

9. **Auszug aus einer Aktennotiz von Bryan R. Dummet, Beamter der britischen Gesandtschaft in Bern, an den britischen Handelsattaché, Bern, betreffend die Affidavitfälschungsaffäre von 1941, 12. 4. 1945, S. 3–6**

Minute

Commercial Counsellor

I have now been through the mass of papers obtained from Dr. F. Schmuziger, Stauffacherstrasse 54, Zürich concerning the action brought by the Public Prosecutor of the Kanton Zürich against Werner Hurter, General Willestrasse 18, Zürich and Erwin Savary, Erlenbach and associates for the falsification of affidavits.

[...]

The basis of the action is that Hurter, Savary and associates purchased securities without affidavits, had the necessary affidavits made out and then re-sold the securities at the correspondingly higher rate quoted on the Stock Exchange for shares “with declaration”. Savary purchased the capital for the original purchase of the securities whilst Hurter used his position and influence to obtain the affidavits.

[...]

i) The introduction of affidavits assisted the belligerents in their economic warfare and was therefore contrary to Swiss neutrality. It represented also a violation of the Bankers’ secrecy obligation, as the refusal by a bank to issue an affidavit would have indicated that the securities in question had at one time been in non-Swiss possession. Affidavits were introduced by the banks to increase their own profits, and the banks could therefore not complain if Hurter and Savary took up part of such profits. For these reasons affidavits have no validity in law.

ii) Nobody had been defrauded by Hurter and Savary and nobody had suffered any loss or damage as the result of their activities. The purchasers wanted securities with covering affidavits and that is what Hurter and Savary supplied. If this contention was not acceptable to the Court, they could still not be charged with fraud, as the banks who purchased the securities from Hurter and Savary knew exactly how the affidavits had been drawn up; indeed, in many cases, Hurter and Savary purchased from a bank securities without an affidavit and very shortly afterwards re-sold the same securities with affidavit to the same bank.

iii) Hurter and Savary maintain that all the securities which they handled had, in fact, been in Swiss possession at least since the date declared on the affidavit. It was up to the prosecution to prove the contrary; this however could not be done, as any attempt to do so would be a violation of bankers’ secrecy. For this reason, no evidence submitted by the banks could be accepted in Court. In this connection particular reference is made to correspondence between Amrhein (who instigated the proceedings against Hurter and Savary) and Bank Rebholz & Co., Amsterdam. It is admitted by defending counsel that this correspondence produced incriminating evidence against Hurter and Savary but as it had been obtained illegally, it should not be admitted as evidence.



iv) The purchasers of the securities had suffered no damages, as the value of their securities was the same whether the affidavits made out by Hurter and Savary were false or not. This point of view is said to have been upheld as regards the French securities by Dr. Hotz of the Division of Commerce. Amrhein, the Stock Exchange commissioner, when investigating the proceedings had, however, placed upon a "Black List" all-in securities for which Hurter and Savary had furnished affidavits. The securities thus black-listed had immediately dropped in value; it was, however, Amrhein and not Hurter and Savary who was responsible for this. As regards the French securities, Amrhein contended that the banks had suffered a loss because the banks were obliged to repay to France, under the terms of the exchange of notes of May 1941 referred to above, any sums which had been received as the result of their participation in irregular affidavit manipulations. Counsel for the defence counters this argument by pointing out that the *Crédit Suisse* and *Schweiz*. Bankverein, Zürich had themselves swindled the French authorities on a far larger scale and should therefore themselves be proceeded against if proceedings against Hurter and Savary were continued. Particular reference is made to the alleged fact that these two banks held French Loan 1939 to the value of 39 million Swiss francs deposited by Bank Mendelsohn, Amsterdam as guarantee for a loan granted by the two Swiss banks. The latter cashed the coupons of the securities although they knew perfectly well that they were the property of Bank Mendelsohn, for which false affidavits must have been made out.

v) The defence is also built up on incriminating wherever possible the major Swiss banks. This is done by a number of submissions by defending counsel to the Public Prosecutor or to the Court itself. The following are some of the points mentioned in these submissions: –

a. Paul *Holzach* of Holzverzuckerungs A. G. travelled frequently on diplomatic passport to Budapest (no dates given). Fröhlich of *Schweiz*. Bankverein gave him on each occasion some 100 or 200 Napoléons which were sold against pengo –

b. *Vontobel & Co.*, Zürich provided affidavits for 70 Royal Dutch shares –

c. *Picard & Winterstein* handled 2662 Royal Dutch shares in winter 1940/41 –

d. *Bankverein* and *Crédit Suisse* issued affidavit to a certain Holistcher, Dutch national, resident in Italy on the grounds that he spent a few week's holiday each year in Switzerland –

e. In June/July 1941 Bank für Anlagewerte sold 50 Royal Dutch shares hold for account Dr. Schmidhuber, Portuguese Consul in Munich, to Allgemeine Treuhand A. G. The latter sold these (48819/21) = 3 certificates or 10 shares; 287221 F, 287224 A/J, 287250 B/J = 20 shares with coupons No. 84 and) to Bankhaus Dr. Friedrich, Zürich, with affidavit. Schmidhuber paid Allgemeine Treuhand Frs. 5.– per share and affidavit. Friedrich sold the shares on the Stock Exchange –

f. *Erwin Widmer*, proxy-holder for Banque Fédérale admitted in evidence that his bank received in 1940/1941 a large order to purchase German securities with non-enemy declaration for German account. At the same time his bank offered Royal Dutch shares on the Swiss market. It is stated elsewhere that these Royal Dutch shares valued approx. six million Swiss francs –

g. Hurter and Savary sold a number of securities through the Bank Lochmann, Zürich, whose proxy-holder, Künzler, supplied the affidavits –

b. Schweiz. Bankverein handled 3% Norwegian Stat bonds 1938 with false affidavits –

i. Schweiz. Bankverein took over at the time of sanctions against Italy British securities from the Banca d'Italia, furnished them with affidavit of Swiss ownership and presented them through Justa A. G., Lugano to Bankverein, London for payment. (Securities involved stated to be Cables Wireless (?)) –

j. Häusermann, present or one-time head of Coupon department of the Schweiz. Bankverein, paid Frs. 150.– to an employee of Lochmann – for affidavits.

k. Schweiz. Bankverein received from the German diplomatic courier attached to the German Embassy in Paris, Kurt EICHELT, numerous bags said to contain securities, bank notes, coupons etc. to the value of several million Swiss francs. The contents of these bags were allegedly looted in Paris, primarily from the Westminster Bank, Paris. Türler of the Schweiz. Bankverein is reported as saying that he personally knew little of Eichelt, as the securities received from Eichelt were not handled by his department; coupons received from Eichelt were passed through the Coupon Department and were always in order and could have been handled by any Swiss bank. The files contain also a hand written memorandum of an interview with Ribi and Hoch of the Schweiz. Bankverein; it is not clear who had this interview with the bank officials, nor when it took place, probably however in 1942. Ribi is stated to have offered 20 million French francs in notes from the Westmindter [sic] Bank, Paris. The person being interviewed suggested that a certain Rosenfeld might be prepared to purchase. Ribi and Türler did not like to bring such a person as Rosenfeld into the picture. Finally the notes were sold through the Bankverein, Zürich, who purchased with the proceeds Handelsmark for German account.

R. B. Dummett

12th April, 1945.

Quelle: NARA, RG 84, Entry 3223, Box 40, Folder «Hurter Werner». Vergleiche S. 216, Anm. 97.