

George Walker Bush has subverted the very nature of his office by seeking to add to his office extraordinary and unconstitutional powers and privileges.

### III. FAILURE TO PRESERVE, PROTECT AND DEFEND THE CONSTITUTION

At the Constitutional Convention, James Madison argued that "high Crimes and Misdemeanors" intentionally included "[a]ttempts to subvert the Constitution." In taking his oath of office, the President swore to "preserve, protect, and defend the Constitution of the United States" to the best of his ability, which includes the duty not to abuse his powers or transgress their limits, the duty not to violate the rights of citizens, including those guaranteed by the Bill of Rights, and not to act in derogation of powers vested elsewhere by the Constitution. George Walker Bush, in his conduct while President of the United States has not only failed in this regard, but has demonstrated a pattern of disregard or contempt for the Constitution itself, as he clearly demonstrated in November 2005 when he shouted at a group of Republican lawmakers, "Stop throwing the Constitution in my face. It's just a [expletive] piece of paper!"

This conduct has included one or more of the following:

(1) Suspension of Due Process. In direct dereliction of his duty to defend the Constitution, George Walker Bush has systematically deprived citizens and residents of the United States of their constitutional rights to due process under the law, by sanctioning or ordering, at the discretion of the executive, their detention without charge and without trial, a fundamental right to which they are entitled under habeas corpus and the Fifth Amendment of the Bill of Rights; by denying the right to a fair and speedy trial and blocking access to counsel for the defense, both of which are rights guaranteed under the Sixth Amendment in the Bill of Rights; by denying those so illegally detained the opportunity to appear before a judicial officer that they might challenge the legal grounds of their detention; by sanctioning and ordering mass arrests and detentions which inevitably involve all of the above named abuses; and by refusing to disclose the identities and locations of those detained.

(2) Unreasonable Searches and Seizures. In violation of the Fourth Amendment to the Constitution, George Walker Bush did clandestinely direct the National Security Agency, the Federal Bureau of Investigation, the Pentagon and the Department of Homeland Security to conduct electronic surveillance, including a new form of spying using sophisticated software to track internet usage, of citizens of the United States on U.S. soil without seeking to obtain, before or after, a judicial warrant, including spying on groups and individuals who had committed no illegal acts, involving penetration, entrapment and provocation, thereby reviving practices previously discontinued after they were deemed prejudicial to justice by the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, chaired by Senator Frank Church.

(3) Non-Cooperation with Congress. In derogation of the legislative functions of the Congress, granted under Article I, Section 1 of the Constitution, and the implied power to see that the laws made by Congress are faithfully executed, George Walker Bush, in his conduct as President of the United States, has engaged in a consistent pattern of obstructing and frustrating Congressional investigations. George Walker Bush opposed and delayed the formation of a commission to investigate the attacks of September 11,

2001, and once it was formed, refused to turn over key documents and information in compliance with subpoenas, and also sought and gained exemption from testifying under oath for all but one top administration official. (Condoleezza Rice). He refused requests from the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina and requests from the 9/11 Commission to turn over key documents and information. Under his administration the Justice Department made it official policy to refuse cooperation with Freedom of Information Act (FOIA) requests, to refuse the release of records or testimony, central to informing government decisions, to re-classify previously unclassified records and to withhold even non-secret documents. These actions severely restrict the ability of the people and their representatives in Congress seeking to hold government officials accountable for their decisions to have access to a record of how official decisions were reached, or even to know what the official policies are. Wherefore, George Walker Bush, by obstructing the work of the Congress, did commit and was guilty of high misdemeanors against the United States of America.

(4) Establishment of an Unconstitutional, Parallel Legal System. Edmund Randolph stated at the Constitutional Convention that: "The Executive will have great opportunities [sic] of abusing his power, particularly in time of war when the military force, and in some respects the public money will be in his hands."

In direct dereliction of his duty to defend the Constitution, George Walker Bush has, during his tenure as President of the United States of America, sanctioned the establishment of a parallel legal system operating outside the scope of the Constitution under which the participants would not be bound by due process or basic rights of the accused to speedy and fair trials, access to counsel, or even the right to know the charges and evidence against them, by replacing these measures with a new form of law involving: secret and indefinite detention without trial or hearing; renditions to other countries outside the reach of law and justice; the use of military tribunals to replace civilian courts; detentions outside normal writ of habeas rules and without access to effective counsel, unmonitored conversations or judicial attention and review; exclusion of the accused from portions of the trial and from access to evidence used against them; acceptance of hearsay, including testimony gained under torture or duress; and a lack of independent judiciary or appeal of conviction. An unknown number of individuals, many of whose names the Administration has refused to release, have already been held in undisclosed locations or secret prisons, and mass arrests have been accompanied by deportations. By failing to conduct timely status review hearings, as required under Article 5 of the Geneva Convention, the Bush Administration has made it effectively impossible to determine the status and the rights of those held in secret detention. Although the Supreme Court has ruled that the denial of rights under the Geneva Accords is illegal [Hamdan vs. Rumsfeld], new proposals from the Bush Administration expand the definition of those who can be detained as "enemy combatants" as no longer limited to aliens abroad, and assert that neither the Uniform Code of Military Justice alone, nor federal criminal procedures will guide the functions of these new courts. George Walker Bush, as President of the United States of America, in defiance of the Supreme Court, and in keeping with a pattern of conduct seeking to exempt himself from its rulings and from constitutional law, did commit violations of domestic law and was guilty of war crimes.

In all of this, George Walker Bush has sought to arrogate unprecedented power to his executive office and to undermine the system of check and balances established by the Founders, by using war and national emergency as the basis for his claims in support of a unitary presidency.

### STATEMENT VOICING CONCERN OVER THE DELAY OF THE INTERNATIONAL TRACING SERVICE (ITS) IN RELEASING THE BAD AROlsen HOLOCAUST ARCHIVES

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 27, 2006

Mr. HASTINGS of Florida. Mr. Speaker, I rise today deeply concerned about the consistent delay of the commission members of the International Tracing Service (ITS) to permit Holocaust survivors and their families access to the millions of Holocaust records located at Bad Arolsen, Germany.

Mr. Speaker, I strongly urge the nations who have yet to approve the recently agreed upon amendments to the Bonn Accords regarding these archives to give this issue the utmost elevated attention and to be made a top priority in their respective Parliaments.

The ITS Commission, comprised of the United States, Belgium, France, Germany, Greece, Israel, Italy, Luxembourg, the Netherlands, Poland, and the United Kingdom, currently possesses nearly 50 million records documenting Holocaust victims and survivors experiences pre-World War II and during the Holocaust. The records are used to substantiate benefit claims by Holocaust survivors and their heirs and operate under the 1955 agreements, the Bonn Accords.

For the past decade, Holocaust researchers and most survivors have sought and failed to access the Bad Arolsen archive, because the ITS Commission believed it would violate the privacy of the survivors and their families.

Following years of delay, in May 2006, the Commission adopted amendments to the Bonn Accords permitting each Commission member to make the archives public and to receive a digitized copy of the Bad Arolsen archive, which they would be able to make available to researchers under their own country's respective privacy laws.

Unfortunately, 9 out of the 11 ITS Commission member nations have yet to ratify the amendments. With the express acknowledgement of the variance in each country's internal procedures, and the utmost respect for the letter of international law, I strongly encourage parliamentarians from other members of the ITS Commission to ratify the ITS amendments promptly so that the Bad Arolsen archives can be opened at the earliest possible date.

This ongoing delay is a further example of how the Holocaust survivors, who have been part of such unimaginable, horrendous genocide, and the greatest crime against humanity, are perpetually forced to endure severe obstacles and difficulties. Now, the few Holocaust survivors who are here with us today remain tormented by the unknown.

In the Holocaust's aftermath, there have been far too many demonstrations of survivors and heirs of Holocaust victims who have been

refused their moral and legal right to information, restitution of assets, or compensation for slave labor from the entities that profited during the Holocaust.

As the few remaining survivors pass away, many still pass away deprived of information concerning their loved ones and the assets that were rightfully theirs. Let us not continue to waste the precious time left for the remaining survivors. After all of the horrific acts to which they have been subjected, they are completely justified in uncovering the truth about their families and their loved ones without hassle or delay.

This issue is of particular importance to me, given the fact that South Florida is home to the second largest concentration of Holocaust survivors in the United States, and the third largest in the world outside of Israel.

Furthermore, as the President Emeritus of the Organization for Security and Cooperation Parliamentary Assembly in Europe (OSCE), I am committed to the issue of fair and just treatment of Holocaust survivors, and remain dedicated to the prevention of all bigotry, especially anti-Semitism.

Let us not forget that anti-Semitism has not diminished; if anything we have seen a resurgence in recent years. The threat or occurrence of anti-Semitism is still very real to many Jews in the United States and across the world.

Only last week, Iranian President Mahmoud Ahmedinejad held the second Holocaust denial conference in one year in Tehran; the latest in a series of abominable threatening and anti-Semitic, Holocaust denial statements and actions he has taken since he rose to power.

While extremist radicals may continue to spew such hatred and intolerance, I find it embarrassing that others who know better can turn their backs on the remaining Holocaust survivors or on the memory of those who perished in such a tragedy.

I can think of no better way to commemorate the 6 million murdered in the Holocaust, than for each and every international community member to seriously commit to monitor and combat anti-Semitic acts and promote Holocaust remembrance and education.

While tolerance takes time to teach, it is not too late for international member nations of the ITS Commission to assist the remaining Holocaust survivors and grant them direct access to the Bad Arolsen archives as soon as possible.

Mr. Speaker, we should never forget the horrific crimes of murder and destruction committed by the Nazis; and we must commit ourselves to ensuring that future generations shall never be forced to endure the suffering, humiliation, and ultimate death experienced by the victims of the Holocaust.

#### HOLOCAUST SURVIVORS'

FOUNDATION—USA,

Miami, FL, December 18, 2006.

Congressman ALCEE HASTINGS,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN HASTINGS: We are Holocaust survivors, and elected leaders of grass roots survivor organizations with thousands of members in 15 states. As individual claimants and class members, we have witnessed the failed enterprise known as "Holocaust asset restitution" as it has proceeded over the last decade, in litigation over and negotiations over thefts and human exploitation by European manufacturers, banks, insurance companies, railroads, and governments.

Sunday's important story in the Associated Press about the monumental documentation of Nazi crimes at the Bad Arolsen archive highlights the absurdity of the process survivors have been forced to endure over this past decade.

One would have thought that Holocaust survivors, at the end of our lives, would have been treated with the utmost respect and dignity. In reality, however, much of what has passed for "restitution" has been the opposite of what we would have expected, with catastrophic results. Instead, the process has been driven by institutional and organizational imperatives, instead of by the rights, interests, and priorities of the survivors. Too often; these forays have yielded incomplete information disclosure and absurdly low financial compensation. Instead of being principals, we the survivors have been treated as pawns. Instead of receiving dignity and respect, we have received lip service and been patronized by organizations, judges, executive branch officials, and members of Congress.

Another hallmark of restitution, up until now, has been the imperative to give European business and governmental miscreants "legal peace" while calling for arbitrarily set financial settlements to be doled out by institutions that are self-interested or worse in their motives and practices. For example, when the institutions and lawyers we didn't selected "settled" with German industry, they agreed to limit insurance claims against German industry to a ridiculously low, arbitrary sum, without ever conducting an audit of the amount of insurance theft by German insurers and reinsurers. Now, it has been reported that class action lawyers want to forgive Italian insurance giant Generali without ever requiring full disclosure and disgorgement, despite recent evidence that the company stole billions and used the same punch card technology to manage its business used by the Nazis in the Final Solution.

The media and Congress have ignored the fact that in almost every instance, survivors have been denied access to the necessary information required to mount full and effective disgorgement of the ill-gotten gains of the European plunderers. They have ignored the rush to judgment by representatives we didn't select to close the books on restitution. Now, with 16 miles of previously suppressed documents from the Nazi period being made public, isn't it time to halt the rush to judgment, the rush for "closure," and require the full, transparent accounting that we survivors are morally and legally entitled to move forward without any further impediments? We call on all institutions of good faith, in government, in the media, and in the institutional world, to support us in our morally justified demand for transparency and justice.

Israel Arbeiter, Boston, MA.

Nesse Godin, Washington, DC.

David Mermelstein, Miami, FL.

Alex Moskovic, Palm Beach, FL.

Leo Rechter, Flushing, NY.

David Schaefer, Miami, FL.

Henry and Anita Schuster, Las Vegas, NV.

Fred Taucher, Seattle, WA.

Lea Weems, Houston, TX.

Esther Widman, Brooklyn, NY.

GREATER MIAMI

JEWISH FEDERATION,

Miami, FL, December 11, 2006.

Hon. ALCEE HASTINGS,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN HASTINGS: On November 25, Arthur Max, Chief of the Amsterdam Bureau of the Associated Press, published an astonishing report about the massive and previously closed collection of information from the Nazi death camps under the juris-

diction of the International Red Cross and now located at Bad Arolsen, Germany. The scope of the records reported by Mr. Max is breathtaking, as are the moral and policy implications of the revelation.

South Florida is the home to the second largest concentration of Holocaust survivors in the United States, and the third largest in the world outside of Israel. According to Mr. Max's report, survivors and their families have been unjustly denied access to many of the records at Bad Arolsen regarding their own experiences in the camps, or those of their family members. We are mandated by history and morality to remember that this greatest crime against humanity was in fact millions of crimes against millions of human beings, all of whom have the absolute right to receive all of the unvarnished truth about their fate and the fate of their loved ones they wish to learn about today.

We are also painfully aware that far too many examples exist of survivors and heirs of Holocaust victims who have attempted to obtain morally and legally justified restitution of assets, or compensation for horrific slave labor from the entities that profited from the Holocaust, only to be met with rejections, and then, as added insult, to be denied access to the available sources of information they are told justify these rejections.

In addition, there is now abundant evidence that tens of thousands of destitute survivors live in our midst, in the United States and Canada, in Israel, in the Former Soviet Union, in Europe and Australia, and in Latin America, and that government, and community—and restitution-based resources are inadequate to meet their basic human needs. In the United States alone, there are over 45,000 Holocaust survivors living near or below the federal poverty level, and who cannot afford adequate nutrition, housing, home care, medications, or simple and necessary devices such as dentures, eyeglasses, or hearing aids. This is unthinkable in the year 2006, but it is true. As the following chart attests, these numbers are staggering, and widespread around the world.

	Survivor population	Survivors living below or near poverty line
United States .....	175,000	87,500
Israel .....	393,000	137,300
Former Soviet Union .....	146,000	126,000

Sources: Sheskin, Estimates of the Number of Nazi Victims and Their Economic Status, January 2004; Brodsky and DellaPergola, Health Problems and Socioeconomic Neediness Among Jewish Shoah Survivors in Israel, April 2005; American Joint Distribution Committee, Presentation on the Condition and Needs of Jewish Nazi Victims in the Former Soviet Union, January 2004.

We would hope that a thorough accounting of the real thefts suffered by the families of the Holocaust would not only allow for proper and overdue restitution to individuals, but would be a step toward creating sufficient financial resources to provide a dignified level of human existence for every survivor in the world who needs or requests relief.

As leaders of our general and Jewish communities, locally and nationally and even internationally, the Federation Board believes that our generation owes the survivors the dignity of justice in their final years.

In light of these compelling facts, we call upon Congress to take all steps necessary to guarantee immediate access to the Bad Arolsen archive by a qualified group of researchers in order to create a comprehensive and accessible database of information for all affected families without any further delay. As a starting point, we urge you to bring together the responsible U.S. and Red Cross officials to determine the scope of the task and identify the personnel and resources to make this information accessible as soon as humanly possible, beginning immediately. If necessary, we are asking that

Congress enact legislation, with funding if necessary, for the immediate completion of these tasks.

In addition, we ask the United States Congress to explore and encourage any and all methods, including on an emergency basis, legislation, to provide all survivors and heirs a full opportunity to access the Bad Arolsen

materials and to utilize said materials in support of their claims without regard to any previous denials or deadlines.

We look forward to working with you to complete this historically and morally necessary task with the utmost speed. You will find enclosed two relevant articles pertaining to this letter. Please contact either

one of us if you have any questions or concerns or wish to discuss in more detail.

Sincerely,

SABY BEHAR,  
*President.*

JACOB SOLOMON,  
*Executive Vice President.*