

BY KAJE BLA—THE WASHINGTON POST

Seymour Rubin conducted difficult negotiations with Switzerland.

Quest for Nazis' Loot

Dispute Focuses on Role of Swiss Banks

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For decades, Seymour J. Rubin gave little thought to the obscure agreement he had negotiated between the United States and Switzerland a half century ago. The issue of gold looted by the Nazis and stashed in Swiss vaults had never seemed more than a historical footnote in the great sweep of postwar events, and as the years passed the matter grew ever more remote.

Now, however, the 82-year-old retired State Department lawyer is scouring his memory for details of the deal he struck in May 1946, after two months of stiff negotiations in Washington with unyielding Swiss legal experts.

U.S. intelligence estimated that during the war the Nazi government deposited close to \$400 million—\$4 billion at today's gold prices—in Swiss banks. Negotiators for the Allied governments, seeking to reclaim looted gold from the Swiss, settled for \$58 million worth, which the governments divided among themselves.

The sole surviving senior American negotiator, Rubin has suddenly become a central figure in an international drama involving issues of thwarted justice, historical revision and restitution for victims of the Holocaust—Nazi Germany's extermination of millions of Jews, political opponents and members of other ethnic groups.

See GOLD, A30, Col 1

GOLD, From A1

When it was signed, the Washington Agreement with the Swiss government provoked hardly a ripple of interest or criticism. But 50 years later, sharp questions are being asked from many quarters about why the United States and its allies failed to press harder for the full disclosure and recovery of Nazi loot believed to be stashed in Swiss vaults.

The World Jewish Congress (WJC), among others, recently denounced the agreement Rubin helped fashion as a sellout that allegedly allowed Switzerland to keep a lode of looted Nazi gold, ranging from bullion stolen in conquered European capitals to melted-down jewelry and dental crowns confiscated from murdered Jews.

While the Senate Banking Committee and the U.S. Holocaust Memorial Museum are plumbing the National Archives for clues about the negotiations, the debate over the Washington Agreement echoes the related—and highly emotional—controversy over the extent to which Swiss banks still hold unclaimed accounts belonging to individual Holocaust victims.

President Clinton last month ordered an interagency review of the Washington Agreement. The Swiss, who vigorously deny profiting from war booty, nevertheless have agreed to allow an independent panel, led by former U.S. Federal Reserve chairman Paul A. Volcker, to conduct an audit of long-dormant accounts in Swiss banks. Some critics have suggested that if more Nazi gold is found, it should benefit Holocaust victims rather than Allied governments, as was the case with the \$58 million settlement half a century ago.

"The Swiss must make amends and come clean," Sen. Alfonse M. D'Amato (R-N.Y.) demanded in a blistering letter sent in September to Secretary of State Warren Christopher. "I would ask that you seek discussions with the Swiss on reopening these negotiations and provide for a proper accounting by the Swiss, as well as our Allies, as to the true amount of all German assets in Switzerland at the end of the war."

A Swiss Embassy spokesman here said there was "no question of a renegotiation of a valid agreement," but added that Switzerland stood ready "to right any wrongs" that

might be uncovered.

For Rubin, who finds himself at the center of the controversy, the abrupt revival of an issue long dormant has spurred the searching both of memory and conscience. Rubin initially dismissed D'Amato's demand for renegotiation of a 50-year-old agreement as impractical. But now he's having second thoughts.

"Who knows?" Rubin mused during an interview. "I think maybe some kind of renegotiation might conceivably result in some kind of additional payment. . . . I think the amount of looted gold, the amount of compensation we got with respect to looted gold, was probably inadequate."

A magna cum laude graduate of Harvard Law School, Rubin was 32 years old when he was named deputy chief of the U.S. delegation chosen to bargain with the Swiss over their Nazi gold holdings. He had joined the State Department in 1943 as an assistant legal adviser and was assigned to matters related to the Allies' economic war on Nazi Germany, including the tracking of German holdings in neutral countries.

In 1944, the United States had mounted a special intelligence operation with the British, called Safehaven, intended to monitor the movement of Nazi assets outside Germany. The Allies suspected German leader Adolf Hitler was establishing a secret network of holdings around the world as a hedge against

defeat and to finance the hoped-for rebuilding of his empire.

U.S. intelligence knew Switzerland, which remained neutral throughout the war, was the Nazis' main financial center outside Germany. By the time talks with the Swiss began in Washington in mid-March 1946, Hitler had been dead for nearly a year; but the negotiations were viewed as crucial to seizing the gold and preventing surviving Nazi leaders from exploiting the hoard, according to a study of Safehaven by Marc Jean Masurovsky.

As the talks neared completion two months later, however, the attention of the Truman administration and the American public was focused on other, more pressing issues. Coal miners and railroad

workers were on strike, virtually paralyzing the nation. The Soviet Union was maneuvering to maintain its occupation of northern Iran, and American newspapers were filled with ominous signs of a looming Cold War. The U.S.-Swiss talks merited but a single article in the New York Times—and not a word the day the accord was signed, May 25.

Jewish attention was focused elsewhere, too. The trial of Nazi war criminals responsible for murdering 6 million Jews was underway in Nuremberg, Germany. At home, the United Jewish Appeal was busy raising \$100 million for the relief of 1.4 million Holocaust survivors. Neither Allied negotiators—the Americans were joined by British and French representatives—nor survivors' groups had focused much attention on dormant accounts belonging to victims who had perished in the Holocaust.

Rubin remembers no pressure on the U.S. negotiators from outside interest groups, nor does he recall any congressional attention. Yet U.S. negotiators were convinced that Swiss bank secrecy laws were preventing a full accounting and recovery of Nazi deposits. Earlier this year, the WJC discovered in the National Archives a 1946 document outlining the Allied position going into the negotiations.

"It is definitely known," the document asserts, without disclosing the source of the information, "that the Swiss received at least \$398 million worth of gold from Germany during the course of the war. Of this amount the absolute minimum which is to be classified as loot is \$185 million dollars.

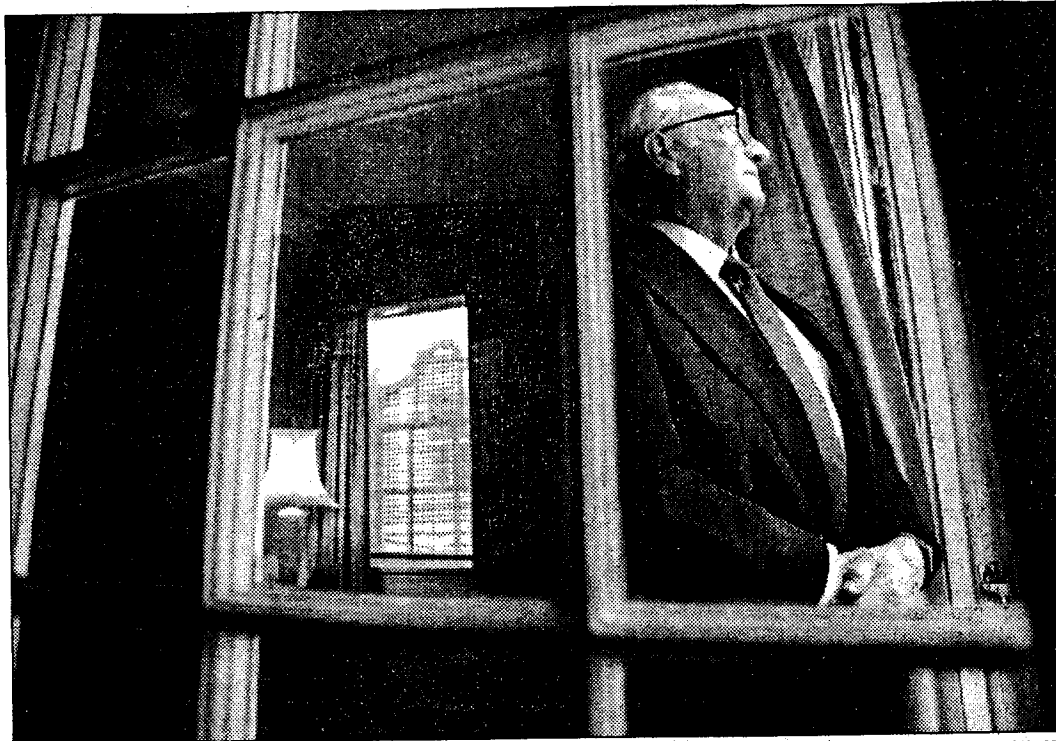
"A more realistic approach indicates that the amount of looted gold taken by the Swiss is closer to \$289 million, and there is a possibility that

all gold received by the Swiss from Germany was looted."

At the time, gold was worth \$35 an ounce. Today, an ounce commands \$370.

Rubin recalls long, heated arguments with Swiss negotiators as the Allies tried unsuccessfully to get Switzerland to acknowledge that its banks had dealt in looted gold. Faced with Swiss recalcitrance, the Allied delegates eventually gave up pressing the issue.

An account of the negotiations written for the Swiss Foreign Minis-



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Seymour Rubin, the only surviving senior member of the U.S. delegation that negotiated a postwar accord with Switzerland, says he now thinks the compensation granted to Allied governments was "probably inadequate."

try by one its historians, Linus von Castelmur, notes. "Faced with the Swiss refusal to recognize the facts of the matter concerning looted gold or an obligation to make restitution, the Allies agreed among themselves to submit a request for the return of \$130 million to Switzerland."

But the Swiss balked at the sum, and the Allies settled for \$58 million, less than a third of the "absolute minimum" Allied intelligence considered to be loot. Without Swiss assistance, it was difficult to prove how much gold deposited by the Nazi government had remained in the vaults, how much had been transferred elsewhere and how much had been converted to Swiss francs.

The \$58 million in gold was turned over to the Allies and divided among European governments whose central banks had been rifled by the Nazis.

In exchange for the payment, the Allies signed an agreement absolving the Swiss of "all claims against the government of Switzerland and the Swiss National Bank in connection with gold acquired during the war from Germany by Switzerland."

Rubin remembers no significant dispute among the negotiators over

the deal. "A lot of us, including myself, had some doubts. You know, you scratch your head [and ask]: 'Is that the best we could do?' We eventually came to conclude that it was the best figure."

The Swiss also successfully defended their bank secrecy laws, which had been adopted in 1934 to protect Jews trying to shelter their holdings from Nazi confiscation. The Swiss, according to von Castelmur's subsequent account, agreed only to take "a favorable view" of the Allied request for an accounting of assets possibly belonging to Nazi victims who had died without leaving relatives behind.

Another knotty issue debated for weeks was the Allied effort to seize the private assets of individual Nazis and their collaborators. Although united in efforts to confiscate gold

deposited by the Berlin government, Allied negotiators were undercut by several American legal scholars who argued that even enemy private property should be sacrosanct, Rubin recalled.

The Allies ultimately settled for vague Swiss commitments to trace and liquidate German private holdings within Switzerland. But it took another round of negotiations five years later and the subsequent untangling of legal snarls before most of those claims were resolved in 1957.

The Washington Agreement was signed and sealed virtually without notice. Only one member of Congress appears to have questioned the deal. Rep. Joseph C. Baldwin, a New York Republican, complained to President Harry Truman in the summer of 1946 that he was "profoundly disturbed" since "\$58 million out of a reliably estimated \$300 million of gold looted by Germany from our Allies seems completely inadequate," according to a telegram unearthed by the WJC in the National Archives.

On July 24, 1946, Baldwin received a reply from Dean Acheson,

then acting secretary of state. Acheson, notwithstanding intelligence reports to the contrary, assured the congressman that "there was no reasonable evidence" Switzerland had possession of \$300 million in looted Nazi gold.

It was a Swiss historian, Jacques Picard, who first started pricking the Swiss conscience about his country's relations with Nazi Germany. In 1993, Picard published a book about Swiss dealings with Nazis and the Swiss treatment of Jews that set off a lively domestic controversy soon picked up by the international press.

In September 1995, WJC President Edgar Bronfman Sr., and Swiss President Kaspar Villiger agreed to hold private negotiations to reexamine the issue of dormant Swiss accounts. "We both pledged not to go public and to negotiate in good faith until we reached a just solution," WJC Executive Director Elan Steinberg said in an interview.

After a series of meetings, the Swiss announced unilaterally that \$32 million had been discovered in dormant accounts, some possibly belonging to murdered Jews. The announcement infuriated the WJC, which believed the figures were understated and that Switzerland had breached Villiger's commitment to resolve the matter privately.

"We said we'd publicly refute their figures and launch a public confrontation if they did that," Steinberg recalled.

Bronfman sought help from D'Amato, who soon organized hearings by the Senate Banking Committee. Bronfman also secured Clinton's support and launched what Steinberg called "aggressive research" at the National Archives regarding the 1946 transactions. A broad spectrum of controversial issues—including the matter of Nazi gold and the Washington Agreement—came to life again.

Almost weekly, Congress or the WJC releases a new document, ostensibly "declassified," highlighting either Swiss dealings with the Nazis or U.S. intelligence on alleged Swiss-Nazi connivance. Some of this information has been public for decades, such as a Swiss-Polish agreement that allowed Switzerland to use money from dormant accounts to reimburse Swiss citizens for property expropriated by the Polish government.

Steinberg conceded that his group

has released a mixture of "old stuff and new" and that some documents were declassified long ago. But some issues, such as the Acheson letter, had been ignored, he argued. And this fall, he also noted, the Swiss initially denied that there ever had been a secret Swiss-Polish deal.

"The history of this," Steinberg added, "is murky even to them."

And aspects of it are murky to Sy Rubin, too. In the comfortable living room of his Georgetown home, Rubin is particularly uneasy about one aspect of the flap over the Washington Agreement: the extent to which he still bears responsibility for the deal he made.

Rubin looks back with considerable content on a long life of government service in the Roosevelt, Truman, Kennedy and Johnson administrations; of private law practice in Washington; and of teaching at American University Law School.

As U.S. representative to various U.N. and inter-American economic, trade and judicial bodies over the past five decades, Rubin was no stranger to the quirks and controversies of public life. But being summoned before the bar of history is something new for the international lawyer.

Rubin said he resents the implication that he fell short in his responsibilities as a negotiator in pressing to recoup as much Nazi loot as possible. After leaving the State Department in 1948, Rubin served as counsel for the American Jewish Committee in Washington. The organization's files are filled with his letters to the U.S. government and others demanding compensation for Jewish persecution victims and proper implementation of the Washington Agreement.

And he bristled at von Castelmur's assertion that all negotiators of the Washington Agreement agreed to set aside their "moral scruples and principles" in order to achieve a "quick" and "pragmatic" compromise solution to the Nazi gold issue.

"What do you mean moral scruples were set aside?" Rubin snaps. "We were trying to work out some kind of agreement, and the two sides were in flat opposition with each other. But I don't think we ever gave up on the moral thing."