN POLICY

The intention of the United States to support international human rights standards was formalized in the early 1970s.⁹ Congress now requires that United States foreign policy take into account human rights observance by foreign countries and that country reports be submitted to Congress by the Department of State annually. However, the reports do not address violations of property rights because the Department of State does not consider property rights to be human rights but rather economic rights. Still, economic rights of workers are included in the reports on human rights.¹⁰

It would be highly desirable that the Congress reaffirm its intent that it wants to be informed about the observance of the human right to own and enjoy property in the annual reports of the Department of State.

PROPERTY RESTITUTION A KEY BILATERAL CONCERN OF UNITED STATES AND SLOVENIA

Representatives of the U.S. Government at the highest level have often urged Slovenian government officials to resolve fairly and timely the outstanding restitution claims.¹¹ It is not realistic, however, to expect that Slovenia will settle an obligation of several billion dollars solely on the recommendation of the United States without tying it to something Slovenia wants, such as foreign aid, membership in NATO, loans, and the like.

EQUAL PROTECTION OF LAWS

It is the policy of the Department of State not to represent formally claims of United States citizens who were naturalized after the title of the property in question was first disturbed. We believe that this policy denies us an equal protection of the laws. Our case involves a property right conferred by the Slovenian Restitution Law of 1991 on all qualified claimants, some whom of were then American citizens.¹² These

American citizens, having exhausted all available means of redress, are experiencing a de facto denial of their claims. We believe that the American diplomatic representatives should protest vigorously against the discriminatory treatment of American citizens and that the Department of State should pursue a direct settlement of American citizen claims against Slovenia through the Foreign Claims Settlement Commission.

HOW CAN THE CONGRESS HELP?

The Foreign Assistance Act of 1961,¹³ provides for sanctions to be imposed upon a government that violates property rights of American citizens. The law should be used to suspend assistance to Slovenia because it has, after it enacted the Restitution Law of 1991, again de facto expropriated and taken control of property of American citizens and continues to violate, deliberately and systematically, the Universal Declaration of Human Rights. The suspension should remain in force until such time as Slovenia fully and fairly settles all the outstanding restitution claims. A strong mandate from the Congress would be needed if words calling for respect of human rights are to be matched by deeds.

Thank you, Mr. Chairman, for the opportunity to discuss these important issues. I would be happy to answer your questions.

NOTES

1. American Owners of Property in Slovenia, P.O. Box 561, San Ramon, California 94583, Tel.: (925) 8377612, Fax: (925) 3629719, is a group of United States citizens with property interests in the Republic of Slovenia who are trying to obtain restitution of or compensation for their property under the legislation enacted in Slovenia in 1991. Its executive officers are Dr. Vladislav Bevc, Danville, California; Dr. Edi Gobetz, Slovenian Research Center of America, Willoughby Hills, Ohio; Mr. Borut Prah, Oakland, California; and Mrs. Vida Ribnikar, San Francisco, California. American Owners of Property in Slovenia is affiliated with the Slovenian Association of Owners of Expropriated Property.

2. Slovenian Association of Owners of Expropriated Property (Zdruzenje Lastnikov Razlascenega Premozenja, (Adami Lundrovo Nabreje 2, P.O.Box 584, 1101 Ljubljana, Slovenia, Tel/Fax 011 386 61 302 664). The Association represents the interests of approximately 10 percent of the Slovenian population or about 200,000 people. Its executive officers are: Honorary President, Franc Izgorsek; President, Martin Jakli, Dipl.Ing.; Mrs. Zdenka Gorjup, Mr. Peter Logar, Dr. Edo Pirkmajer, Mr. Danijel Petac, Professor Inka Stritar, and Mrs. Gabrijela Sertelj. The Association's objective is to secure the restitution of, or compensation for, expropriated properties and to obtain recognition of property rights as a basic human right in accordance with Article 17 of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948.

3. Ljubo Sirc: Post-Communist Takeover, The Slovene Example with Possible Lessons for All, *The South Slav Journal*, v. 17, No.34 (6566), Autumn-Winter 1996, pp. 44—62.

4. Measures to Dismantle the Heritage of Former Communist Totalitarian Systems, Resolution 1096 of the Council of Europe, June 27, 1996

5. Other typical examples:

- The home of Ivan Avsenek, financier, philanthropist, and defender of human rights, located between the German Embassy and the new American Embassy in Ljubljana. The court decided that the house, valued at \$600,000, was unjustly confiscated and should be returned to the Avseneks but the city of Ljubljana, which had been using the house for a kindergarten, contends that the heirs should compensate it for the alterations it made. Eventually the Avseneks may well wind up owing money to the city instead of recovering their house.
- The Zupan family in Mojstrana was considered by the communists unreliable for living close to the border, their farm was confiscated and the family deported inland to an isolated place where they did not want to live and where. The elder Zupans died in despair. Their granddaughter has been trying to recover the family property for 7 years, without success. A bureaucrat in Mojstrana remarked: "We wonder what would that old woman do with all this property."
- Mary J. Cerer-ebulj, heiress of Ferdinand Novak, Willoughby Hills, Ohio.—The property of Ferdinand Novak was confiscated by the Nazis in 1941 and assigned to a German national, it was seized again as German property in 1945. The court refused to order restitution on grounds that the communists did not confiscate the property belonging to Ferdinand Novak.
- Ivo Bricel, Bellevue, Washington.—Industrial contracting firm Ingrad, assets consisting of construction and earth moving equipment appraised by the authorities at \$180,000, substantially under its actual value. The compensation would be in government bonds which can be sold at 70 percent face value. The claim has been appealed by the Slovenian Indemnity Fund, which contends that the claim value should be \$90,000.
- Bogomil Kranjec, Green Bay, Wisconsin.—Apartment house in Kobarid confiscated in 1950 when the formerly Italian territory was annexed to Yugoslavia because the family left the territory when it became known that it would be annexed to Yugoslavia. Restitution was refused on grounds that the Kranjec family were not citizens of Yugoslavia in 1945, which of course could not have been as they lived in Italy.
- John Cerne, Houston, Texas.—Claims for Hotel Tourist and Restaurant in Ljubljana, prime building property in Ljubljana within a mile of the United States Embassy worth \$8.830 million. The authorities want to value it as remote agricultural land at a very nominal value set in 1991 and refuse to make a restitution in kind.
- Nada Bevc, Danville, California, heiress of Anton Jarosin.—Drugstore in Celje. The authorities refuse to pay compensation claiming that no decree of confiscation can be found although the store is clearly identified on the list of confiscated businesses in the City's archives and the law provides for compensation in such cases.

6. The drive was led by Igor Bavcar, Slovenia's minister for European Union Affairs, and was supported by members of the post-communist continuity in the Parliament: Darja Lavtizar Bebler, Joze Lenic, Anton

Anderlic, Branko Janc, Maksimiljan Lavrinc, Janez Kopac, Zmago Jelincic, Polonca Dobrajc, Rafael Kunik, Milan Potrc, Franc Horvat, Zoran Thaler, Peter Petrovi, Jadranka Šturm and Branko Jarc.

7. It was proposed that only citizens of those countries who have laws that provide for restitution of nationalized property which would be applicable to Slovenian citizens be allowed to claim restitution. United States citizens would not qualify because the United States has no law on restitution of nationalized property as nothing has ever been nationalized here.

8. The change would also allow retroactive review, provide for the annulment of restitutions already made, and confer standing of an interested party on persons occupying the properties claimed by their former owners. Although the real intent of the revisions was to abrogate the Restitution Law, the Slovenian government and its diplomatic representatives represented the proposed revisions to the United States and the Council of Europe as an improvement designed to speed up the completion of the restitution process. In response to the appeal of our Association, the Constitutional Court invalidated the more egregious portions of the proposed revisions, such as barring citizens of foreign countries from obtaining restitution, but left standing the provisions allowing revisions of cases already concluded favorably as well as those conferring the status of a party in the restitution process on tenants in the seized property.

9. Congress, in enacting amendments to the Foreign Assistance Act of 1961 and Foreign Trade Act of 1974, required that *The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act* 22 U.S.C. 2151 n (d) (1).

10. The State Department's *Human Rights Report for the Republic of Slovenia* of February 1999, for example, as all the earlier reports, fails to report numerous complaints concerning Slovenia's violations of the human right of all persons to own and enjoy property, an internationally recognized human right specifically set forth in Article 17 of the Universal Declaration of Human Rights. The officials in the Bureau of Democracy, Human Rights and Labor, with whom we raised this question, felt that the Department of State may not be required to consider the human right to own property equal in importance to other human rights. Because they did not point to a published policy of the Department of State or any other authority substantiating their views, they promised to seek clarification from the Department of State's Office of Legal Adviser. Attorney Nigel Purvis of that office subsequently stated that Congress determined the priority of rights to be included in the report and that property rights were not included among these but cited no published directive of Congress to this effect.

11. COMMUNICATIONS TO THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA OF THE UNITED STATES GOVERNMENT POSITION ON RESTITUTION OF PROPERTY CONFISCATED BY THE COMMUNIST REGIME

- March 20, 1997. Daniel Fried, Special Assistant to the President and Senior Director, Central and Eastern European Affairs, National Security Council (now United States Ambassador to Poland), told Janez Podobnik, President of the Slovenian Parliament, who was visiting in Washington, that the question of denationalization [restitution] of confiscated property might be “a new small problem” in connection with Slovenia’s aspirations to be included in NATO. Ljubljana paper “*Delo*” April 8, 1997.
- May 23, 1997. In Washington, Secretary of State Madeleine Albright suggested to Slovenia’s Prime Minister Janez Drnovsek that the United States position was that Slovenia should resolve and conclude the privatization process, remove limitations on foreigners to own real estate in Slovenia and effectively and fairly accomplish the restitution of property to persons rightfully entitled. She said that a given number of United States citizens still have outstanding claims and that she expects that this question will be resolved in accordance with the law. Report of the Slovenian Embassy in Washington.
- July 10, 1997. Secretary of State Madeleine Albright, on a visit to Ljubljana, Slovenia, repeated her recommendations quoted above to Slovenia’s Foreign Minister and Prime Minister Drnovsek.
- February 23, 1998. Paul Pfeuffer, Country Officer for Slovenia, Department of State, wrote to Slovenian Association of Former Owners of Expropriated Property (ZLRP) in Ljubljana, Slovenia:

“It is firm U.S. policy to promote restitution of and/or compensation for property expropriated by former communist governments of Central and Eastern Europe by encouraging these countries to settle property claims in a just, fair, timely, and non-discriminatory way.”

“This Administration has taken every opportunity to impress on the Slovene government the importance of addressing expropriated property claims swiftly and equitably. During Secretary Albright’s visit to Slovenia last July [1997], she emphasized to the prime minister and foreign minister the importance the United States attaches to developments in this area. She made similar points to the prime minister in Washington in May [1997]. In January of this year [1998], a high-level U.S. Government delegation visited Slovenia to discuss bilateral cooperation; at that time, the issue of property restitution was also addressed.”

- May 22, 1998. Congressman Steny H. Hoyer, Ranking member of the Commission on Security and Cooperation in Europe, and Congressman John Edward Porter, member of the CSCE, wrote a letter to Slovenia’s Premier Drnovsek urging that his government effect restitution of property in a fair, equitable and timely manner. The letter was delivered to the Premier by Congressman Porter.
- June 16, 1998. At the confirmation hearing for the United States Ambassador to Slovenia Nancy Halliday Ely Raphael, Senator Gordon H. Smith of Oregon asked the only question of the nominee, viz., her views on the property restitution problems in Slovenia. The Ambassador designee replied she was unaware of any “originally American” claims. At the conclusion of the hearing, Senator Joseph R. Biden, Jr., stated that he and members of the Committee on Foreign Relations would be watching with interest how Slovenia goes about the resolution of pending restitution claims. Ambassador Ely Raphael was previously a high ranking official of the Department of State Bureau of Democracy, Human Rights and Labor.

- October 13, 1998. The House of Representatives adopted House Resolution 562 calling on all countries to return property confiscated by the communists to the rightful owners or pay just compensation for it. The resolution was transmitted to the President.
- November 17, 1998. James Swigert, Director, North Central European Affairs, Department of State, wrote to Mr. Borut Prah of American Owners of Property in Slovenia, that:

“[T]he State Department—through our Embassy in Ljubljana and high-level contacts with Slovenian officials here in Washington—repeatedly emphasizes that resolution of U.S. citizen property restitution is a key bilateral concern. We have made it clear that we expect timely, equitable, transparent, and non-discriminatory review of all American citizens’ claims.”

And:

“Both Secretary of State Albright and Under Secretary of State Eizenstat, in separate meetings, raised United States concerns regarding property restitution directly with Prime Minister Drnovsek during his recent visit to Washington [in November 1998]. It is our expectation, which we have communicated to the Slovene government on the highest level, that progress will now be made. We will follow up on these discussions through our Embassy in Ljubljana.”

12. There are 481 persons entitled to the settlement of their property claims under the new Slovenian legislation who were American citizens prior to the enactment of the Slovenian Restitution Law and should be represented formally by the Department of State.

13. Title 22, United States Code, Section 2370 (e)(1)(C) provides:

“[T]he President shall suspend assistance to the government of any country which has taken actions, which have the effect of nationalizing, expropriating, or otherwise seizing control of property owned by United States citizens.”

**WRITTEN TESTIMONY OF JAN SAMMER,
FOUNDER OF THE CZECH COORDINATING OFFICE
(NON-GOVERNMENTAL ORGANIZATION)**

Mr. Chairman and members of the Commission, thank you for inviting me to speak here on the subject of restitutions of confiscated property in the Czech Republic. This is one of the most memorable moments in my life, as it gives me the opportunity to contribute to the recovery and development of justice and democracy in the country of my birth.

I was born in 1920 in Pilsen, Czechoslovakia, and escaped with my family in 1966. We were accepted by Canada and became Canadian citizens. I have remained active in Czech issues throughout my life including, since the Velvet Revolution, property restitution and democratization issues.

It is very interesting to see how the Czech Republic's restitution laws and their application have been influenced by the evolution of the political climate in the Republic. In the first months after the overthrow of the communist regime there was a feeling of joy and euphoria. Members and functionaries of the communist party waited in silence to see what would happen to them.

In 1990, the Parliament passed the first restitution law. It did not contain any restrictive or discriminating conditions. I know of a U.S. citizen who successfully claimed restitution of a previously confiscated hotel in Prague under this law. In the same year the parliament struck all communist-era criminal verdicts and confiscations as of the day the verdicts were originally pronounced, so that, legally speaking, no confiscations ever took place. For that reason we maintain that all confiscations were actually done in 1991 by the new government through its discriminatory restitution laws at a time when American Czechs already had their US citizenship.

In 1991, a year had passed since the Velvet Revolution and none of the people responsible for the misery of millions were being punished. The former communists started influencing political and economic life again. They had the connections, the knowhow and the money. They started acquiring businesses and often becoming employers of victims of the communist regime. That year new laws were passed to govern property restitution and compensation, but this time the laws contained restrictive and discriminatory conditions for restitution.

One such condition is that claimants must have Czech citizenship. Without it, one not only cannot receive restitution but cannot even buy his own home from the present occupant if he wished so. Here, the fact that I ended up immigrating to Canada played an important role in my ability to claim back my property. Had I ended up in the United States instead of Canada, I could have claimed nothing under the Czech Republic's property restitution laws. Unlike Czech Americans, I have always kept my Czech citizenship—I was not affected by the treaty signed in 1928 between Czechoslovakia and the United States that said a citizen of either country automatically lost their original citizenship if he became a citizen of the other country. My own family's attempts to recover confiscated property demonstrate the discriminatory impact of this citizenship requirement. Before WWII, my father bought an apartment house in Prague that was later nationalized by the communists. My father's four children inherited the house. Two of the children never left the Czech Republic, I went to Canada and the heirs of my sister came to the United States. Under the restitution laws, we got back

three quarters of the apartment house. The fourth quarter, which belongs to my two nephews who are U.S. citizens, is still held by the state.

There is another big hurdle to restitution for all claimants. One has to prove that the so-called current owner enjoyed some sort of favoritism. These properties, mainly family homes, have been acquired almost exclusively by the members of the communist party. It is almost impossible for the plaintiff to prove, after several decades, that the defendant acquired the property for an unfair price or under special treatment. Today the government claims that acquisitions of confiscated properties have been done "in good faith" and that a democratic government, defending property rights, cannot return properties to their original owners without thereby committing more injustices. The seized properties were never acquired "in good faith". Properties left by Jews who perished in camps, or properties abandoned by people who were jailed, executed or chased out of the country by the communist regime were acquired by communists as their loot. Everybody knew that these properties are still stained by the tears and blood of the victims. I have a documented case in which a man was jailed, his home was seized and sold to a local communist. He was later released because nothing has been proven against him but his home was never returned to him. Instead he got about \$300 in cash and \$8,000 in non-cashable long term obligations.

It is important to know that some properties, mainly the Jewish ones, have been confiscated twice, the first time during the war and although, after 1945, there were provisions enacted for their return to their original owners or their heirs, the communist coup prevented this and the properties have been confiscated again.

I would like to mention briefly the state of the justice system in the Czech Republic. Most judges have been educated in Marxist-Leninism and acquired their law degrees during the communist era. It is often difficult for them to render a verdict that is favorable to a "stranger from overseas" and unfavorable to a local influential citizen. We believe that the courts are politically influenced. No case is known in which a private home acquired by a communist was ever returned.

To document all this our group started constructing an internet page which will show all the pertinent laws and documents. There also will be a section listing the properties, their addresses, their buyers and their political affiliation at the time of purchase and warning of further acquisition.

Rightful owners should receive physical restitution of property in most cases and monetary settlement just in exceptional cases. The decision about our properties should be ours. We may want them for ourselves, for our relatives or for sale. We want to avoid the bickering over prices and payments that monetary compensation can lead to. Above all, we want to convince the Czech people that there never can be any plundering of property and exploiting of misery of neighbors again.

It is quite clear that the governments in power since 1990 continue, in many ways, the criminal practices of the previous regime. The general trend is to avoid restituting unlawfully confiscated properties and to sell them, altogether bypassing original owners. There is an attempt to protect the new occupants who acquired unlawfully confiscated private properties in an unlawful way. In 1991, President Havel said that

he favors restitutions as long as they do not disturb the present ownerships. This statement is typical and it explains what happened with restitutions and with the Czech Republic as a whole.

I will conclude by asking you, Mr. Chairman, and indeed the Congress of the United States, to use your influence in world affairs to help correct the injustices done during the totalitarian era in order to educate the people of the affected countries and to restore in their minds the feeling that justice still prevails in this world. Otherwise it will be very difficult, if not impossible, to build a properly functioning economy and justice system in the Czech Republic or any of the countries we have discussed at this hearing.

WRITTEN TESTIMONY OF VYTAUTAS J. SLIUPAS, P.E., ORGANIZER OF LITHUANIAN “CLASS ACTION COMPLAINT GROUP”

Mr. Chairman:

Thank you for giving me this opportunity to testify in front of this distinguished group. I appreciate your making my full statement a part of the record.

PREAMBLE

I was born in Lithuania in 1930. I came to the USA in 1947 as a Displaced Person and later became a US citizen. After a career as a Professional Engineer and Manager, I am now retired and reside in Burlingame, California.

For the past 8 years, I have been actively seeking the return of expropriated property in Lithuania. My efforts have been widely publicized in the Lithuanian and Lithuanian-American press and, as a result, I have been contacted by more than 80 people—Americans, Canadians, Australians, Lithuanians and Jews—who asked me to help them with their restitution claims also. Therefore, today as I testify in front of you, I have the backing of many persons who have encountered severe problems in recovering their rightful properties in Lithuania.

In 1940, the Soviet Union forcibly annexed Lithuania, Latvia and Estonia (this act was never recognized by the United States or by other major Western Powers). All private properties were soon “nationalized”. Then in 1941 Germans came, but did not return these properties. When the Red Army reoccupied Lithuania in 1944, many thousands of Lithuanians fled to the West and later emigrated to the United States, Great Britain, Canada, Australia or South America. This situation existed until the collapse of the Soviet Empire in 1990–1991.

In 1990, Lithuania regained its independence from the Soviet Union. A year later, the Lithuanian Parliament adopted a law which provided Lithuanian citizens whose properties had been confiscated with an opportunity to reclaim their properties. Ever since, Lithuanian-Americans have been trying to regain their own, or their rightfully inherited, properties which were “nationalized” [my better word for that would be “confiscated” or “stolen”] by the Soviets. We were optimistic because having grown up in America, in the land of freedom, we assumed that the same respects for personal properties would be rapidly reestablished in Lithuania. We have been sorely disappointed. Instead of regaining properties, we have been subjected to abuses, discriminations, insults, double talk, broken promises and outright lies by the Lithuanian government officials at all levels. Sorry to say, but the ingrained “homus sovieticus” mentality (i.e., mentality of a “Soviet man”) exists to this day in Lithuania.

For over 8 years I have tried to regain my father’s property in Palanga, in order to establish a memorial dedicated to my father. My father came to the USA before the turn of the century, became a US citizen and was very active in the Lithuanian-American affairs. In America he was known as the “Champion for Lithuania’s Independence”. After World War I, he returned to the newly independent Lithuania, participated in its politics and in academic life, and even served as the first Mayor of Palanga.

Since 1989 I tried, every which way I could think of, to regain my fathers’ property, which by his written Testament was left to me. Every year I visited Lithuania, submitted all the required documentation,

followed all the required steps outlined in the ever changing laws, opened and closed every bureaucratic door, hired a lawyer, but made very little progress. Finally, in 1993 the Minister of Culture wrote me an official letter in which he agreed to return my house. Unfortunately, he was soon transferred to another ministry and his successors reneged on his promise. Since then I have encountered nothing but a “stone wall of bureaucratic resistance”.

The problem is that in Palanga the Ministry of Culture nominally uses my house as a museum to my father but this is only a front. In reality, the Ministry of Culture has converted my property into summer vacation home for the key employees of the Ministry! They have remodeled 15 rooms for their use as a vacation facility—they even rent them out to visiting Americans and Lithuanians. This is in violation of existing Lithuanian laws, but the Ministry officials do not care, they act as if they were above the Laws. Possessing such a nice resort facility they are not willing to give it back. I petitioned all the past Prime Ministers, the Ministers of Culture (under whose jurisdiction my stolen property is administered), appealed to the Leaders of the Parliament, even to the Lithuanian Presidents (in person and in writings), but did not get any help from a single one of them. The Helsinki Commission (CSCE) wrote several letters to the Government of Lithuania on this and other similar cases, even the U.S. Congress passed one Resolution, No. 562, but the Lithuanian “nomenclatura” paid no attention.

My second house in Palanga, which at one time was used by the City administration, officially was returned to me last fall, however I do not possess it yet; the merchants who had their ‘souvenir business’ there are refusing to surrender the property and are suing the City. Since the court system in Lithuania is very inefficient, left over from the Soviet times, legal suits just drag and drag forever and are very seldom resolved. Thus, I doubt if I will see a just legal solution in my lifetime, unless great and drastic changes are made in the judicial system of Lithuania.

LATEST SITUATION IN LITHUANIA

The legal basis for restitution is complex, but I will now briefly describe the current situation.

Between 1991 and 1996, the restitution process in Lithuania was governed by a law that limited restitution or compensation to claimants who were Lithuanian citizens, who lived permanently in Lithuania, and had submitted requests for restitution by end of 1991. No outside residents or non-citizens could make any claims.

In 1997 a new law was adopted that eliminated the permanent residency requirement, but gave foreign residents only a 6-month period to submit their claims. Worse yet, all the claims submitted prior to July 1997 were considered invalid and had to be resubmitted within 6 months. Since this deadline was never extended, many claimants did not have sufficient time to respond.

During the years when non-residents could not legally claim their properties other persons were permitted to “privatize” or purchase these illegally “nationalized” properties. Sufficient cases exist to prove that properties already claimed by overseas Lithuanians were purposely and systematically “privatized” first.

Claimants could request restitution only to very limited range of properties; i.e., only to those that belonged to claimants, their parents or grandparents. Properties that belonged to brothers, sisters and other relatives were not eligible for restitution.

Restitution process was and is very complicated and time consuming: different government institutions deal with buildings, with land, with legal aspects. Government archives, where the needed documents were stored, and the courts (which had to certify them) become overloaded with requests and could not meet required deadlines.

Most unsatisfactory provision is that if no tangible building in the city had survived, the land underneath it may or may not be restituted to the claimant; another land parcel may be given elsewhere at the sole discretion of some Government official, and this act cannot be challenged in courts.

In June 1998, another law was adopted that allows the Government to pay compensation for properties that the State chooses to retain. Claimants for land may be paid (but not at market prices) by mid2006; and for buildings by 2010. The sad part is that by those dates most of the claimants will not be alive to receive "fictitiously" low compensations. Further complications will be added by multitudes of new regulations that are being prepared as Addendums.

There are many other unsatisfactory provisions against the legitimate claimants. Officials are not interested in solving these problems, or in solving them quickly and to the claimants' satisfactions. In conclusion, overseas residents are not being properly or justly treated; even the latest Lithuanian laws for restituting justly claimed properties do not comply with the basic standards found in the West, and violate the United Nations' Universal Declarations of Human Rights.

RECOMMENDATIONS AND SUGGESTIONS FOR U.S. GOVERNMENT ASSISTANCE

Since a new property grab by the government of independent Lithuania occurred after the Soviet system collapsed, and the newly and illegally confiscated (they call it "privatized") properties rightfully belong to many U.S. Citizens, we believe this matter requires a closer scrutiny by the U.S. Government. We are somewhat puzzled by the State Department's reluctance to get involved on behalf of U.S. citizens seeking to recover their properties in Lithuania.

The U.S. Government provides generous aid to many countries, including Lithuania. We wish this aid to continue with the hope that Lithuania will achieve a true democracy and a viable economy. However, as American taxpayers we feel cheated when we see our tax dollars flowing to a government which, because of our U.S. citizenship and other excuses, refuses to return properties that were unjustly taken from us or from our parents.

In the 105th Congress, the House of Representatives passed Resolution No. 562, regarding properties wrongfully appropriated by formerly totalitarian governments. While the support of the Congress is greatly appreciated by all people seeking the return of confiscated properties, and while the resolution made a few headlines in the Lithuanian newspapers, unfortunately it did not impress the Lithuanian government. It is clear that actions rather than words should now be in order.

If the Lithuanian Government refuses to abide by the moral and legal obligations which are spelled out in the United Nations Universal Declaration of Human Rights then one logical solution could be to deduct appropriate amounts of funds from the U.S. aid (of all types) going to Lithuania to properly compensate U.S. citizens whose property was grabbed by the post-Soviet era Lithuanian government. And this compensation should be paid now—not in 10 or 20 years—and should be based upon the current market values, not upon some fictitiously low values decided upon by the local government officials, who may be open to corrupt practices.

This would be but one option. It unfortunately would not help many others who are not U.S. citizens, nor those still living in exile in Siberia because they have no place to return to in their native land, nor even those thousands of Lithuanians in their own country who are mistreated by the unscrupulous officials and the old “Soviet-style” laws. Lithuanian Parliament should be induced to change these laws without delay (as were already done in Hungary, Estonia, Latvia, and elsewhere) to become compatible with those in the West. The inefficient and corrupt court system should be drastically changed so that people in Lithuania could be assured speedy, fair and just treatment under laws that apply equally to all. Finally, the Lithuanian Government must enforce such laws timely and vigorously, and not wait for years and years until there may no longer be any rightful owners left to benefit from them. Only then can Lithuania hope to be admitted as an equal in the Western organizations, such as the European Union or NATO.

Just 10 days ago, in the March 16th issue of the Washington Times, appeared an advertisement entitled “Lithuania on the Threshold of the 21st Century”. In it, the Prime Minister of Lithuania said: “...The country’s economic and legal reforms are acknowledged as among the most successful throughout Central Europe... When the people of the United States and other western democracies cross the threshold of the new millennium, we Lithuanians will also be ready to make our contribution.” I would like to add my wish, and the wish of many thousands of Lithuanians as well as of other concerned people, that the Prime Minister also include in this “contribution” the legally and morally justifiable restitutions of illegally confiscated properties.

Thank you Mr. Chairman.

I would like to submit to the Helsinki Commission this folder with Attachments which further elaborate and support my testimony.

**DOCUMENTS SUBMITTED FOR THE RECORD BY VYTAUTAS
SLIUPAS**

**BASIC POINTS REGARDING THE PROPERTY RESTITUTION
PROCESS IN LITHUANIA : *AMERICAN-LITHUANIAN PROPERTY
OWNERS AND PROPERTY RESTITUTION LAWS OF 1991 AND
1997***

GAILA E. KLIMAS, FULBRIGHT FELLOW 1998

I spent 1 year, 1998, in Kaunas, Lithuania, on a Fulbright grant, researching organizations focusing on real property restitution process and their contribution to the development of democratic civil society in Lithuania. I met owners waiting to get their property back and persons and officials involved in the laws and processes of the restitution of property.

Most of the discussions and work centered on procedures and problems dealing with the established residents and citizens of Lithuania. There are now two group types of real estate in this process: returnable and non-returnable. In the non-returnable grouping are the privatized properties belonging to owners, who were living abroad in 1991 (up to 1997) and were not established residents of Lithuania and were not considered as, or are not, citizens of Lithuania.

Three property law amendment projects were introduced in the Parliament in 1998: P1269 introduced by S.Peceliunas of the Democratic Party, P1269 (A), introduced by V.Lape of the Conservative (ruling) party as an amendment to the P1269 and P1270, also by S.Peceliunas. All three dealt, basically, with farmland 'returnable' property reform. My efforts to add for discussion in Parliament a law amendment proposal prepared by me, to right the injustices to American owners of property in Lithuania, were fruitless. I plan to continue working on these issues. I am presenting here the main points of the real property restitution process in Lithuania.

Real property restitution law of June 18, 1991 (Property Restitution Law No 11454) was the first such law after the restoration of the independence of the Republic of Lithuania on March 11, 1990. It required the owners to be Lithuanian citizens possessing appropriate documents proving Lithuanian citizenship and, also, to be established residents of Lithuania by the year 1991.

In August 1991, real property owners residing in the United States, American citizens, were informed (through the Lithuanian press), that, to restore title to their property, they should send requests to Lithuania by December 31, 1991. However, most of the properties, instead of being returned to the owners, were privatized, sold by a city or a village as state property to the resident citizens.

Funds used to purchase such property were special coupons, called investment checks, issued by the Republic of Lithuania. These 'checks' did not have any monetary equivalence or exchange value and could only be used in Lithuania, to privatize (acquire) state owned property or 'invest' in local concerns. Thus, one could say, an apartment could be 'privatized' for free. Many American-owned ('foreign') properties were taken very quickly and quietly. There were reports (private and in Lithuanian press) of misplaced, lost or 'rearranged' ownership documents and property restitution requests.

In 1997, the revised Property Restitution Law No. VIII359 designated the privatized American properties as no longer remaining and, therefore, non-returnable. Under the Lithuanian law, when a property has been privatized, it is no longer considered remained standing. In such cases, Lithuanian government is offering compensation (VIII359, Art. 15&16) for these properties (VIII359, Art.3, Sec. 2), 'market' value being determined by the Parliament and/or appropriate Municipalities, to be paid out during a ten (10) year payment plan. Valuation includes calculation of the percentage to be taken by the government for the years the property was 'held and improved upon' during the owner's absence. In other words, the owner will have to pay the Lithuanian government for the years he/she was forced to be away because of the Soviet take-over, in appreciation to the 'tenants' for holding and using his/her property (which now has become the property of these 'tenants').

In 1998/1999 the property restitution process deals mainly with the property problems of the 'local' Lithuanian citizens, though the revised law eliminates the residency requirement. However, the 1991 residence requirement continues for the owners of the properties privatized before the passage of the revised law of 1997, because 'it is not possible to move backward.' I heard this explanation from many officials, including the Seimas (Parliament) chairman Mr. Landsbergis, during our meeting on Jan. 22, 1998.

In 1998, in Kaunas, Biruta Kaulakyte, director of the property restitution office in the city of Kaunas, said to me: 'You and others like you have been thrown overboard.'

During my Fulbright grant year to research organizations working on the property restitution process in Lithuania, I found the attitude among the government and various city officials to be one wishing for the disappearance of the 'previous owners.' Mr. Landsbergis told me there was nothing he could do, because Lithuanian people would be opposed to giving back to the original owners the already privatized properties. Besides, he emphasized (as did many others) the privatization was done 'legally.'

On June 26, 1998, the Kaunas based Lithuanian Homeowners Association held a meeting on property issues at the Kaunas Municipal hall. I participated, speaking about the importance to return the homes and land to the original owners. I informed the meeting of the U.S. Congress' Helsinki Commission's interest in the return of property in Lithuania to the rightful owners. Valentinas Markevicius, the Kaunas city assistant administrator in charge of overseeing the municipal property restitution office, responded to my speech with a surprised and shocked tone of voice: 'Gaila Klimas wants us to give property to Americans!'

Several persons attending this meeting apologized to me afterward for Mr. Markevicius' words. Altogether, I noticed, that regarding property return issues, 'regular' people were willing to listen and understand and see all properties returned to all the rightful owners, together with finding ways to help, if necessary, the persons and families living on these properties.

In September 1998, I prepared a law amendment proposal for the Art. 15 of the 1997 Property Restitution Law No. VIII359, submitted by the Lithuanian Homeowners Association to the Parliament of the Republic of Lithuania. The proposal is as follows:

Property, houses and plots, privatized after Dec. 31, 1991 and also Dec. 31, 1997, is considered a remaining property, to be held as 'returnable' for the process of restitution of such property. The property may be purchased by the government (for the purposes of paying compensation for it) from the owners (persons who built or first bought the property, or their heirs) only with the owners' agreement and/or request for such compensation/purchase. The owners (original owners or their heirs) who want to get back their property as it is now standing (called 'natura' in Lithuanian language) must have such property returned to them. Persons, who, because of the previous (flawed) law had privatized the aforementioned property, receive compensation to cover their losses and get help with relocation.

This law would require less funding to cover losses and/or relocation expenses, than the full payment for a property based on the real market value. It must be kept in mind, that tenants had 'privatized' only parts of a property (e.g. rooms in a house) or apartments almost (or actually) for free and already had the privilege to live in it rent-free (and possibly tax-free) for about 8 years. In some instances, such 'tenant-owners' had privatized several properties and are using them for income, while the real/original owners are trying to get their homes back.

The Lithuanian Homeowners Association received two (2) copies of two (2) letters in response to the proposal. One, dated Oct. 19, 1998 (Nr. 4501312/08/102338) and signed by the Parliament Judiciary Committee chair, St. Staciokas (now appointed judge at the Lithuania's Constitutional Court), addressed to the Prime Minister G. Vagnorius and the second, dated Oct. 27, 1998 (No 139850), signed by Kestutis Cilinskas (chancellor to the government), was addressed to the Ministries of Finance, Justice, Environment and Agriculture. Chancellor Cilinskas asked for a coordinated answer regarding my proposal, to be sent to the Parliament Judiciary Committee. Mr. Staciokas, in his response to the proposal prepared by me, states that he believes 'issues raised by Gaila Klimas can be resolved by the 1997 Property Restitution Law No. VIII359, Art. 3, Sec. 2 and Art. 16, Sec. 1.' This law designates that payment will be made by the state for the property that has remained standing up to August 1, 1991, but was privatized due to decisions made by government or municipality officials. Then such property is no longer legally considered as standing (remaining) and, therefore, non-returnable.

With Mr. Staciokas, the circle has come full round. I have asked (and still hope), that the Articles 15 and 16 will be amended, so we Americans can get our property back. Meanwhile, the head of the Parliament Judiciary Committee, and now a judge of the Constitutional Court, wants to solve issues of property restitution to Americans by not returning it. In plain words, one could say Lithuania wants to keep American properties confiscated and stolen.

Lithuanian people take notice of American actions. The H. Res. 562 was noticed and commented. On November 11 1998 Antanina Venckuniene, chairwoman of the 500.000 member Lithuanian Landowners Union, wrote to Hon. Christopher H. Smith, chairman of the CSCE, thanking him and the Helsinki Commission for the H. Res. 562 and asking to exert his influence 'to address directly the Lithuanian authorities with the purpose of making appropriate changes in the laws regulating the return of seized real estate.' Mrs. Venckuniene, in her letter of January 12, 1999 (No. 02) to members of Lithuanian Parliament, points out the injustices that will be perpetrated with the accep-

tance of Mr. Lape's Project P1269A (2): it supports confiscation/nationalization of land 'for public domain' without the agreement of the owner; it reduces compensation for property by 15 percent (Art. 11). Importantly, it does not confirm the constitutional continuity of the Republic of Lithuania from 1918/1940 to the present time, thus legalizing the Soviet occupation laws of July 22/23 1940, which made nationalized and otherwise seized real estate a state property. She urges them, when they meet (March 16th 1999) to review amendments on property restitution laws, to base decisions on international law and the experiences of Latvia and Estonia. The Landowners Union hopes Lithuania's acceptance to NATO and the EU will also be related to the reform of its property restitution laws.

I believe American pressure on the government and the people of Lithuania is necessary in order to reach the goal of returning the homes and the land to its rightful owners. Possibility of an economic pressure together with a political one should be analyzed to help urge the needed property restitution reform in Lithuania.

VYTAUTAS J. SLIUPAS, P.E., ON EXISTING PROPERTY RESTITUTION PROBLEMS IN LITHUANIA

Hon. Christopher H. Smith
 Chairman
 Commission on Security and Cooperation in Europe
 234 Ford House Office Building
 Washington, DC 20515

Mr. Chairman:

In your Remarks of March 15, 1999 in the House of Representatives you very eloquently expressed your concern over recent setbacks in the return of expropriated properties to rightful owners in the Czech Republic. A very similar situation exists today in the Republic of Lithuania.

I have testified today before this distinguished group, chaired by you, and outlined the overall situation in Lithuania. In support of my testimony please permit me to further elaborate by presenting several specific cases.

- Case of Vytautas J. Sliupas, P.E. (my own case), resident of Burlingame, CA: Besides the essential facts presented in my verbal testimony today, I wish to say that the Helsinki Commission in its letter of July 6, 1998 to the Lithuanian government used my case as an example. Sufficient details were presented in that letter and additional facts are in the files of the Helsinki Commission.
- Subsequently, I have visited the Ministry of Culture. The Deputy Minister Naglis Puteikis wrote me a letter on July 7 stating that Ministry would agree to return my main house, but would like to retain the "garage" (which is also converted into a vacation house). I countered with a letter to the Minister Saulius Saltenis saying that I wanted to retain my entire property, but I would agree to their using the "garage" for some specified time. I attached a signed "Letter of Understanding" for his countersigning, but the Minister never responded. Recently I heard that the Ministry of Culture had "lost" my letters.
- During a very recent Lithuanian government Cabinet Meeting the Minister of Culture requested that Dr. J. Sliupas' house (museum) in Palanga be incorporated in the Registry of Non-returnable Properties. This Registry was debated in the Cabinet but was not approved; it was returned for better coordination and resubmittal. This act clearly shows that the Ministry of Culture had no intention abiding by their latest offer letter to me in which they indicated willingness to return the main building.
- Case of Ms. Gaila Klimas resident of Cleveland, OH: Her father, Adolfas Klimas, the original owner, purchased a plot for a house which was built in 1940. The family lived there from June 1940 to July 1944. With the Soviet forces re-occupying Lithuania, family was forced to flee. Adolfas Klimas, a journalist, had been active in the rebuilding of Lithuania, worked in the Seimas (Parliament). His brother Petras Klimas, was a signator of the Declaration of Independence of 1918 and an Ambassador to France. This, and the mass deportations of Lithuanians by the Soviets in 1941, placed their lives in danger if they stayed.
- The family immigrated to the United States in 1949. Ms. G. Klimas became an American citizen in 1959. She is the sole heir after Adolfas Klimas died in 1985 and his wife Elena died in 1981.

- In 1990-91, the Kaunas municipality included Adolfas Klimas' house in the list of properties to be returned to owners. In 1991, Lithuania issued a notice that Lithuanian Americans can claim their properties by December 31, 1991. Ms. G. Klimas sent a request to the Mayor of Kaunas. In 1991, Lithuania decided to recognize Lithuanian citizenship to persons who had been citizens before June 15, 1940, including those who had been living abroad on March 11, 1990 and after. This decision made her a dual national.
- Ms. G. Klimas received an answer to her claim explaining that her request was not discussed, because she was not a resident of Lithuania in 1991 and did not provide a document proving her Lithuanian citizenship. In 1991, Soviet passports were still in use.
- Ms. G. Klimas wrote a second request to Kaunas in August 1992. She received no answer. In 1993 she received a one-sentence notification from Kaunas municipality stating, without any explanation, that her rights to the house will not be reinstated. In 1995 she went to Lithuania and learned that her house had been privatized in March of 1992 and that her claim and the documents she had sent in 1991 was missing. The Mayor's law consultant attorney, Raimundas Miksta, said Lithuania's laws would not be applied to her if she bought apartments to all the residents in her house. Her response was: why should she buy her own property?
- In 1998 she spent one year in Kaunas on a Fulbright grant researching organizations working on the property restitution and human rights issues in the post-Soviet Lithuanian society. She experienced bureaucratic attitudes and delays regarding return of properties to the local residents as well as in her personal attempts to resolve issues in getting back her house. Main attitude among various Lithuanian officials was not to return properties to "foreigners," especially ones that had been privatized (sold as state property after 1991). In 1998, kaunas municipality informed her that her house was privatized, because she was late in claiming it. But she had the proof of her claim in 1991. Then she was reminded that she should have been a resident of Lithuania in 1991, anyway, in order to get her house back.
- In December 1998, Kaunas municipal office for properties agreed to "hold" her house, meaning nothing will be decided for the time being. In 1999, Ms. G. Klimas hopes that United States will exert stronger pressure on Lithuania urging her to return real property to the American owners, so that she too can have her inheritance - the house in Kaunas.
- Mar, CA: This case was also used as an example in the Helsinki Commission's letter of July 6, 1998 to the Lithuanian government. Subsequent events can be described as follows:
- Paezeriai Esate is still occupied by the Regional Museum and in 1998 it was primarily used by the Ministry of Culture and by Mayor of Vilkaviskis for holding meetings and for celebrating birthday parties for visitors from the USA. The exhibits in the Museum are next to nothing: a few photo portraits, some personal poetry, a few paintings and some china ware. During the year the Mayor of Vilkaviskis repeatedly requested Lithuanian -government to place the Estate on a list of "non-returnable properties," while the legal representatives of the owners repeatedly requested the government to return the property to the rightful Heirs.

- A letter of protest was sent on Jan. 18, 1999 to the Prime Minister and the Minister of Justice. On February 18, 1999 it was learned that the Minister of Culture Saulius Saltenis had sent to the Lithuanian Government a request not to return the Paezeriai Estate to the rightful Heirs, but to pay compensation instead. Legal representatives forwarded a documented protest to the President of Lithuania, because it is believed that the Lithuanian Government does not have sufficient money to pay the Heirs a reasonable and fair compensation.
- The Heirs wish to have the entire Paezeriai Estate returned to them. It is apparent to the Heirs and to their legal representatives that personal ambitions of the Mayor of Vilkaviskis, and of the Minister of Culture Saulius Saltenis and of his Deputy Minister Naglis Puteikis are preventing the return of the Paezeriai Estate even when it is contrary to the provisions of the Lithuanian laws and the Constitution.
- Case of Algis Tallat-Kelpsa, Colonel (Ret.) Army of the United States of America, resident of Mentor, OH: Colonel Tallat-Kelpsa states that after coming to power, the government of newly independent Lithuania made every effort to AVOID restitution of property rights to the rightful owners (or their heirs) of properties nationalized during the Soviet occupation. Since he is an American citizen (and a retiree of the Army of the United States), he was prohibited by Lithuanian laws to file any property claims without first obtaining a Lithuanian passport. To him this was a violation of his human rights and an insult to his American citizenship. Therefore, he has not filed any claims in spite of the 31 December 1997 claim deadline imposed by the Lithuanian government. Pursuing this matter through Lithuanian legal channels he believes would be HOPELESS and cost prohibitive.
- In his case, there is also a truly ironic twist. One of the properties he inherited is a 6 acre parcel deeded to his father by pre-WWII government of independent Lithuania, based on father's status as a volunteer/founder of the army which fought for and gained Lithuania's independence following WWI.
- Case of Raymond Matulionis, PhD, AIA (Professor, Univ. of Wisconsin), resident of Madison, WI: Raymond Matulionis parents' property, "Jasonys" estate, is near the city of Utena. It consists of some 93 ha and a number of buildings purchased by his parents, U.S. citizens, in 1932. Property was confiscated without compensation in 1947. Because his parents retained their U.S. citizenship while they lived in Lithuania, the entire family was able to come to the U.S.A. in 1947 as U.S. citizens. Raymond Matulionis and his brother were born in Lithuania as U.S. citizens.
- R. Matulionis visited "Jasonis" in 1989. The property, including remaining buildings, is grossly run down and severely neglected. To bring it up to acceptable standards an enormous amount of effort would be required. The ownership of property is documented in the Lithuanian National Archives. With regard to reclaiming his property, he has written letters to the Ministry of Agriculture, Ministry of Justice, Lithuania's Ambassador to the U.S., Utena Territory Executive, and Director of Land Affairs and Legal Department of the Ministry of Agriculture and Forestry. Copies of letters were forwarded to other Lithuanian governmental agencies including the Central Privatization Commission. His first letter was written in August, 1991 and in the years that followed he has personally visited some of these agencies.

- The letter he received from the Executive of Utena Territory, dated October 26, 1998 in general summarizes Lithuania's response: ...“according to the Lithuanian Republic Citizens regulations, real estate ownership rights are being re-established only to the citizens of Lithuania. Since you have informed us that you are a U.S. citizen, there is no possibility for you to regain the ownership rights to the property” (not a direct quote). For Lithuanian officials this is a clear cut case. Unless Lithuanian property restitution laws regarding foreigners' properties are changed, he does not think much can be expected at this time from further discussions with Lithuanian officials. R. Matulionis hopes that perhaps the Helsinki Commission could advise at this time, with some certainty, what steps could be taken by U.S. citizens to regain their confiscated properties.
- Case of John Vazbys, resident of Mahwah, NJ: Mr. Vazbys is trying to reclaim two of his father's properties, one in Kaunas, the other in Palanga. Both properties were “nationalized” under the Soviet regime. Since 1957, when Lithuania was still under the Soviet rule, he has been trying to transfer his deceased father's property to a cousin, who had returned to Kaunas from the gulag in Siberia. Efforts to accomplish this came to nothing, both under the Soviets and under the new Lithuania's government.
- In 1993, his Kaunas property was sold to the so-called “renters” for worthless “institutional paper.” A reliable source informed him that his property was sold for an equivalent of \$20 US. The City has recently informed Mr. Vazbys that they were willing to compensate, however, no concrete offer was made, and the city newspapers quote the Mayor of Kaunas as saying that there is no money for compensating all claimants.
- Mr. Vazbys filed a request for return of his father's lot in Palanga. However, he has received no reply. The city administrators commented to him that his request was of “low priority,” since neither his father nor he was a deportee, a freedom fighter or a current government's pensioner. In concluding, Mr. Vazbys says, it is well past the 1997 date when all the paperwork requirements were satisfied. If a proposal comes in his lifetime to compensate, in lieu of return of the properties, at other than 100% of current values, or to compensate later by stretching payments over years, such proposals would not be accepted.

**WRITTEN STATEMENT OF THE RUTHERFORD INSTITUTE
SUBMITTED FOR THE RECORD**

The Rutherford Institute is an international nonprofit legal and educational organization dedicated to religious liberty, civil and human rights. The Institute's interest in property restitution in Post-Communist Europe is linked with its desire to defend civil and human rights worldwide and end religious discrimination. The Institute's staff in Budapest, Hungary have forwarded timely and pertinent information concerning property restitution in Romania, Slovakia, Yugoslavia and Poland.

The Rutherford Institute seeks to bring to the Commission's attention the following information:

We received a facsimile on March 22 from our Budapest office, asking for our assistance in restoring property which was taken during Communist rule. Our staff reported that in 1948 the Romanian government closed 1300 schools (half Catholic, half Protestant) and took possession of the school buildings and equipment. These buildings have not yet been given back to the churches despite numerous requests.

In 1995 the Romanian Parliament passed the Educational Law, which maintains that all those buildings which presently belong to the Ministry of Education will not be returned to the original owners, but will remain with the Ministry. Yet, exemptions from this law have been granted solely to the Romanian Orthodox Church, directly discriminating against all other long-established churches in Romania. Furthermore, in the region of Nagyvrád, the episcopal building of the Presbyterian Church had been confiscated in 1962 and has not been returned to the Church, despite the Church having sued for restitution and won in court seven times.

The ethnic Hungarians living in the Moldavia region of Romania are mostly Roman Catholic, and had owned about 100 schools as well as a teacher training college from 1945 until the late 1950s, when they were all closed down. Since that time, Romanian Catholics have not had schools of their own and are forced to learn in the Romanian language and not in their native tongue. These constrictions are a major cause of ethnic and religious discord and strife not dissimilar to the present unrest in Serbia.

Similarly, religious discrimination appears to impede restitution in Slovakia where about 600,000 ethnic Hungarians live, of which approximately 60 percent are Catholic and 40 percent are Presbyterian. The Presbyterians seek the restitution of approximately 200 school buildings; they have not yet received anything back. Hungarian Catholics have been rebuffed by Slovakian officials after efforts to appoint a Hungarian bishop who would offer mass in Hungarian.

In Yugoslavia neither the Catholics nor the Presbyterians have received restitution of their school buildings. Although some of the church schools have been reorganized as private academies and are allowed to use state school buildings after state school hours, this "accommodation" poses a substantial inconvenience to parents and children and it serves as a continual reminder that the atrocities suffered more than forty years ago continue to inflict pain.

All of the foregoing information was reported to us first hand by our staff in Budapest who work very closely with the ethnic and religious minorities there. Unquestionably, the status of the Romanian Orthodox Church, as the state-recognized church in Romania, contributes

directly to the unfavorable treatment of members of the Catholic, Presbyterian and Protestant Churches. Therefore, while most of the eastern European nations have proclaimed their goodwill and intentions to complete the difficult restitution process, several of those nations are in fact ignoring the claims of religious minorities.

The Rutherford Institute is cognizant of the legal barriers and bureaucratic inefficiencies that have plagued the restitution process. However, it appears that religious discrimination quite apart from other impediments is substantially responsible for non-state churches and ethnic minorities receiving little or no restitution for confiscated church and school property and buildings. While international pressure may not cure legal or bureaucratic obstacles inherent in new democracies, international efforts can and should be made to swiftly eliminate religious intolerance.

**WRITTEN STATEMENT OF THE COMMITTEE FOR PRIVATE
PROPERTY, INC. SUBMITTED FOR THE RECORD □**

Mr. Chairman, Mr. Co-Chairman:

We are grateful that the Commission has organized hearings on the issue of property restitution in Eastern Europe. The Committee for Private Property, Inc. (CPP) has documented 1,732 cases of property abusively confiscated by the communist regimes in Romania. Since May 1997, when we started compiling this list not a single case of restitution has resulted in the rightful owner taking possession of his or her property.

On the issue of the protection of property alone, the Governments of president Iliescu and Constantinescu have a worst record than that of Ceausescu. Under Ceausescu, most of the confiscated properties were used by communists and their supporters, but the users could not become owners. Under the Iliescu government, through law #112/95, the state began "selling" properties that it did not own, at "bargain basement" prices equivalent to the price of stolen goods. Most of the rightful owners, did not have an opportunity to claim the property, before it was sold.

Of the few cases where a court challenge was possible:

- the corrupted courts, staffed with judges educated by the communists, ruled against the owner, based on old communists ideas against the right to private property, rather than the law. Under the Romanian Civil Code we never lost our property rights, we only lost the possession of our goods since confiscation is not a form of title transfer.
- most of the cases that resulted in a ruling reinstating the property owner in his or her rights were overturned by the Supreme Court, through a Stalinist procedure called "Recurs in Anulare" ("reversal based on annulment"). This procedure was stopped by the Attorney General Sorin Moisescu, but unfortunately, too late for a lot of the owners. There is no remedy available under the Romanian legal system, against this abuse of power. We are aware of a single case pending before the European Court at Strasbourg, since 1996, still unsolved while the house was illegally sold by the government to one that did not have the right to purchase it, even under the laws then in effect.
- of approximately 25 cases, known to us, where the rightful owner regained the property we do not know of a single case where the tenant moved out, even when another house or apartment was offered to the tenant. This illegal act is tolerated and encouraged by the government.

The rent imposed by the government is typically of the order of \$1.50 per year where the property tax is between \$100.00 to \$200.00 per year, or even more.

The class action lawsuit is not available under Romanian law, making it economically impractical or even impossible to claim your own property due to the high cost of litigation. Most of the rightful owners are senior citizens, on fixed, very low income.

Some agricultural land has been returned to the farmers, under law 18/1990, with considerable restrictions and without property title. In most cases the land returned is not the same land as that confiscated, the best quality land being given to "specialists" whose own land, if any, was never confiscated.

More than 1,100,000 hectares of best land is still farmed by state owned farms. Recently the Romanian Senate passed a bill for the formation of a centralized state agency to operate the farms. This is contrary to the privatization efforts expected by the Romanian people. A more liberal law, proposed by Congressman Vasile Lupu (PNTCD) is being debated for years. Under this proposal people that did not receive back the land under law 18/1990 due to various restrictions could re-apply and also the upper limit would be increased from 10 to 50 hectares.

Millions of hectares of forest are still under the control of the Romanian Government. Dr. Ioan Paltineanu is analyzing this subject in a separate letter.

For the nationalized industry and commercial establishments there are neither plans nor discussions of any restitution or meaningful compensation.

Most of the American citizens of Romanian origin leaving Romania between 1960 and 1990 have lost their property through Decree 223/1974 that confiscated all of the belongings of the people that decided to remain in the West and people wishing to permanently depart from Romania. This decree was found abusive and illegal by the Iliescu government, but its effects were not eliminated. The logic tells one that if property was obtained by the state as a result of an illegal and abusive act, that property must be returned, with proper retribution for the losses. So far, this basic human right concept does not apply to Romania.

Today we are asking for your support in our fight for restoring property rights and the rule of law to Romania. This is the base of a democratic society and one cannot forge ahead without correcting the abuses committed in the past. Property rights cannot wait until all the well positioned former and present communists and/or government officials have appropriated for themselves the best properties belonging to others.

Please include in these hearings the list of 1,732 cases of abuse, documented by our organization, as proof of lack of progress in Romania. Your support is urgently needed and will be deeply appreciated.

Sincerely yours,
Mihai A. Vinatoru
President

*Please visit our website at www.romhome.org
[The list of 1,732 cases is available at the Offices of the CSCE, Washington, DC.] □*

**WRITTEN STATEMENT OF SUSAN R. BENDA SUBMITTED FOR
THE RECORD**

RESTITUTION FOR JEWS: TO BE OR NOT TO BE?

Restitution laws are hard on everyone. Many Czechs feel that they have not received fair compensation for expropriations of property during the Communist era. But it appears that one class of claimants—Jews—have been virtually barred from recovery by the Finance Ministry's strained interpretation of the 1994 restitution law. My family falls in that category.

The Finance Ministry denied our claim and we sued, challenging the Ministry's intransigent misreading of the restitution law. In September, more than 3 years after we filed our claim, we were vindicated. The Liberec court agreed with us and ordered the Ministry to provide restitution. The Finance Ministry, however, won't take no for an answer. In a move that surprised our seasoned lawyers, the Ministry has appealed the decision. We are thus waiting again.

My family has been waiting 50 years for the Czech government to compensate us for the theft of my grandfather's house in Liberec. The restitution law proclaimed that Jews would be compensated for property seized during the Nazi era. Like virtually all other Jewish restitution claims, ours hit a brick wall of Czech government intransigence and guile. When we cleared all the legal hurdles, the government changed the rules by imposing on us new demands. Our story is one of hundreds of other similarly situated Czech Jews.

Under the law we have a clear claim for restitution. We are not seeking to reclaim the property, as it is now privately owned. Under such circumstances, the law requires the government to provide monetary compensation. But the issue is not about money; the amount at stake is likely to be symbolic at best. Rather, it is about justice.

My father and his brother grew up in a rather nice home in Liberec, which was "sold" (stolen) in 1940 to a German company in a transaction subsequently invalidated by a 1945 Czech Presidential decree. My father fled his homeland in 1939 before the Nazis killed his parents. He married another Czech refugee and emigrated to the United States. My father died in 1971 and his brother predeceased him.

In 1994, the Czech parliament amended its post-Velvet Revolution restitution law to enable people (mostly Jews) whose property was stolen by the Nazis to join Czechs whose property had been seized by the Communist government in claiming restitution. The law imposed formidable obstacles to potential Jewish claimants.

First, these claimants—the vast majority of whom survived after fleeing the country for their lives—must be Czech citizens today in order to file a claim. Miraculously (because my parents were both Czech citizens when we were born), my brother and I are Czech citizens by birth, a hurdle most Jewish survivors (and their descendants) no doubt fail to clear. In addition, Jewish survivors must prove that they were entitled to file a claim under a post-war 1946 restitution law and that their claim "has not been satisfied."

It is quite remarkable—and lucky—that my family's claim meets the narrow legal criteria. But apparently satisfying legal conditions is not good enough for the Ministry of Finance, which has taken an astonishing position that would be impossible to sustain in any court that applies the law fairly. The Ministry requires claimants to prove that they

in fact filed a claim in the post-war period and that the claim was expressly rejected by a court decision. Simply put, the Ministry asserts that you qualify if you fled the country with nothing but the shirt on your back and then returned to file a claim after adoption of the post-war restitution law, quite a feat. As it happens, my uncle did return and filed a claim in 1947.

That extraordinary achievement, however, is insufficient for the Ministry of Finance, which insists that we also have to prove that a court expressly rejected the claim. We have no idea if Czech courts considered restitution claims during 1946-48, let alone the resolution of my uncle's claim. In any case, the law does not specify such a requirement; it is a pure invention of the Finance Ministry.

We actually found a record of my uncle's property claim in the Liberec town hall files. The chain of title shows that it was stolen by the Nazis in 1940, confiscated by the Czech government in 1953 and purchased from the government in 1992 by its current owner-occupant, who owns the title. We never got it back, which is simple, dramatic and irrefutable proof that our post-war property claim was unfulfilled.

Why, and on what legal basis, does the Finance Ministry assert that—above and beyond the legal requirements—we need to have filed a claim under the post-war law and prove that a court rejected that claim? How dare the Finance Ministry add absurd and unwarranted extra-legal burdens when we have met all the requirements of the law?

"So sue us," retorted a rather cavalier Czech government. We sued and we won. Apparently recognizing that this decision would have a positive impact on other Jews who have filed restitution, the government appealed the trial court's decision. This litigation not only costs more time and money, it provokes a growing indignation and outrage against a government that purports to remedy past grievances but instead callously insists on adding insult to injury.

We represent hundreds. Those Czech Jews who survived the unspeakable horrors of the Nazi years (and their descendants) deserve better. We are owed restitution under this law. The Liberec court agreed. It is time for the Czech government to cease its stonewalling and honor the commitments made in its restitution law. The government should never have appealed and should withdraw its appeal. But we are confident that even if it does not do so, the appeals court will affirm the trial court's ruling and justice will be served. Justice delayed beats no justice at all.

The writer—a Czech citizen by birth and an attorney by education—lives in Washington, DC. □

**WRITTEN STATEMENT OF PROF. DR. RENATUS J. CHYTIL,
JURIS CONSULT, SUBMITTED FOR THE RECORD**

MARCH 19, 1999

The Honorable Christopher H. Smith, M.C.,
Commission on Security and Cooperation in Europe
234 Ford House Office Bld.,
Washington, D.C. 20515
Tel. 202-225-1901

Dear Congressman Smith:

I understand that there is scheduled hearing by the CSCE next Thursday on the problems of restitution of confiscated properties by the Nazis and the Communists in the CEE region.

THE PRECEDENT FOR RESTITUTION:

As you remember, I brought to your staff's attention the two cases, the *Simunek and Adam decisions* of the United Nation's Committee saying that citizenship restrictions violate the antidiscrimination Article 26 of the International Covenant on Civil and Political Rights. But this goes further than the U.S. ratification of that Convention.

You may also remember that during the July hearing of 1996, the State Department's legal experts did not know anything about the Simunek decision that was reported in the *Human Rights Law Journal*, 30 April 1996, Vol. 17 No. 1-2, pages 13-17. However, such problem of juridical ignorance and laxity of our high ranking bureaucracy and experts contributes to default of property rights and human rights of thousands U.S. naturalized citizens, or rather millions of foreign born nationals who immigrated to this country and became U.S. citizens.

IGNORANCE IS NO BLISS:

When it comes to restitution of confiscates and human rights and enforcement of human rights, there is no excuse for juridical ignorance. Is there? We have now situation (see the attached newspaper clipping) that "people have found it harder to reach federal employees when they call or write the government, and top officials have become more insulated from the needs of the people..."

There has been the tendency by the State Department to stone-wall information and legal expert knowledge of individuals to help to decipher the confusion, so one could bring to light the original source of legal reference and proceed to solutions, without the need of hiding in ignorance.

THE EASY-WAY-OUT DOCTRINE:

In reference to your letter to me of September 4, 1996 (see attached) you referred to my memorandum and critique of the shortcomings of the current espousal policy, dubbed as "the Easy-Way-Out Doctrine" of the U.S. Government. But I was not joking.

The State Department's doctrine of espousal is the Achilles' heal. Unfortunately the Department's legal advisers like Bettauer and Eizenstat, in terms of restitution of private property, not only do they not understand the concept of International Human Rights Law, but by taking lightly our critique of the illegality and unconstitutionality of the espousal doctrine, they continue to make the job more difficult.

THE CRITIQUE OF THE NEW DEMOCRATIC PROCESS PROMOTING ECONOMIC GROWTH:

In this Republic and Democracy, there's no need for a cover-up. Allow me to challenge the State Department's arguments dealing with the Czech "dual citizenship" and "restitution." Perhaps unknowingly, Mr. Bettauer and Mr. Eizenstat had created the problem of restitution in conjunction with operating with DoS espousal doctrine.

I would like to be invited by your Committee to participate as an expert witness at the hearings. I do not consider this as PR entertainment. My Congressman Ed Royce sent me a copy of your Resolution H. 562 of October 1, 1998, concerning properties wrongfully expropriated by formerly totalitarian governments. In fact, these governments, regardless of their inventive restitution statutes, they are duty-bound to return the confiscates to original owners. Your staff really does not comprehend why those postcommunist regimes, calling themselves poluralistic democracies must return the confiscates the Nazi and the Communist regimes stole.

With respect to the Czech Republic, its officials have been laughing for more than seven years. Though the CR Deputy Foreign Minister Palous and others have assured members of your Commission that "his government would soon propose a new citizenship law which will permit dual citizenship", I don't believe that your people and the State Department understands the real issue. The real culprit is the espousal doctrine blending in policy and statutes of foreign law.

THE HOOK, LINE AND SINKER:

Why then has the Czech parliament rejected legislation that would have removed Czech citizenship from the conditions required for an individual to have former confiscated property restituted? Allow me to give a few insights.

I know for fact, that the Czech officials in the parliament, in the Government, including judges (like JUDR. Vladoir Paul of the Constitutional Court) are laughing. And the gentlemen and ladies in Congress go for the CEE diplomatic excuses with hook, line and sinker.

The CEE diplomats are laughing and saying, "why should we do anything for the Czech exiles who became U.S. naturalized, when their own U.S. Government, using the "espousal doctrine", does not help them." As you know, talk is cheap, except when you involve NATO.

WHAT DOES THE STATE DEPARTMENT DO?

We are dealing here with an Imperial Majesty concept. But do not the State Department's legal advisers tell our Congress that "the U.S. Government will refuse to espouse claims against foreign nations on behalf of a naturalized U.S. citizen if that citizen did not enjoy U.S. citizenship at the time the claim arose. This leaves thousands of Americans of Czech descent in a legal limbo of sorts. This also makes your Resolution H. 652 concerning properties wrongfully expropriated by formerly totalitarian governments as an amusing busybody for CEE regimes and meddling with CEE officials living off the confiscates, as well interfering with their foreign ministers to continuously milk funds and special status from the United States.

This “espousal doctrine” is problematic and deserves a legislative investigation and review. It should be abrogated because it is unconstitutional and violates international law.

If U.S. Government dares to print on the dollar bill IN GOD WE TRUST, then the U.S. Congress must also accept a moral conscience in a higher law and legal hierarchy. The moral obligation of the U.S. Government is the United States Constitution and the Bill of Rights, and if a duly ratified treaty becomes part of the law of the land, than international relations must be compatible with the Bill of Rights, and no other legal authority can be given to the State Department’s invention of its “espousal doctrine” by the staunch defense of it to make stale human rights and produce dejected victims.

PRIVATE PROPERTY CANNOT BE CONFISCATED:

If this is the rule of the law of the land and of international law, then the doctrine of espousal is outmoded and archaic remnant of high handed power diplomacy. There is no Imperial Majesty in our Republic and in this representative form of Democracy.

In our case, per Resolution H. 652, the underlying issue is restitution of confiscated properties by some government. If the members of the U.S. Congress are really concerned about equitable-justice instead of international junkets, and if it is so that members of the U.S. Congress concern themselves not with trivia, but are truly concerned about private property wrongfully expropriated, let’s go beyond the year of 1999 and go back to the year of 1907, when the United States, without reservations, ratified the Hague Convention Respecting the Laws and Customs of War on Land of October 18, 1907—which in our age-of-computers and technological miracles has been completely forgotten. See 36 Stat. 2277, Treaty Series 539, and read Article 46 of said Convention, page 651 (attached).

Does not Resolution H. 652 refer to properties wrongfully expropriated by formerly totalitarian governments? Since these totalitarian regimes, including Fascist and Communist dictatorship were allowed to flourish during W.W.II and the Cold War, the Hague Land Warfare Convention of 1907 is applicable. But there’s more to it!

THE FIASCO:

While the CSCE can tell the Central and Eastern European (CEE) Governments (including Russia and Germany) that they must return all the confiscates to the original owners, including the confiscates of the Holocaust survivors and exiled U.S. naturalized in this country, the formerly totalitarian governments plea that their sovereign states are not subject to the 1907 Treaty. But they are, and the United States also.

Of course, the State Department’s legal advisers will maintain that the Hague Convention of 1907 does not affect. Nevertheless the practice of their espousal doctrine within the hierarchical normative structure of international and national laws is subrogated to the Hague Convention of 1907.

According to Article 46 of said Treaty, private property cannot be confiscated. It simply does not say where and why the citizenship of the victims of the prior confiscations is irrelevant. Like the Simunek decision says in so many words that Government “cannot discriminate among the victims of the prior confiscations, since all victims are en-

titled to redress without arbitrary distinctions". In this case, the status of persons born in this country and U.S. naturalized is governed by the equal protection clause of the Fourteenth Amendment, Section 1, of the U.S. Constitution.

So, the spousal doctrine is archaistic and unconstitutional. It is illegal. But this is not the only fiasco. The other fiasco is the fact that the United States had violated the Hague Convention before, during and after W.W.II, and also during the Cold War.

THE FUNGIBLE THEORY:

The Continental lawyers, namely of Germany, came with the idea that claimants, whose gold was confiscated, could be repaid with other gold of equivalent amount. Some of the governmental and banking officials (as in the Bank for International Settlements) had failed to place in escrow any equivalent amount to protect themselves against this contingent liability but also made no effort to ascertain whether or not the State, in this case Germany, had sufficient non-looted gold to meet this liability at some later date. This practice of failing to keep records was in violation of the Hague Convention of 1907.

In retrospect, a similar violation had occurred when the Tripartite Gold Commission was restated in 1946 by the Allies under the Treaty of Paris, where the U.S., France and Britain became tenants in common to administer the pool of the Nazi gold looted during WWII. The Commission has failed to record the gold as to what was private gold of individual owners and what was national gold reserve. It simply commingled the private gold and public gold, allowing it to be labeled as monetary restitution gold. This fact has been acknowledged in letters to me from State Department officials. (See attached, Bettauer and Eizenstat).

THE CZECH-GERMAN RELATIONS:

Moreover, as in the post-W.W.II case of Czechoslovakia dealing with Sudeten Germans has become political subterfuge to prevent U.S. naturalized Czech and Slovaks from gaining reparations. As indicated by the recent political backlash in Bavaria of the expatriated Sudeten Germans arising by ignoring the Paris Peace Treaty concerning the question of compensation and reparations between Germany and Czechoslovakia with the Sudeten region argument. The Sudeten issue from the date of deportation should rest as a closed issue concluding the willingness to try on a case-by-case basis the Nazi collaborators for civil damages and crimes against humanity.

Subsequently, the Potsdam Conference gave assent in principle to the Czechoslovak Government in exile the November 23, 1944 Memorandum to the Allies that after the conclusion of the hostilities all German nationals as determined to have good standing with and espouse the Nazi regime in collaboration and as instruments of obstruction directed by the Sudeten German Party, the expulsion and transfer of such persons.

The matter was passed unto the Allied Control Council which decided at its November 20, 1945 Session the transfer of 2,500,000 German nationals from Czechoslovakia. At the end of the transfer in 1946, the United States Zone admitted 1,750,00 persons the and Soviet Zone 750,000 persons in Germany. Only about 300,000 persons of German nationality on account of their anti-Nazi attitude and loyalty to the

Republic and those who as an act of grace and humanity were exempt from transfer remained in Czechoslovakia and promised Czechoslovak citizenship.

In the area of international relations Czechoslovakia was in most cases the original member of all international organizations within the framework of the United Nations as well those established independently of the U.N. The commercial treaty sign in March 1938 with the U.S. was abrogated by the executive order of President Roosevelt during the war. A provisional declaration signed on November 14, 1946 between the two countries on the understanding that a new agreement would be negotiated in the near future.

THE 1907 HAGUE CONVENTION:

I believe it would be appropriate and prudent for Congress to examine the historic anomaly which was caused by ignoring the Hague Convention of 1907. While this may not be the purview of this Commission, nevertheless the violations of the Convention had affected property claims in Central and Eastern Europe of Americans of the CEE descent. In any way, the Department of State doctrine of espousal should not be used to disenfranchise these Americans of their lawful claims.

Very Truly Yours,
Renatus J. Chytil, J.U.D.
Professor of Law Emeritus