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There appears to be only one difficulty in this solution. If in taking this action unilaterally title vests in the U.S. Zone Commander, an Act of Congress might be required to permit its transfer from him.

Apparently there is no question as to the right of the Control Council to confiscate the property, take title and authorize the Zone Commanders to take action to vest title of property in their area in their discretion. Therefore, if it is concluded that there is a legal problem, it could be overcome if the Control Council were to adopt a modification of Law No. 54 along the lines indicated above.

- (3) Reich Properties which are non-governmental in nature but national in scope.

In this category of properties fall the Reichsbahn, P.T. & T., radio stations, the Reichsbank, certain public utilities and similar activities in which the central government had acquired interests in whole or in part over a period of time. There are probably other activities which will come to the attention of Military Government as it pursues this subject further.

The properties of the Reichsbahn and P.T. & T. are presently under the supervision of the Transport Division and the Communications Branch of the I.A. & C. Division, respectively. The operation of these units in the U.S. Zone is being conducted satisfactorily through agencies which have been established under the Laenderrat. They are not subject to Property Control regulation or accounting. The Board considers that these properties should continue to be operated under present arrangements as an interim measure, with the understanding that ultimate disposition will depend upon future quadripartite action in the appropriate directorates, such action to include a decision on whether

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affiliated activities, such as hotels, continue or be operated as a part of the essential activity. From the viewpoint of the objectives of the occupation there appears to be no objection to their being returned to central agencies for ownership as well as for operations, which appears to be contemplated by the Potsdam Protocol.

The Reichsbank was an agency of the Reich Government which was operated as a government corporation. Decisions with regard to the ultimate status of the organization must necessarily await decisions by the Finance Division and the Finance Directorate with regard to the future banking structure of Germany. The Board does not consider that it should make recommendations in this regard.

Radio stations in Germany were owned and operated by the central government. They are being operated at present by or under the direct control of the occupation authorities. It is considered undesirable for them to be operated by any future central government. It is the view of the Information Control Service, in which the Board concurs, that the central government should have no control over them and that they should be decentralized to the Laender. Information Control Service is not clear as to whether they should be owned by the Laender ultimately. It is their view that they should be under their custody, until a final determination can be made on final disposition. It is the tentative conclusion of the Board that the most desirable way of disposing of these properties would be through negotiated sale or public auction. The Reich also owned directly or indirectly rather large interests in utility companies of mixed ownership. The structure of these organizations was as complicated as is the structure of similar organizations in the United States. The

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German economic life. It is reported, for example, that the assets of the Deutches Arbeits Front constituted fifteen percent of the national wealth of Germany. They included insurance companies, bakeries, retail distribution outlets, bank accounts, factories, etc. Its operations were national in scope. The U.S. Zone Commander has directed that properties covered by Control Council Law No. 2 be taken under Property Control, as outlined in Title 17 of the Military Government Regulations and that its funds be blocked.

Although efforts have been made to establish and maintain control over these properties, they have not been wholly effective to date in view of the vast quantities of assets involved. It is imperative that immediate steps be taken to establish and maintain such control. The question arises as to how this can be most effectively done. Additional U.S. personnel could be used. This, however, would not be consistent with the policy of the United States which requires that to the extent possible administrative responsibility should be placed on the Germans. Control Council legislation permits the Zone Commander to place responsibility for the custody of this property in the Laender. The Board considers that the Laenderrat should be requested to prepare and submit to Military Government a plan for the custody and control of such of this property as may now or hereafter come within this category, and that each Land Government be prepared to assume responsibility for such custody as promptly as possible thereafter.

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The problem of ultimate disposition presents more complex issues. Control Council Law No. 2 prevents the Zone Commander from taking unilateral action. Ultimate disposition of property in this category must have quadripartite approval. Even if this limitation did not exist, the properties should probably be disposed of on a quadripartite formula since they constitute such an important and significant part of the German economy. In order to obtain such a decision, however, it is first necessary to decide unilaterally what position should be taken on a quadripartite basis.

There is not available in Berlin sufficient information on these properties to reach a clear conclusion. Under these circumstances the Board considers that the Laender should be directed to make an inventory of the property in the U.S. Zone after they have assumed custody.

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and that they should make recommendations with regard to ultimate disposition as promptly as possible. The Board will then consider their recommendations in the light of the objectives of the occupation, having in mind that if the decision should be made to vest the property in the Laender Military Government would be placing in their control a very powerful political weapon, the use of which should be very carefully restricted in order to insure its use in a manner consistent with the objectives of the occupation. Meanwhile, the Decartelization Branch of Economics Division will draw up broad rules under which certain properties could be disposed of as promptly as possible in a manner consistent with decartelization policies. In this connection particular emphasis was placed on insurance companies and distribution outlets which are national in scope. It was the tentative conclusion of the Board that if the decision is made to vest the properties in the Laender or in political subdivisions thereof, they should either be used by the Land Governments for public purposes in accordance with some program similar to the provisions of Law No. 54, or be sold at public auction, by negotiated sale or otherwise. It has been suggested that the properties be placed in a Marshall Account to be used to meet claims arising out of Nazi persecutions. This subject is discussed in subsequent paragraphs of this paper.

The Manpower Division considers that the policies which are adopted for the final disposition of property owned by the German labor unions or by cooperatives and which was taken from them by the German Labor Front will effect the growth and development of democratic trade unions and cooperatives in Germany. The Division considers that the formation and organization of trade unions in Germany is progressing steadily, that all existing property which was confiscated should be returned to them or to their successors, that possession of property by the new organizations will have a beneficial psychological effect on the workers of Germany, and will also facilitate the physical growth and development of these organizations. The Manpower Division has submitted their conclusions in detail in memorandum to the Board dated 1 March 1946. They will be considered as a guide in analyzing the recommendations which are received from the Landerrat as proposed in this paper. Meanwhile, the Finance Division is pressing its survey and analysis of

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There was a difference in opinion in the Board as to the desirability of obtaining immediate quadripartite approval to the sale of small individual properties which were connected with large organizations, such as the D...F. It was considered that the disposition of such holdings to individuals would not in any way run counter to the basic objectives of the occupation. A draft law to this effect has been proposed and is now under Board consideration.

d. Property of Individual Nazis, Militarists and War Profiteers.

Under the terms of the Denazification Law which has been adopted in the U.S. Zone provision is made for the confiscation of property as one of the sanctions to be imposed upon offenders. No provision is made with regard to the interim or ultimate disposition of this property. It is assumed that in most cases the assets are subject to Law No. 52 and are therefore either blocked or actually taken under control. The property is not subject to the same limitations as property under Law No. 2, which is concerned only with Nazi organizations. Accordingly, unilateral action may be taken without reference to the Control Council. It is essential that prompt consideration be given to this question in order that some program may be in effect after sentences are entered.

The Board considered the desirability of treating this property in the same manner as the property of Nazi organizations. It was the conclusion of the Board that no decision should be reached in this regard until there had been an opportunity to obtain the views of the Laender. The Board felt that it was not necessary, however, that the properties of organizations under Law No. 2 and those taken under the zone denazification law be treated the same. Depending on the recommendations of the Laender several steps should be taken promptly with regard to these properties. Law No. 52 should be modified to provide that after the rights of an individual have been finally adjudicated under the Denazification law all of the properties of that individual which are not confiscated or the use of which is not otherwise restricted should be no longer subject to seizure of possession, etc. Similarly, Title 17 of the Military Government Regulations and the Regulations of the Finance Division on the blocking of assets should also be modified to conform to these

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changes. The Laender should adopt a law which would supplement the Denazification Law and make provision for interim and ultimate disposition.

e. Property of Private Business Enterprises.

Decisions with regard to I. G. Farben, Krupp and other large cartels which were privately owned are now being developed through the Economic Directorate. They also included the large banks. In the case of plants some will be destroyed or taken as reparations. This study is concerned with those which will remain. Initially, the problem is one of establishing and maintaining control over the properties pending a decision on the pattern of decartelization which must be developed in order to accomplish the objectives of the occupation. The properties are now under property control jurisdiction with individual Germans in charge of the properties. The funds of the organizations are blocked. It is considered that custodianship of the plants should be shifted to the Laender in the same manner as has been suggested for Reich and Nazi property and that the Laenderrat be requested to include them in their plan for interim custody. Military Government should at the same time develop an inspection procedure to assure the effective enforcement of those controls established by Military Government to carry out U.S. and Allied policies with respect to these properties.

Responsibility for decision on decartelization and ultimate disposition of the properties should rest with the Economic Directorate. In general, it is considered that they should be leased or sold at public auction or in negotiated transactions in such manner as to assure the future operation of the plants by non-Nazi Germans and to prevent the extent to which it may be possible for individual groups to buy individual properties and to subsequently merge their interests to reform units of the character of I. G. Farben. Although this study is concerned with the action taken with regard to these properties, it is considered that recommendations would come more properly from the Economic Directorate, since there are involved many fundamental issues which are inseparably related to the nature and structure of the future German economy. In the case of I. G. Farben properties in Germany, such decisions must necessarily be made on behalf of the Control Council by the Committee of Con-

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trol Officers appointed by the Zone Commanders as provided in Control Council Law No. 9.

f. Property of United Nations Nationals.

The problem with respect to this property is essentially one of interim custodianship pending the time when the individual owners will be able to assume responsibility for their properties. It will probably be many years before title to many of the properties of United Nations nationals in Germany will be resolved. It will probably be many months before it will be possible for individuals whose property is identifiable to assume responsibility for its custody. In the case of property of United States nationals, for example, the Trading with the Enemy Act and existing travel and communications restrictions constitute present obstacles which may not be removed in the immediate future. Under these circumstances it is considered essential that whatever arrangement is developed for interim custody be accomplished with a recognition of the possible long-term nature of the task. It is essential to develop a system for the custody of this property which will have continuity over a period of time. The proper handling of the problem does not appear to require that U.S. Military Government continue indefinitely responsibility for administration. There appears to be no reason why the responsibility should not be placed upon the Laender. The Germans have procedures for handling properties under comparable circumstances. They should be required to maintain complete records of such properties. Military Government should develop an inspection procedure to supplement the work of the Germans. Under such a system the properties should receive the protection to which they are entitled. The Laenderrat should be requested to submit to Military Government a plan for the handling of these properties. If approved, it should be put into effect promptly.

It is not considered necessary at this time to decide the question of ultimate disposition of such of these properties as may be unclaimed over a period of time.

Pending the establishment of a central German government it will be necessary for U.S. Military Government to continue to reply to requests of United Nations nationals as to the condition of property in

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the U.S. Zone. It will also be necessary for Military Government to continue to make reasonable efforts to ascertain the condition of properties in other zones where property of U.S. citizens is involved.

7. Included within the foregoing categories of property are large amounts of foreign exchange assets turned in under Military Government Law No. 53. These are being held throughout the U.S. Zone in branches of the Reichsbank under controls established by Military Government.

Present custody arrangements appear to be satisfactory. They do not create an undue burden on Military Government. It is considered that there should be no change in this procedure and that this category of property should not be released to the Land Governments for interim custody. In addition, it is not considered that the question of the ultimate disposition of this property should be presented for the views of the Laenderrat. The requirements of Military Government should be a first charge against this fund. These requirements include essential food and other imports, and international postal and communications charges.

#### Works of Art and Cultural Material

8. There is an additional category of property which received separate treatment in JCS 1067/6 and which is included in most of the categories described above. JCS 1067/6 (Paragraph 48.e(3)) requires that the Zone Commander impound or block "works of art or cultural material of value or importance regardless of ownership thereof." Military Government Law No. 52, which blocks works of art, provides that no person shall import, acquire, receive, deal in, sell, lease, transfer, export, hypothecate or otherwise dispose of, destroy or surrender possession, custody or control of any property "which is a work of art or cultural material of value or importance, regardless of the ownership or control thereof" unless authorized by Military Government. Many art objects were taken under Military Government Control by M.F.A. & A. specialist officers (and not Property Control officers) under SHAEF directives and under Title 18 of the Military Government Regulations.

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9. Those objects which are of great value or importance, those which are believed to be subject to external restitution, or those located in repositories unsatisfactory for storage purposes have been moved to several Central Collecting Points which are under direct Military Government supervision. It is the opinion of the Economics Division, in which the Board concurs, that Military Government should continue to be responsible for the custody of these objects until those subject to external restitution can be identified, segregated and returned. During this process it is proposed to reduce the number of Central Collecting Points under direct Military Government supervision so that after 30 June the only Central Collecting Point containing restitutable material will be located at Munich. As soon as the contents of the other Collecting Points can be reduced to objects believed to be solely of German ownership and not later than 30 June 1946, these other Collecting Points and their contents will be turned over to the custody of German Land Governments. Although these Points are under the supervision of a limited number of Military Government personnel, most of the technical and clerical work is done by German employees.

10. A vast quantity of cultural objects remains in the 923 repositories uncovered in the U.S. Zone. Material in these repositories not believed subject to external restitution will also be turned over to German Land Governments or identified owners against custody receipt. All custody receipts restrict the sale or other transfer of such objects without approval of Military Government, so that any objects which may later be determined to be subject to external restitution, to interzonal transfer, or to restitution within Germany may be recalled.

11. Under the circumstances it is considered that the Laenderrat should be requested to include within its interim custody program a plan for the interim custody of cultural objects with the exception of those believed to be subject to external restitution as determined by Military Government. The plan should provide for releasing such objects to governmental agencies, institutions and persons within the U.S. Zone of Occupation against a custody receipt with the understanding that such property will be returned by such governmental agencies, institutions and persons

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if it is subsequently determined to be subject either to external restitution, to interzonal transfer, or to restitution within Germany.

Claims

12. The Potsdam Protocol contains no provisions with respect to the satisfaction of claims. JCS 1067/6 (Paragraph 48.e) directs the Zone Commander to institute measures for the prompt restitution of property which has been the subject of transfer under duress or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise. It is the opinion of the Board that machinery should immediately be established to hear and dispose of: (a) claims for the specific restitution of property, as required by JCS 1067/6 and (b) to a limited extent, as further explained herein, claims for damages arising out of Nazi persecution.

13. With respect to the restitution of specific property to individual owners, there are no apparent obstacles other than the creation of a procedure for adjudicating rights and protecting the interests of innocent third parties who may be involved. Accordingly, the Laenderrat should be requested to prepare a plan for such specific restitution either through existing judicial machinery or by specially constituted tribunals. The plan should also consider the matter of substantive rights.

14. The Laenderrat should also be requested to prepare a plan for the specific restitution of property wrongfully taken from organizations, such as the labor unions. This may be more complex in that questions may arise as to the functions of such organizations, the continuity of their personnel etc. Therefore, initiation of a program for specific restitution to individuals should not be made to await a decision on the restitution of property to organizations.

15. In many cases it is likely that specific restitution will be impossible or inadequate to indemnify a person for his loss. There will also be many persons who have suffered damage from personal injury and other losses unrelated to property. A plan for the adjudication and settlement of all such claims resulting from Nazi persecution and discrimination in Germany has been prepared by the Legal Division under date of 15 January 1946. The study is under consideration by the Board.

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is the opinion of the Board, however, that prior to the adoption of a complete program for the adjudication of claims of this nature provision in the U.S. Zone should be made not only for restitution of specific property but also for partial satisfaction of claims by an interim award for the economic rehabilitation of those destitute as a result of Nazi persecution. The award should be an emergency measure only and without prejudice to possible further recovery. A limit should be placed upon the amount that one is permitted to recover, based upon the foregoing considerations. The urgency of the need of many of these people, the lack of information as to the amount of the claims which may be made, the funds which may be available to meet them and the necessary delays incidental to quadripartite settlement of such issues emphasizes the need for interim awards such as are recommended.

16. A plan for the granting of such awards should be prepared by the Laenderrat, which should assume that sufficient of the property confiscated from Nazi organizations or from individuals under the War Crimes or Denazification Laws will be made available to the Laender to enable them to make the necessary awards. The plan should consider the use of existing judicial machinery in the several Laender and the desirability of using specially constituted tribunals for the purpose.

17. The procedure outlined in the preceding paragraphs should be available to all persons in Germany regardless of nationality, who have been deprived of their property under the circumstances outlined. As regards the final adjudication of all other claims for damages arising out of Nazi persecution or discrimination, the Board considers they should await further consideration pending quadripartite decisions on a central German government. In the interim the Board will continue to study the problem, particularly as set forth in the Legal Division study, to consider what further classes of claims should be considered.

18. The lack of foreign exchange makes impossible now the settlement of claims in anything other than German currency or property.

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September 26, 1952

Monuments, Fine Arts, and Archives  
Problems in Europe

Following the official visit of the Arts and Monuments officer, Miss Ardelia R. Hall to Italy, Germany, Austria, and London this summer in order to facilitate the settlement of cultural properties under U.S. Government or joint control, she has been able to make the following appraisal of the existing problems. For the most part these problems that remain are generally known. They have been the subject of formal protests, the subject of representations of the German Government, the subject of claims from Allied Governments, the subject of constant inquiry at home and abroad, and in a few cases widely publicized.

The salient fact in considering these problems is that there is no longer an American specialist officer in either Germany or Austria. The Monuments, Fine Arts, and Archives (MFA&A) officer in HICOG and a former employee who have been carrying the work for the past year have left HICOG employ. The Property Division which had carried on the cultural restitution program under OMCUS and HICOG went out of existence in June 1951. The only office professionally responsible for MFA&A functions is the Arts and Monuments Unit in the Department.

The MFA&A files of the former Central Collecting Points (CCP) containing original records of all cultural property taken under U.S. control, receipts for restitution, Nazi documents on official looting and art transactions have been packed and are being held in Frankfort for shipment to the U.S. Department approval for their transfer from the Department of the Army to the Department of State has not been obtained. These files are essential to the Department if the solution of the problems is to be reached. They are also vital to the protection of the interests of the U.S. Government. Both the Department and HICOG receive constant inquiries regarding the disposition that has already been made of property restituted. There are also occasions when it is essential to be able to show that certain objects were never in the U.S. custody.

In Germany cultural restitution, under a contractual agreement, is to be carried on in the future by the German Committee for Restitution of Works of Art, "Deutscher Ausschuss fur die Restitution von Kunstmateriel," under the Foreign Office of the Federal Republic. Miss Hall knows personally all members of this Committee and the large staff at the Munich Central Collecting Point in its employ. The Department may be called upon to lend its influence and to support bona fide claims. The Collecting Point files with their unrivalled series of Nazi documents makes it possible for the Department to provide corroboration for many claims, particularly for art still missing.

In Austria there remains the largest holdings of cultural property awaiting appropriate disposition. There are three blocks of art to be dealt with under U.S. policy.

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The first includes the public collections sent to Austria from Germany for safekeeping during the war. The Kassel and Kiel collections are in the International Sector under quadripartite control and the Lübeck collection is at Graz under British control. Miss Hall has conferred with WE and EE with regard to these collections. They were the subject of discussions with the American Embassy in Vienna, the President of the Bundesdenkmalamt in the Austrian ministry, and with the Foreign Office in London, when Miss Hall was accompanied by Mr. Robert Hooker of the American Embassy. The problem hinges upon obtaining quadripartite approval for the return of those collections in the International Sector. The French representative in Vienna has raised the question as to whether or not they contain looted objects. Miss Hall was able to assure Mr. Dowling that they do not and promised to provide the catalogues giving the history of the collections. The Kassel collection of 63 masterpieces is by far the most important of the three, valued upwards to 10 million dollars. It was given to the Kassel Museum in the 18th century, looted by Napoleon Bonaparte, returned by the Allies in 1815, and the objects in Vienna are listed item by item in catalogues dating as far back as 1861. These collections were the subject of a Department statement in the Aug. 27, 1951 Bulletin.

The second block of art includes approximately 2,000 objects formerly under USFA control, presumably restitutable. Miss Hall when in Austria completed the cataloguing of these items, had photographs where necessary made, and began the work of identifying ownership, which should be continued as soon as the CCP files in HICOG are brought to the Department.

The third block of paintings includes the 967 unidentified items transferred from Munich CCP to USCOA in January 1952. Full records of each item are on property cards prepared at the CCP. The record photographs and negatives have been sent from HICOG to the Kansas City Army Record Depot. The restitution of those objects identified by Miss Hall and the work of continuing identification will be delayed until the photographs and negatives are received from Kansas City. The request for the transfer of these records awaits Department approval.

The President of the Austrian Bundesdenkmalamt told Miss Hall that he has urged the prompt restitution of all these objects. He bears a heavy responsibility for their custody. However, the art authorities in the Bundesdenkmalamt have no way of determining the ownership of the unidentified objects. The CCP records are the only source of documented evidence. The Bundesdenkmalamt is greatly handicapped in caring for this large number of paintings and works of art. There is no adequate storage place in the American Zone of Austria. The great Austrian museums are in Vienna, in the International Sector. The paintings are stored in the Residenz in Salzburg, in the Franciscan Church, in a vault of the Salzburg Dorotheum, in a place at Linz, and 1,500 have had to be moved back to the Aussee salt mine. The hardships imposed upon the Austrian officer who cares for these paintings is great. She has recently had to move several

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hundred in the Franciscan Church because repairs were being undertaken which would make them insecure. She has to travel to the inaccessible mine by rail, bus, and the last two miles on foot. In the mine there is a constant temperature of 40 degrees above zero where it is impossible to work for more than a few hours at a time. Miss Hall made two visits to the mine. The Bundesdenkmalamt has also suffered tragic losses during the past three years two staff members were killed in accidents and a third died in his early forties. The loss of these men has greatly increased the burden on the remaining officers.

Miss Hall expressed to Dr. Demus and to Mr. Dowling her appreciation of the excellent care the objects receive even under these difficulties. It is, however, essential that the objects be identified and recommended for restitution as rapidly as possible.

In Italy the problems relating to cultural property under tripartite control have been settled within the Department. It only remains to obtain the concurrence of the British and French with the U.S. position and to conclude the negotiations. These problems have been considered by WE, CPA, L/E and Miss Hall. The legal documents which Miss Hall obtained in Rome have been forwarded to Bonn, Rome, London, and Paris.

A difficult and complex problem which the Department inherited from OMGUS is the restitution to Italy of 340 works of art, the ownership of which was unknown, and other items of controversial ownership. Miss Hall has been compiling evidence of ownership, the CCP files, however, are needed for this purpose. When the ownership of the objects is determined, it will be possible for the Department to request the Italian Government to return the items under a clause in the receipt for cultural property.

In Yugoslavia there are 165 paintings restituted in error under rather extraordinary circumstances. The counter-claims and the documentation needed are in the CCP file. Curiously enough, the Yugoslav claims for these paintings have not been found in the CCP file.

Miss Hall was often questioned about the proposed disposition of the 967 paintings transferred to USCOM (a transfer widely misrepresented in the German press as a gift to the Austrian Government) and the works of art restituted in error to Italy and Yugoslavia. Her reply that the Department was continuing the identification of the ownership of these properties was always accepted, approved, and appreciated.

It was evident to her that the Department has won the complete confidence of officials and art authorities in most European countries for its policy of respect for cultural property. This is particularly true of those countries who lost the most during the war and have benefited the most under the great cultural restitution program in the American Zone of Germany. The Department has also demonstrated its good faith by continuing the recovery of dispersed objects known to have been brought into the United States.

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Miss Hall was not only pleasantly surprised by the many expressions of gratitude which she personally received but was also impressed by the respect shown for the integrity of the Department's policies and by the willingness of the highest officers in the art ministries of the French, Austrian, and German governments to cooperate in every way possible and to work together in the solution of difficult problems of ownership.

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MEMORANDUM

SUBJECT: ELECTION OF CIVILIAN MEMBERS

Dr. HANS KONRAU ROETHEL  
Dr. ERNST KURT ROETHEL  
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## P R E F A C E

1. This Memorandum attempts to prove that the restitution of cultural objects is a problem which may deserve a reconsideration by the Allied Powers.

2. It is based on the documents of the Central Collecting Point, Munich, and on the personal experience of the undersigned, who, first as Chief Curator of the Central Collecting Point and presently as Adviser of the Intelligence Department, Monuments, Fine Arts and Archives Section, Office of Military Government for Bavaria, has been concerned with these problems since July 1945.

3. As specifically outlined in the Conclusion, the result of this investigation is a suggestion to consider a new definition of "loot".

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I

## INTRODUCTION

This introduction attempts to outline the difference between reparations and restitution. It will further try and present a definition of the basic terms involved in the problem of restitution and, in addition, it has been attempted to submit some reflections on the moral, economic and artistic aspects of the restitution of cultural objects.

The writer has abstained from discussing the restitution problem in the light of the present quadripartite occupation policy in Germany.

1. DEFINITIONS OF REPARATIONS AND RESTITUTION

Disregarding for the moment, all legal and historic considerations it appears not to be unreasonable to agree on the following definitions:

- a. REPARATIONS should include all compensations in cash or material payable as war indemnities for economic damages of a non-military nature by a defeated state.
- b. RESTITUTION should comprehend the restoration of identifiable objects in nature to the rightful owner who had been illegally deprived of his property during the time that his country was occupied.

II1. THE BURDEN OF RESTITUTION

The payment of reparations and the fulfilment of the restitution of looted objects should be considered subject to International Law. There cannot, of course, be any objection if a looter is being disappropriated of an object which is subject to restitution. If, however, the present owner of a restitutable item has acquired it in a legal way he should be in the position to <sup>Jack</sup> redress with his government, which will have to provide some municipal law to that effect. Therefore the burden of restitution should rest with the defeated state, not directly with the individual concerned.

2. DEFINITION OF LOOT

"Loot" should, according to Webster's International Dictionary, 1947, be defined as "plunder; booty; spoil; esp. the booty taken in war; or the gains of corrupt officials."

Objects recovered by transactions effected under force or duress should be considered loot and consequently be restored to the rightful owner within the ambit of restitution.

4. DEFINITION OF FORCE

"Force" should, according to Webster, be defined as "strength or power, of any degree, exercised without law, or contrary to law, upon persons or things." In cases of forcible entry, robbery, rape etc., the word "force" should generally be interpreted as including not only actual application of physical force, but such threats or display of physical force as are reasonably calculated

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to inspire fear of death or bodily harm."

#### 5. DEFINITION OF DURESS

"Duress" should, in accordance with Webster, be defined as follows: "Compulsion or constraint by which a person is illegally forced to do or forbear some act. This may be <sup>by</sup> actual imprisonment or physical violence to the person, or by such violence threatened (specifically called duress par minac). The violence or threat must be such as to inspire a person of ordinary firmness with fear of serious injury to the person (loss of liberty, or of life or limb) reputation, or fortune.

#### 6. THE PROBLEM OF OCCUPATION

In view of the above mentioned definitions and with regard to the current restitution policy, in particular, the problem arises whether there can be morally, legally or economically anything like a "normal" relationship between an occupying power and the citizens of an occupied country. Ignoring all nationalistic feelings, it ~~is~~ seems unlikely that a sensible and prudent man should not, at least psychologically, perceive any occupation as a form of pressure. As a matter of fact, that feeling represents, besides all other practical considerations, the expected reaction on the side of the occupants. Therefore it seems to be logic that the status of occupation be considered abnormal.

Consequently, if the occupation of a country may be considered to represent an act of coercion it would follow that all transactions effected between the members of the occupying and the occupied countries have to be considered illegal. Furthermore, it may be argued that every occupying power embodies, at least in its military representatives, a certain amount of force and

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and dairies. Marriages which have taken place between a member of the Occupying Power and a citizen of the occupied country, would consequently have to be declared null and void.

For all practical purposes it therefore seems advisable to be illogical, i.e. neglect psychological reactions and come to the conclusion that the status of occupation as such has to be considered lawful. Henceforth in moral, economic and judicial aspects a "normal" relationship between the two partners must be supposed.

If this reasoning be true, it would follow, that all objects, particularly those which have been acquired by fair and full payment <sup>and which were</sup> removed from occupied territories to Germany cannot "be deemed to have been transferred under duress" and accordingly be considered as loot. (see Chapter II, Section 5).

7. THE PROBLEM OF DENATIONALIZED CURRENCY

It is a generally accepted argument, though never explicitly stated, that the denationalized currency is the main reason why all transactions effected by the Germans in occupied territories are to be considered loot. Whatever the objective value of the currency may have been when a German made such a deal, in almost every case the individual participant was happy to receive and usefully invest the money. Should, indeed, the respective country have suffered any damage, financially or otherwise, the loss should be subject to reparations and not subject to restitution.

8. CULTURAL PROPERTY

The cultural objects which have been removed by the Germans have, except for the declaration of the Joint French, Belgian, Dutch and Luxembourg governments, only been considered with regard to their economic value.

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The removal of such objects, however, may have quite a different aspect if they be regarded as national treasures. Even if transfers of such items were commercially effected in a correct way so as to exempt them from being considered as loot, there remains the possibility that the export of such works of art may only have been realized by violating some law prohibiting the export of national treasures. Practically, there is only a very small percentage of such outstanding works of art which reasonably could be considered as such. But should the cultural wealth of one of the Allied Nations have suffered any damage from such an illegal export, the respective nation should have a claim on the restitution of said items.

## 9. RESTITUTION IN KIND

From the point of view of juridical logic restitution in kind would have to be considered as reparations. Nevertheless, should a cultural object representing part of the national treasure of the respective country have been spoiled or damaged or lost in some untraceable way, it should be considered subject to restitution in kind. The number of such items should in accordance with the present policy, be limited to world famous objects. Before definitely settling this delicate problem, however, the question of German works of art as well as restituible objects located in the Russian Zone should be taken into consideration.

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It must be considered as a matter of course that the disappropriations carried out by the Einsatzstab Reichsleiter Rosenberg, that the loot from Monte Casino and the confiscations of Jewish property in Austria are one and all subject to restitution. Nor can there be any doubt about the return of such cultural materials as were removed by the Germans from occupied territories for reasons of protection, as may be assumed with the CRIME ALTAR. But there appears to be a large number of cases which de facto were not, and therefore should not be deemed to have been effected under force and duress. In the following the undersigned would like to submit seven outstanding cases which he thinks are debatable with regard to the present definition of loot and which therefore seem to necessitate the consideration of a revision of the present definition and practice of the restitution of cultural objects.

1. THE GOUDSTIKKER FILE

The sale of the GOUDESTIKKER firm, the biggest Dutch art dealing business, was transacted in July, 1940 shortly after the Occupation of the Netherlands by the German troops. The firm was acquired by Alfis MIKEL, a German banker who had lived in Holland for 14 years. The story is best represented in the Third Report on MIKEL, which gives a "literal transcription" of MIKEL's account. MIKEL has related the sale, as is expressly stated "in exactly the manner described in the letter from VAN BROEK and DIX (the GOUDSTIKKER Lawyers) to the Dutch Authorities":

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"The intermediary who introduced MIEDL to the firm was Max MUDL, the representative of HANKE & COMPANY in Holland who was last reported in New York. The GOUDSTIKKEN firm and all its possessions were valued by the appraisers at 1,500,000 gulden; and then after the meeting of the shareholders, it was decided to set the sealing price at 2,550,000 gulden. MIEDL who was unaware of the original appraisal, accepted this and bought the whole firm." (It appears not to be definitely clarified what part GOEDING played in this deal. MIEDL states that GOERING was interested in buying the whole firm, whereas GRIZZBACH, former Staatssekretär of CUNNING, states that MIEDL wanted CUNNING to take over the total lot. However, with regard to the present problem this question may be considered irrelevant. Finally, CUNNING purchased all removable art objects and MIEDL kept the real estate.)

MIEDL insisted that payment for the firm be made in securities both Dutch and foreign, and real estate. The securities were chosen by VAN DER HAGEN, the GOUDSTIKKER lawyer, KORNICK, DIX and TAX BROEK. Among the securities were shares of Royal Dutch, H.V.A. (Handelsvereeniging Amsterdam), and some American shares. They were deposited first in a number of different banks and finally all together in the Zee Vereniging, Amsterdam (K.V.A.). He obtained from the German authorities a guarantee (written) that no matter where the widow GOUDSTIKKEN may find herself at the time, whether in enemy or neutral territory, the securities would still be kept in her name and not turned over to the enemy property authorities. The old Mrs. GOUDSTIKKEN (SCHLESINGER), the dealer's mother, was owed money by the firm in which she also had shares. She was paid her part in gulden. However, shortly after this, FELAK, the attorney (POLAK, KEROF and VAN SIMS) turned over this money to the central custodian of Jewish funds,

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the bank LIJMWERK HONESTAAL. MIDT says he protested against this and took steps to free these funds for old Mrs. GOUSSEKIN.

This he finally succeeded in doing about nine months later. In the meantime he claims he took care of all her financial affairs. He saw to it that she always lived in a non-Jewish home so that he would be able to take steps if she were persecuted by the German authorities."

The basic question as to whether or not the GOUSSEKIN Collection has to be considered loot has <sup>not</sup> been answered in the affirmative, early in 1945, by a statement of Mr. de JAGER, an official of the Dutch Ministry of Justice in London, reference being made to the Dutch Law on the Restoration of Legal Rights (Chapter III, §. 103) In addition, the declaration of the Joint French, Belgian, Dutch and Luxembourg Governments on a reparation policy has been quoted. It reads as follows:

"Par bien espérée ou entend tout bien susceptibles, par leur nature, de réstitution, et qui à la faveur de l'occupation de tout ou partie du territoire national ont été contraints par l'ennemi, ses agents ou ressortissants, à son patrimoine national tel qu'il existait avant l'occupation, soit directement par des actes d'alièvement ou de dépossession, soit indirectement par des actes ou transactions quels qu'ils soient, les moyens de paiements utilisés."

However, in view of MIDT's story, it does not appear necessary to add very much as to the question whether the GOUSSEKIN deal was a forced sale or not.

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But, GOUDSTIKKER, having been a Jew, his heirs probably will claim that he had been acting under coercion. That certainly must be admitted because with the German occupant Nazi terror was in some way or other, at least potentially, embodied. Supposed that GOUDSTIKKER indeed parted with his firm only because he felt under duress, it should on the other hand, be taken into consideration that he or his heirs made an excellent bargain. The commercial transaction as such should not be considered as loot. A special investigation may therefore seem advisable in order to clarify the restitutability of the GOUDSTIKKER Collection. In view of such an investigation, it may be worth quoting Major E.K. WATERHOUSE who in his final report on Western Holland, June 1945, makes the following suggestion: "There remains no further work to justify the employment of an NAAA Special Officer in Holland, but a member of the CGS Art Unit would find valuable material in the leisurely study of such documents as the GOUDSTIKKER papers, which will otherwise only be explored from the limited angle of the interest of the Dutch Restitution Commission."

According to a verbal statement, in November 1947, of the accredited representative of the Netherlands at the Central Collecting Point, Munich, Major R.P.H. de Bruinfort, it has been estimated that about 90% of the paintings have been returned to the Government of the Netherlands.

A remark on the general situation of the art market in Holland may not be out of place here. On the whole it is an uncontested fact that by far the greater part of the art dealers (in Holland as well as in France) were happy that with the occupied allies came money. The Inter-

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national art market before the war was anything but flourishing because of the many financial restrictions. So when, at last, unfortunately through the war, there arose the chance of doing some business the art dealers sold quite voluntarily and happily. Most of them went out of their way to offer their goods to the Germans (see CHAPTER I, Section 7, the ZINCKSHAF case).

Quite often, the transactions were not carried out on a mere financial basis. Exchange of works of art were quite customary. Not only did some museums part with their property in order to realize new acquisitions (see CHAPTER I, Section 5, the Cologne Academy) but also private collectors made use of this means. Special attention is invited to an exchange which was made between August MEYERBORG, Hamburg, and the Spiegelstelle Eindhoven in Holland. MEYERBORG, in the first deal acquired a "Landscape with Trees" by Jan van Goyen and a "Head of Christ" by Rembrandt. He gave in exchange two portraits by Christoph Amberger which had been bought by him on 23 August 1931 in Germany. On a later occasion MEYERBORG acquired a "Reading Woman" by Terborch and gave in exchange a "Portrait of a Man" by Isenbrandt which he had bought in 1927 and, in addition, paid RM 30,000,--.

Both cases appear to be commercially correct and the problem of their restitutability as "loot" may therefore be considered debatable.

All three paintings originating from Holland have been claimed by the Government of the Netherlands and, consequently, have been restituted.

## 2. THE MANNHEIMER COLLECTION

The Mannheimer Collection, one of the most important private collections of Europe, had belonged to

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the deceased banker of MULLER & COMPANY, who had gone into bankruptcy shortly before the outbreak of the war. It was in the hands of Dutch creditors, among whom were STACE, VAN ALBERT, MENGEL REGTERES, VAN ALVEMA, SCHIJF and FLYNN. They wanted to sell the collection to pay off the Mannheimer debt. MULLER had given an option for 7½ million gulden and intended to buy. With the aid of a special directive obtained by FOISSE \*) from BREKAN which effectively blocked all competition, the major portion was acquired by the Ministrie van Rijkseconomie in Holland.

KOONIK states that he blocked the collection because he wanted to prevent it being dispersed. In view of the considerable amount of fakes which were discovered by Dr. Frans KIZSEL, the collection was finally bought for a price of 5.00,000-- gulden, in 1941.

A smaller portion of the collection had been removed from Paris to Vichy by MULLER's widow just prior to the occupation of France, and a few items were kept in the country house at Vaugrasson.

In 1944, MULLER completed negotiations with the "Administrator of Property Seized by the Nazis in France", for the purchase of all these items at the price of 15,000 Frs (500,000 gulden). Thus altogether 6.000.000 gulden were paid for the MULLER Collection. The house of MANNHEIMER which was originally included in the deal, was left to the creditors.

It appears that the KANTZLER Collection, although blocked by BREKAN, was not required by FOISSE or anyone as defined in the liquidation of this monogrammer. However, the creditors may have suffered a financial loss amounting to 172 million gulden. This sum should be made good for by way of reparations payment, and the collection be renaturned or lawfully acquired by the Ministrie.

\*) DR. Hans Foissé, Director of Hitler's Museum in Linz

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The whole collection has been returned to the government of the Netherlands.

### 3. THE RENDERS CASE

Although the Belgian Government has made extensive investigations on the sale of the Renders Collection it seems that the story is still best represented in the Consolidated Interrogation Report No. 2 of the Office of Strategic Services, Art Looting Investigation Unit:

"HOFER's +) Story which agrees with MIEDL's as to the main order of the events is the following:

HOFER was first introduced to RENDERS by PAECH who had heard that the collection was for sale and had already consulted KLEEDLAENDER as to its value. HOFER visited the collection with PAECH who acted as his interpreter because he does not speak French. Later GAITZBACH also accompanied him to discuss the question of payment. Both HOFER and MIEDL agree in saying that absolutely no pressure was needed to persuade RENDERS to part with his pictures. They stated that he unquestionably wanted to sell his collection and gave as the reason for doing so his fear that it would be broken up by litigation between his heirs after his death. He was particularly anxious to keep the collection together and so insisted on selling all pictures or none. He had formerly been a banker, and HOFER says that the difficulties in coming to an agreement arose from the fact that he could not come to a final decision about the exact form of payment. At first he wanted dollars then gold francs, then securities but he always managed to prolong the negotiations by changing his mind at the last moment.

HOFER and GAITZBACH became exasperated by these delays and decided to call in MIEDL whom they believed, as a banker, would be best qualified to talk to RENDERS in his own language. This idea proved successful and, after conver-

+ ) Walter Andreas Hofer, Director of Goering's Collection

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sations between KIELL, his assistant RUYER from the  
Belgenlandsche Bank and RENDEZ's banker from the Banque  
de Berfort, an agreement was reached by which KIELL bought  
the whole collection for Fl. 800,000,- to be paid in  
securities chosen by RENDEZ's banker. The purchase of  
these securities was only possible through O. KHLING's  
intervention because the stock market was officially closed...

HENDRIKS' account of the sale agrees with the story given  
by R. RUYER and KIELL as to the main sequence of events and  
personalities involved. However, he maintains that he  
did not want to sell and only did so under duress  
"after six months of resistance". He also states that  
he was paid in "Belgian and Dutch paper's money, two monies  
depreciating at the time" - not in securities.

There is documentary evidence that O. KHLING and his agents  
brought pressure to bear on RENDEZ during these negotiations.

On 25 August 1940 the collection was frozen by inspector  
KUVELS of the Revisie en Schuttekommando for Belgium. KIELL  
mentions this action specifically and says that it was one  
of the reasons why KIELL was unwilling to make a decision.  
He says that it was only when he showed RENDEZ a letter from  
O. KHLING calling off the Revisie en Schuttekommando that he  
finally came to an agreement...

Finally O. KHLING's letter to RENDEZ on 27.3.41, in which  
he advises him to make up his mind now and for all, or  
else he (O. KHLING) will no longer be able to answer  
for the consequences, certainly contains a threat...

Strangely enough, although it is thus established that

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pressure was brought to bear on RENDERS; a further analysis of the evidence shows that RENDERS is probably not the victim he pretends to be. In fact, the pressure seems to have been used to influence the price rather than to force the sale itself. First RENDER's statement that he did not want to sell is contradicted by HOFLER and LINDL who, independently, both tell the same story with the same details. Again, they both cite as further evidence the fact that this letter exists in the GOUDSTIKKER files in Amsterdam. Finally, they both say that RENDERS gave tangible proof of his satisfaction when he offered his sculpture collection to GOUDSTIKKER under the same conditions, an offer which was never taken up because of the complications involved in that particular form of payment. This statement is confirmed by the letter from HAPSR to GOUDSTIKKER dated 14.7.1943 in which he reports on his examination of the sculpture collection and quotes the price asked for it... In this letter he specifically states that RENDERS wants payment to be similar in form to what he received for the paintings, that is to say "Belgian securities". This proves RENDERS' statement that he was paid in paper currency to be untrue.

Thus RENDERS appears to have been driving a hard bargain rather than "resisting for six months". He was probably well pleased with his twelve or thirteen million francs worth of securities, otherwise he would not have wanted to sell his sculpture. Like many other collectors he is converted by the allied victory, he is probably trying to have his cake and eat it too."

After the negotiations RENDERS presented GOUDSTIKKER with a piece of modern sculpture which he probably would not have done if he had felt "under pressure".

In consequence of the opinion of the author of the above

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mentioned report, the purchase of the KLEINER Collection should not be considered loot, and therefore be excluded from restitution.

## RENDER

On the other hand, by the export of the KLEINER collection, the cultural wealth of Belgium certainly has been deprived of its most famous private collection of Old Masters. As ceasing within the ambit of "protected monuments" (whether officially declared as such or not) it should as an act of grace rather than by force of law, be restored by the Germans to Belgium. The compensation paid for it should be considered as reparations payment.

The collection has been returned to the government of Belgium with the exception of one painting (Fleming "Madonna and Child") which allegedly has been delivered by GELING to the American authorities and which has disappeared since.

Proven  
untrue  
A R Hall

## 4. THE SCHLOSS COLLECTION

The SCHLOSS Collection consisted of 352 paintings chiefly noted for signed and dated pictures by Dutch masters of the 17th century. 262 of them were acquired by the HITLER Museum in Linz for 50.000.000 French francs after 49 had been chosen by the Louvre at a stipulated price of 18.975.000 French francs. Dr. Bruno LOHSE who worked with the Kindestab Reichskulturbüro Rosenberg and who, at the same time, acted as STUHL's representative in Paris was party to almost all the proceedings. He states that in the beginning of 1943 he was introduced by his Chief of the Kindestab, Eichsenleiter Rosenberg, von BOMMEL, van PELLEFOUR, in company with the art dealer J. LETHAGE.

He continues:

"The former explained that he had been authorized by the French Government to sell the SCHLOSS Collection.

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The sale was to be conducted through the offices of LIPSHIUS who de TELLEROIX wished to establish as agent for his Mission for Jewish Affairs. De TELLEROIX then laid down the following conditions of sale:

- i. The collection, which was still in unoccupied territory was not to be confiscated by German offices following its transfer to Paris.
2. There was to be no obligation for a complete sale of the collection if the pictures were brought to Paris.
3. He wished assurance that he could return the collection at any time to unoccupied territory.
4. Transportation to Paris was to be undertaken by the German Government.
5. The collection was to be placed in the BNP bank in Paris under full French control.
6. The Louvre authorities were to see the collection first in order to exercise their legal right to a first option on any part of the collection.

I communicated these conditions to GOETZING, who was highly interested in the collection and authorized me, in his name, to make to de TELLEROIX the stated guarantees.

As the collection was still located in unoccupied territories the Luftwaffe could neither provide a truck for transportation nor could military escort be provided. Since LIPSHIUS was not able to find transportation, von BIRK obtained a truck through an acquaintance and obtained a civilian escort through a French firm. For the protection of the convoy in German occupied territories, an official of the S.S. was to go along. The official was expressly informed that this extremely valuable cargo was a complete French affair before handled on behalf of the German Government. German participation in the movement was simply to be that of protection and facilitating of the transport through an apparent lack of responsibility on the part

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of de PRELLEPOIX and a lamentable lack of judgement in the choice of the escort, a mishap occurred. Neither LEFRANC nor the officials who had been charged with the handing over of the collection were present when the truck drove up to the appointed meeting place in the town of Tulle (Corrèze), near Limoges. The escort awaited LEFRANC and the other officials involved, but finally lost patience and prevailed upon a certain M. PEYRIT, custodian of the cases, to relinquish them, and started out for Paris, allowing PEYRIT to accompany the truck. There were seven cases in all. The local French police became suspicious and overtook the truck, forcing it to halt by the roadside. An altercation followed, and the S.D. man who was along left the truck and telephoned his headquarters in Limoges, requesting help. An armed S.D. guard arrived on the scene shortly, took over the cases and brought them back to Limoges, where they were deposited in a barrack pending clarification of the transfer. I was informed by telephone of the confusing events and promptly phoned COTERIE in Berlin. COTERIE ordered me to communicate at once with the Limoges S.D. and to have the cases restored at once to French control. The cases were thereupon placed in a bank, and were ultimately brought by de PRELLEPOIX to Paris where LEVIAHU had them placed in the BNP Bank. However, word of the events which took place got out, and the impression persisted in French quarters that the collection had been confiscated by the Germans.

Because the collection was spoken of as worth fifty million francs and because of the unfortunate events which had taken place during personally insured the collection. In the

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General STAVKOVSKY through SOVIET had ordered the collection acquired for him. MR. SIBLAGE, Counsellor to the German Embassy in Paris was ordered to handle the details of the purchase, and Mr. GOFFAL was charged with the responsibility for the choice of pictures for LINA. I was asked by Dr. GOLDBLATT to aid him in the execution of his mission. GOLDBLATT'S guarantees were completely fulfilled. The cases containing the pictures were opened by the French Commission, with no German officials present.

Several days later, after the Louvre had made its final choice, Dr. GOFFAL and I visited the collection, together with BOUCHE, MAIS, LEFRANC and POUTEAU. The pictures had already been appraised by the Louvre officials and the Dutch dealer Cornelius REIJER, who had been employed as official appraiser for the French government. Following the final choice of pictures the collection was viewed by the French minister Abel MARCHAND, SCHNEIDER, ABBEY'S representative and GOLDBLATT. Some weeks after the signing of papers which had been selected for Germany were taken to the JEU de paume, and from there Dr. GOFFAL brought them to Germany.

Those pictures remaining were placed in trade by ALVAREZ who was officially delegated by the French Government as the agent to handle the details of the sale..."

As is stated in the Consolidated Interrogation Report No. 4 of the Office of Strategic Services, Art Looting Investigation Unit (Hitler's Museum and Library) "the criminal action must have had HITLER'S approval, and it is equally certain that Laval backed BUNKER." The D.G.E.R. (Direction Générale des Finances et du Commerce) report quotes Henry SCHLECHT, on p.3 as stating that when LAFAYE and

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three others arrested him and his wife at Nice, ITALY and  
 (work of himself be "monete par ZAVIL")

It is noteworthy that "the Schloss Family did not receive any payment for the paintings. The Vichy government never paid the 16,975,000 French Francs it owed, and the 90,000,000 French Francs paid by the Germans went into the fund of the organization of DANTZIG de PELLEPOLIS".  
 (Consolidated Interrogation Report No. 4, p.31)

Hence it appears that the Schloss affair should much rather be considered an internal French problem than subject of restitution.

The Schloss Collection was deposited in the air raid shelters of the former Führerhauptquartier in Rastadt. During the first days of the occupation, in May 1945, the building was looted, including several Schloesspaintings. The collection is in the process of being restituted.

#### 4. ZMK SCULPTURE RAUCHER

After he had tried for several times, Walter Rauchheim, a Munich art dealer, finally succeeded in acquiring a late Rodanesque wood sculpture representing the Madonna and Child, French, about 1200, from a private collector in Paris at the end of 1941. Including remunerations for intermediaries he altogether paid 5,000,000 francs for the piece. He duly offered it to the Louvre on 30 January 1942 and was notified on 5 February 1942 that the Directors of the Louvre were not interested in the acquisition. As the statue was overpainted several times Rauchheim had it restored in Germany for the price of DM 10,000. --

Berthold enjoyed certain privileges bestowed on

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him by GOERING. The ~~Katharinenkirche~~ therefore was conceded the right of first choice in all of BERNHEIM's dealings. While visiting Cologne, his home town, after one of the first disastrous airraids, BERNHEIM was so moved by the sights that he decided to sell the Madonna to Cologne. The Museum was particularly interested in the piece because of Cologne's artistic and cultural connections with France. The main objection to the deal was how to satisfy GOERING. Finally the partners arrived at the following solution:

1. GOERING receives as a forfeit

- a. Michael Pacher, Statue of St. Michael from the Museum in Cologne
- b. Lucas CRANACH, Portrait of a man from the Museum in Cologne

2. BERNHEIM received

- a. Bonoglio Gennoli, Adoration from the Museum in Cologne
- b. about 15 second class paintings
- c. RM 300.000,-

Thus the Museum did not only sacrifice its own property for the acquisition of the Madonna but through the restitution to France it also lost the piece which, evidence seems to indicate, was acquired without "force or duress".

3. THE GERMAN PARTNER

In the Consolidated Interrogation Report No. 4 of the Office of Strategic Services, Art Looting Investigation Unit, p. 35 it is stated that the painting by VASQUEZ, The Arrest in the Studio, was purchased by HILDE under conditions which are highly ambiguous, and which suggest a forced sale.

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Since that report was written the records of the former Reichskanzlei have been discovered and brought to the Documents Center at the Central Collecting Point, Munich. According to them the story of the picture reads as follows:

In a letter by Prof. PLATTNER of the Vienna Ministry of Education to Reichsminister Dr. LAENKE, dated 13 October 1939, it is stated that Count Jaromir CZECHIK "applies for the permission to give the painting 'The Studio by Vermeer... to a collector in Westburg for DM 1.800,-". In summarizing the previous history of the case, PLATTNER says that during the SCHUSCHMITZ Government an offer had once before been made by the U.S.A. Secretary of State, MELLON, which amounted to \$ 1 million. But the government of Austria did not give the permission of export (Ausfuhrbewilligung) at the time. After the Anschluss the whole CZECHIK gallery was made a "protected Monument".

Referring to the present situation, PLATTNER points out the importance of the painting for the cultural life of Vienna, and, in view of the legal facts as well as the political implication he suggests to let the painting remain in the CZECHIK gallery until a possibility of acquiring it for a public museum arises. He begs to have the Führer make a decision to that effect.

That decision was, indeed, being made. But, already on 25 January 1940, PLATTNER took up the matter again. He then said that in spite of the Führer's decision the case was not definitely settled; because Count Jaromir CZECHIK, being in financial troubles, could continue to try and sell the painting. PLATTNER therefore begged HITLER to give his consent and the money for the acquisition of the VERMEER by the Kunsthistorisches Museum, Vienna. To his request he added some propositions for the financial transfer, such as they later on were actually realized.

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After ~~WALLACE~~ had reported to HITLER, he wrote to PLATTEK on 24 February 1940: "... The Führer has no objection if negotiations concerning the purchase of the painting would be held with Count CZERNIN so as to arrive at concrete propositions about the price."

In answer to this PLATTEK wrote on 13 March 1940: "Following an informative conversation with the lawyer of Count Jurensir CZERNIN... I beg to preliminary report that Count CZERNIN has announced to make an offer in writing within the next days." A memorandum by the CZERNIN lawyer had been attached in which it is stated that from a legal point of view there would be no objections to the sale of the painting neither by his own client, Count Jurensir CZERNIN, nor by any of the other participants of the CZERNIN Viertel Konzil.

On 13 September 1940 Count CZERNIN wrote the following statement:

"I herewith declare that I am willing to sell the painting The Artist in His Studio by VENICE, which is my own property to the German Reich, for the sum of RM 1.500.000,- in cash plus the inheritance tax imposed by the Office of Finance on this painting according to its value. Should the Führer acquire the painting the above mentioned price will be reduced by RM 100.000.- This declaration is valid until 15 March 1941.

I declare to be willing to concede to the Führer and to the German Reich the right of preemption for the above mentioned painting which will end on 15 September 1942..."

/s/ JACKIE R  
COUNT CZERNIN

On 4 October 1940 the deal was finalized by ERNST REINHOLD the Director of the Linn Museum.

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A final report was made in the office of Ministerialer  
LAKKENS on 17 October 1940 in which the whole proceedings  
were summarized and where it is stated that "there is, so  
far no decision made about the infinite disposal of the  
painting. The question whether the painting is going  
to be incorporated in the picture gallery of the Kunst-  
Museum is therefore still open."

On 20 November 1940 Count CARRINI wrote the following  
letter:

"Mein Führer!

By the Deutsche Bank, Nohenelde, I was informed of  
the payment of RM 1.650.000,- as the price for the painting  
The Artist In His Studio by Jan Vermeer which we pur-  
chased by you, mein Führer.

I beg to accept my most sincere thanks. Wishing  
that the painting will always be of delight to you, mein  
Führer.

I am, mein Führer,

with the German greeting,

very sincerely yours,

Jaromir Count

CARRINI-MARZI

The basic fact appears to be that the rightful owner,  
Count Jaromir CARRINI, wanted by all means to sell the  
painting. He preferably wanted to give it to a German  
public gallery. He was happy that the Führer bought it.  
Both participants were eager to handle the matter legally.  
There was no force or duress used by any of the representa-  
tives of the German Reich.

On 26 November 1943 the painting was delivered by

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Mr. George Hugh SMITH, Director to the Central Collecting Point, handed to Mr. Andrew G. MITCHELL, Representative of USPA (United States Forces in Austria). The German Curators of the Central Collecting Point submitted a memorandum on what case in which the fact was stressed that the GERMAN Warmer was, according to their knowledge, legally acquired by the French. They were told that the painting could merely be handed over to the respective American Authorities in Austria. But soon it was learned that the painting had been incorporated in the Kunsthistorisches Museum, Vienna, and that it later on was exhibited as part of that Museum, in Berlin, Brussels and Amsterdam.

According to a memorandum which summarizes several statements made to Mr. Richard F. HOWARD (Chief, Monuments, Fine Arts and Archives Section, OCMW) and to Mr. Edwin C. LEE (Chief, Monuments, Fine Arts and Archives Section, OCMH), Col. John H. ALLEN (Chief, Restitution Branch, OCMW) agreed:

"that in view of the fact that the Austrian currency was not debased the interim procedure concerning restitutability and actual restitutions of objects purchased in Austria during the Anschluss and now in Bavaria might be as follows:

a. Where there is no indication of forced sale, the property may be either left in the custody of the person who now holds it, providing of course a custody receipt is properly given and provided, in addition, the holder of such property is clearly directed that he may not dispose of, sell, or in any other way transfer such property. This point is to be stressed, in as much as dealers are authorized to sell certain types of property in accordance with regulations governing the sale of art even though they may have signed custody receipts for such property.

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b. Where the claims were clearly effected under duress, the property is to be restituted to the Austrian Government. Proof of forced sale is the burden of the claimant."

Consequently it would seem that the STEMMER Vermeer should not be considered subject to restitution and should therefore be returned to the Central Collecting Point, Hanover pending further disposition.

(It is the private opinion of the undersigned that the STEMMER Vermeer should, as a national treasure, be eventually returned to Austria. But that should, on a different level, be decided by some future Reich Government, and some arrangement should then be made to repay the price paid for it.)

#### 7. THE ZINGGART CASE

ZINGGART is a Munich art dealer who took over the firm of KRISMAN. During the war he never proceeded to Holland. He states that all paintings bought from art dealers in territories occupied by the German troops were acquired by him after voluntarily offerings. His correspondence has been carefully checked and it was found that his statements are apparently true. One letter appears to be worth quoting with regard to the devaluation of the guilder (see ATTACHMENT 1). This letter contains the following sentence:

"The last (Central-Ausfuhrstelle) is of the opinion that the prices of most paintings which are being sold to Germany are too high and it is therefore not willing to loan expert juries."

The following chart of the ZINGGART Gallery may be of interest:

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Works of Art  
Approved, returned, acquired

22 31 2 6 7 21 67  
20  
Allende 295 531 532 533 534 535 536 537  
Borges 5  
Wenzel 42  
Neucker 22 16  
Sendhaus 40  
Sops 101 87  
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## CHAPTER II

## THE LEGAL PROBLEM OF THE RESTITUTION OF CULTURAL PROPERTY

In the following survey it has been attempted to mention all documents relating to the restitution problem as far as they were available to the undersigned. They will be given in a chronological order. It is their purpose to prove that there is, up to this date, no law which legalizes the restitution measures such as they are practiced at present in the U.S. Zone of Occupation of Germany.

1. THE INTER-ALLIED DECLARATION, LONDON, JANUARY 1, 1943

The juridical basis of the present practice of restitution is the INTER-ALLIED DECLARATION, LONDON, JANUARY 1, 1943 (Military Government Regulation 73-50; see ATTACHMENT 2).

This declaration expresses a warning in par 2 and a reservation in par 3. The Allied Governments hereby issued "a formal warning to all concerned, and in particular to persons in neutral countries that they intend to do their utmost to defeat the methods of dispossession practiced by the (Axis) Governments" . . . and they further announced that they would "reserve their rights to declare invalid" any transfer of property from Allied Nations to Germany. This should apply "whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

This declaration as well as all subsequent declarations of the allied Powers concerning restitution does not envisage the possibility of any transaction carried out by the Germans during the war that might have been legal or any such transactions which were politically CO 1001

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It rather aims at such transactions which had an apparent, but not actual legality. No comment or explanation is being given on what grounds all transactions may or must be considered as acts of dispossession or "loot".

## 2. THE ROBERTS COMMISSION

Following the principles of the London Declaration, the "American Commission for the Protection and Salvage of Artistic and Historic Monuments in war areas" (Roberts Commission) defined its functions in a letter by the former Secretary of State, Cordell HULL, of June 21, 1943. In this letter it was stated that at the time of the truce the Commission "should urge that the truce terms include the restitution of public property appropriated by the Axis Powers"... and that it should also "urge the restitution... of private property appropriated by the Axis Nations" (see Report of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas, Washington 1945, p.3.) Although not of an official nature the Roberts Commission has morally and to a great extent, also practically formed the policy, functions and activities of the Monuments, Fine Arts and Archives section. Therefore a statement of this Commission should not be omitted here.

## 3. LAW 52

In September 1944, Law 52 was published. It refers to "Blocking and Control of Property" including (according to Article 1 - 2) "property which has been the subject of transfer under duress, wrongful acts of confiscation, dis- possession or spoliation, pursuant to legislation or by procedures purporting to follow forms of law or otherwise..."

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It is important to note that Law 52 refers to "Seizing and Control of Property", only, it does not include any measures concerning the disposition of such property. (see DÖLLE-ZEIGERT, Gesetz No. 52, Stuttgart 1947, p.135)

#### 4. DIRECTIVE NO 1067/6

In the Directive No. 1067/6 Part II, par. 43, dated 10 May 1945 from the Joint Chief of Staff the following orders were given: "You will carry out in your Zone such programs of reparations and restitutions as are embodied in Allied agreements and you will seek agreement in the Control Council on any policies and measures which it may be necessary to apply throughout Germany to ensure the execution of such programs" (see "A Year of Potsdam", the German scenario since the surrender, prepared by the Economics Division, Office of Military Government for Germany (US), p. 172; there is a translation in: Europa Archiv, Dokumente, erster Band, 1947).

#### 5. DRAFT AGREEMENT ON PRINCIPLES CONCERNING RESTITUTION OF CULTURAL PROPERTY

On June 8, 1945 the US Delegation, E.A.C. issued a "Draft Agreement on Principles concerning Restitution of Cultural Property" in which it was stated that "there shall be an unlimited obligation on Germany to restore identifiable looted works of art, books, artistic and historic archives and other artistic or historic property". Furthermore it was agreed upon that "the return of such property shall not count as a credit against Germany's reparation obligation". The definition of loot was given in the following way: "all artistic... property removed to Germany during the war... shall be deemed to have been transferred under duress and accordingly as looted property".

This agreement reveals the basic definition of loot and, without reasoning declares that all property removed to Germany during the war

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"shall deemed to have been transferred under duress". Again there are no comments as to whether the state of war as such, the monetary situation or whatever else has been the urge for such a definition, a definition which hardly is consistent with definitions of such words as "plout", "plunder", "duress"; etc. as to be found in Webster's Dictionary.

#### 6. PRELIMINARY RESTITUTION POLICY OF USFET

On 15 September 1945 a communication from Headquarters, US Forces, European Theater to the Commanding General, Eastern Military District was issued. It reads as follows: "Works of art in the U.S. Zone are of such immeasurable value from cultural and monetary points of view as to burden you with the gravest responsibility. The earliest possible return of those objects considered to have been removed by Germany from their owner nations is therefore considered a military necessity of the highest priority, in order to reduce your responsibilities and to improve international relations at a diplomatic level".

There were three categories of cultural objects which were subject to that directive:

a. "publicly owned property" or material "taken from private collections by seizure or without compensation"

b. cultural material "for which some compensation is allegedly to have been made to their owners"

c. cultural material that was removed by the Germans for safekeeping.

As a result the famous GHENT ALTAR and MICHELANGELO marble statue of the Madonna and Child were returned to Belgium with the first shipment from the Munich Collecting Point as an "act of grace" on the part of the Commander-in-Chief and "not in satisfaction of any claim" which he may have received. Therefore, no formal receipt was made out.

It will be noted that in par b of the above quoted directive the implication is made that restitution is justi-

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itable when compensation was merely "alleged" that is to say, not actually rendered.

7. IMPLEMENTATION OF THE MILITARY GOVERNMENT

On September 25, 1945 the Control Council published Proclamation No. 2 (Additional Terms imposed upon Germany). Section VI, 23 reads as follows:

"a. The German authorities will carry out, for the benefit of the United Nations such measures of restitution, reinstatement, restoration, reparation, re-construction, relief and rehabilitation as the Allied representatives may prescribe...."

b. The German authorities will also comply with all such directions as the Allied representatives may give relating to property, assets, rights, titles and values located in Germany, belonging to anyone of the United Nations or its nationals or having no belonged at, or at any time since, the outbreak of the war between Germany and that nation, or since the occupation of any part of its territory by Germany. (Military Government Regulations, 23-202).

Thus the German authorities have to carry out "such measures of restitution ... as the Allied representatives may prescribe". But all such measures have only been manifested in the Inter Allied Declarations and Agreements on the definition of restitution, but not in a Law enforced upon the Germans. The order of Military Government for Germany (U.S.) concerning the "Declaration of Property from U.S. Areas Occupied by German Forces" which was published by the Bavarian Minister President on 26 April 1946 applies only to "declaring" such items and does not include a formal expropriation.

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sible when compensation was merely "alleged" that is to say, not actually rendered.

#### 7. PROCLAMATION NO. 2 OF THE CONTROL COUNCIL

On September 23, 1945 the Control Council published Proclamation No. 2 (Additional Terms imposed upon Germany). Section VI, 13 reads as follows:

"a. The German authorities will carry out, for the benefit of the United Nations such measures of restitution, reinstatement, restoration, reparation, re-construction, relief and rehabilitation as the Allied representatives may prescribe..."

b. The German authorities will also comply with all such directions as the Allied Representatives may give relating to property, assets, rights, titles and values located in Germany, belonging to anyone of the United Nations or its nationals or having so belonged at, or at any time since, the outbreak of the war between Germany and that nation, or since the occupation of any part of its territory by Germany. (Military Government Regulations, 23-102).

True the German authorities have to carry out "such measures of restitution ... as the Allied representatives may prescribe". But all such measures have only been manifested in the Inter Allied Declarations and Agreements on the definition of restitution, but not in a law enforced upon the Germans. The order of Military Government for Germany (U.S.) concerning the "Declaration of Property from an Area Occupied by German Forces" which was published by the Bavarian Minister President on 20 April 1946 applies only to "decoloring" such items and does not include a formal expropriation.

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fiable when compensation was merely "alleged" that is to say, not actually rendered.

#### 7. DECLARATION NO. 2 OF THE CONTROL COUNCIL

On September 23, 1945 the Control Council published Proclamation No. 2 (Additional terms imposed upon Germany). Section VI, 13 reads as follows:

"a. The German authorities will carry out, for the benefit of the United Nations such measures of restitution, reinstatement, restoration, reparation, re-construction, relief and rehabilitation as the Allied representatives may prescribe..."

b. The German authorities will also comply with all such directions as the Allied Representatives may give relating to property, assets, rights, titles and values located in Germany, belonging to anyone of the United Nations or its nationals or having so belonged at, or at any time since, the outbreak of the war between Germany and that nation, or since the occupation of any part of its territory by Germany. (Military Government Regulations, 23-102).

Thus the German authorities have to carry out "such measures of restitution ... as the Allied Representatives may prescribe". But all such measures have only been manifested in the Inter Allied Declarations and Agreements on the definition of restitution, but not in a law enforced upon the Germans. The order of Military Government for Germany (U.S.) concerning the "Declaration of Property from an Area Occupied by German Forces" which was published by the Bavarian Minister President on 20 April 1946 applies only to "declaring" such items and does not include a formal disappropriation.

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### B. THE FINAL DEFINITION OF RESTITUTION IN POTS DAM

The history of the final definition of restitution as set forth by the Control Council is related in "A Year of Potsdam", p. 172:

"The condition of restitution had been first outlined at the quadripartite level in ABSENCE CII to the Basic Preliminary Plan of allied Control and Occupation of Germany, completed on 29 May 1945. On 6 June 1945, Ambassador Fauley circulated a definition of restitution to the Allied Commission on Reparation in Bonn and representatives of the Soviet Union, the United States and the United Kingdom presented their views of restitution at Potsdam. In the Berlin Protocol, however, no mention is made of restitution. Late in 1945 the Directorate of Reparations, Deliveries, and Restitution which had been set up under the Control Council and the Coordinating Committee, discussed and elaborated a quadripartite definition of restitution which was adopted by the Control Council on 21 January 1946 (see ATTACHMENT 3).

The definition of restitution given by the Reparations, Deliveries and Restitution Division leaves open to interpretation the question of materials which were acquired by force or duress. It is stated that "all other property removed by the enemy is eligible for restitution...whatever may have been the means or the reason of dispersion" but the property removed in such manner does not entail an "absolute right" to restitution: it may only be granted "within the limits consistent with reparations". Military Government Regulation Title 19-200.20 which gives an interpretation of the term "limits consistent with reparations", refers to commercial and industrial property only. Why should there, in principle, not be a similar clause with regard to cultural objects?

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**9. THE RESTITUTION OF CULTURAL OBJECTS**

The restitution of cultural objects has been specially dealt with in Military Government Regulations Title 18, Monuments, Fine Arts and Archives (Change No.1, 12 February 1947), in which it is stated that "this Title 18 covers the policies and instructions concerning structures and materials found in the U.S. Zone of Occupation of Germany".

It seems that the policy on and the definition of restitution as outlined here concur with the results of the Reparations conference in Paris which were, except for some unofficial instructions to one of the Allied representatives at the Central Collecting Point, not available to the undersigned. Title 18, par. 104 reads as follows:

"The term "looted cultural materials" includes all cultural objects and materials which have been acquired since 1 January 1933, by the Nazis within Germany or those acquired in territories occupied by the Germans or their Allies, either:

- a. Directly by decree or wrongful acts of confiscation, dispossession or expropriation, whether pursuant to legislation, or by procedure purporting to follow forms of law, or otherwise, or
- b. Indirectly by purchase or other transaction regardless of whatever consideration may have been employed."

According to Military Government Regulations, Title 18-106 the restitution of cultural objects has to be carried out in the following way:

"Identifiable works of art and cultural material looted will be restituted to the governments of the countries from which they were taken. "Loot" refers to objects which have been the subject of an act of dispossession by the enemy and which were looted in an occupied territory and removed by the Germans subsequent to the date of commencement of the German occupation of that territory."

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The "Receipt of Cultural Objects" (see Annex 4) contains the following sentence with regard to restitution procedure:

- "1. The delivery of these (restituted) items is subject to the following conditions:
  - a. In the event of the items coming within the ambit of a general restitution procedure that may later be established by the Allied Powers, the receiving government will agree to the transfer being submitted for confirmation by a Restitution Commission or other international body which may be established to deal with this matter and will abide by its decision.
  - b. In the event of such confirmation, the transfer will be subject to all the conditions laid down for restitution deliveries generally.
  - c. In the event of items not coming within the ambit of such restitution procedure, the transfer shall be dealt with in accordance with such procedure as may be established for other deliveries."

This receipt appears to be the only quadripartite decision on the restitution of Cultural Objects; the wording of par 1 clearly characterizes the present practice as an anticipation, in as much as restituted items may later be considered subject to a general restitution procedure and because it is implied that such items may but even come within the ambit of such procedure.

It is noteworthy that in an earlier "Receipt for Cultural Objects" of 6 October 1945, a different version was being used which stated that "any compensation paid by the Germans... in connection with the seizure of

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transfer of such ("looted") items... may be considered as reparations payments, if so decided by the Allied Reparations Commission or other competent authority" (see ATTACHMENT 5).

This solution seems to be well meant and fair. The undersigned would therefore feel inclined to submit a proposition to reintroduce that paragraph, if it did not apparently contain a logical mistake: objects which were paid for should either be considered as legal acquisitions or as loot. They should consequently in the first case be exempt from restitution or, in the second be subject to it. But although principally speaking, restitution should not be merged into reparations, in view of the present status of restitution, theoretically as well as practically, the above-cited version appears to be the most feasible.

#### 19. RESTITUTION AFTER WORLD WAR I AND THE LONDON DECLARATION

All regulations concerning the definition and the procedure of restitution after World War I (Armistice of November 11, 1918; Prolongation of Armistice of January 10, 1919; etc.) decisively convey the recognition of the right of ownership of the individual. Article 236 of the Versailles Peace Treaty refers to "removed" objects in general and excludes material that was acquired by private persons in a legal form. The restitution was considered to be an act of International Law. (cf. Dr. Werner SIEKANU, Restitution, Volkerrechtlicher Arbeitskreis, Dr. Levern-Koch, Kasselburg, 1947)

In contrast to that practice the London Declaration of January 1, 1943 implies the possibility of extending the restitution on legally acquired private property. Dadurch this extension has never been effected, neither with regard to the neutrals nor with regard to Germany.

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But de facto it has been practised in the form of an "Anticipation of Restitution" in the US Zone of Occupation of Germany since the summer of 1945.

### II. THE HAGUE CONVENTION

The general principles of Law embodied in the Hague Convention should still be applicable to the present status of Germany and, accordingly, the removal of legally acquired private property by the Occupying Powers would not be admissible. OFFENHEIM (International Law, 5th Edition, Volume II, p. 320) states:

"Personal property which does not consist of war material or means of transport serviceable for military occupation may not as a rule be seized. Article 46 and 47 of the Hague Regulations expressly stipulate that 'private property may not be confiscated' and 'pillage is formally prohibited'. Furthermore, Article 96 of the Hague Convention should be kept in mind while defining the principles of restitution and reparations of cultural objects:

"The property of local authorities, as well as that of institutions dedicated to public worship, charity, education and to science and art, even when State property, should be treated as private property."

Any seizure or destruction of, or wilful damage to, institutions of this character, historic monuments and works of science and art, is forbidden and should be made the subject of legal proceedings."

OFFENHEIM (International Law, 6th Edition, reviewed and edited by R. LATTAKER, London, 1944, Vol. II, p. 313) gives the following comment: "... Works of art and science and historical monuments, may not under any circumstances or condition be appropriated or made use of for military operation. Article 96 of the Hague Regulations

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## CHAPTER III

### CONSOLIDATION

1. A revision of the present restitution policy is being recommended on the grounds of the following considerations:

**A. POSITIVE REASONS**

1. Seven outstanding cases may be considered as proof that the term of "loot" should not unrestrictedly be applied to all transfers which were effected by the Germans during the war.
2. According to the present method of restitution the claimant nation has first obtained the money and now also receives, by way of return, the object.

**B. LEGAL REASONS**

1. Restitution should be kept separate from reparations, because there should be a fundamental difference between compensation and restoration.

If the claimant nation does not restore the restituted item to the rightful owner whom it had originally been taken from, the item automatically becomes part of reparations. Therefore, if legally acquired objects are at all being considered as loot, not only the receiving government, but also the one on which restitution in such a form is being imposed, should be entitled to consider such objects as reparations payment.

2. Restitution should be subject to International Law and therefore not be merged in Municipal Law, i.e. the defeated State should be made responsible for the burdens of restitution, not the individual concerned.

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If it be handled otherwise, a German individual may be dispossessed of legally acquired property of which he is unable to seek redress. This fact may unfavourably strengthen the present feeling of legal uncertainty in Germany.

3. Legally acquired property of the individual should be protected.
4. The warning and the reservation of rights expressed in the London Declaration have never resulted in a formal law.
5. The present restitution procedure may be considered as an anticipation.
6. The current definition and practice of restitution would contradict the general principles of law embodied in the Hague Convention.

#### C. POLITICAL REASONS

1. As the Reich as whole should be made responsible for the fulfilment of the restitution measures of the Occupying Powers, there should be a homogeneous policy in all four Zones of Germany.
2. From an objective point of view, all open questions of removals effected by the Occupying Powers should be taken into account before definitely settling the restitution problem.
2. The undersigned therefore ventures to submit a suggestion that Military Government Regulations, Title 16-104 b be annihilated and that all transfers and dealings which were not effected under force and duress and which were fairly and adequately paid for be considered as valid and binding, and therefore not subject to restitution.

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Should however, any of the respective nations have suffered from any such dealing financially, such nations should be entitled to seek redress through reparations. Should the cultural wealth of the respective nation have suffered any loss by such dealings the object shall be returned within the ambit of restitution and the compensation paid for it considered as reparation payment.

3. The discussion of the practical consequences of this proposal would be the subject of a different memorandum.

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ATTACHMENT 1- Copy -  
A.P.R.A.J.OAmsterdam  
9 August 44

Galerie ZINCKGRAF

Lohbach-Platz 5 &amp; 6

Enclosure 2

Your letter dated 24 July was received in good condition. Furthermore receipt of your remittance in the amount of gulden 5964,68 is acknowledged with thanks.

Difficulties which we have to overcome can not be discussed in writing. However, the main problem is, that since 1 July a strict control of the export has been in force. Shipments the value of which exceed gulden 500 must be covered by a special export permit, submitted through the custom authorities to the Zentralausfuhrstelle. The Z.A.St. will get a survey of all goods leaving the border so that it is definitely impossible to export such goods restricted to export and for which the export is not released by the Z.A.St. The Z.A.St. represents the standpoint that the prices of almost all paintings purchased to Germany are too high and therefore is not willing to issue export permits. Without such authorization it is impossible to export and no payment can be made since for each amount exceeding

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ATTACHMENT 1 (Continued)

500 gulden the bank needs a copy of the bill on which the No. of the Z.A.S. authorization must be noted.

Under these circumstances we are not able to continue the pleasant dealings with your honored firm. It is of little value that our clients contact you directly because they have no possibility either to transfer paintings worth more than 500 gulden outside of the border and to cash the amount.

Nothing can be done but wait, whether there will be any chance in the future to deal, and you may be convinced that we shall make use of any possibility.

We much appreciate the pleasant way in which you always cooperated with us and the fair financial proceeding in our deals. We express the hope that you pass successfully through these troubled times and that you are well and successful in your business.

Yours, respectfully

/s/ Albert

A P R A J O

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By TJ NARA Date 8/4/99RG 260  
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## ATTACHMENT 2 (continued)

be replaced by equivalent objects.

19-100.2

Interpretation of Definition of Property Subject to Restitution

In applying the definition set forth in MSG 19-100.1 of property subject to restitution, the following interpretation will be used:

a. With respect to par b of MSG 19-100.1, where an article has been removed by force at any time during the occupation of a country, and is identifiable, the right to its recovery is an absolute one. The word "force" covers dures which may occur with or without violence. In this concept are also included looting, theft, larceny and other forms of dispossession whether they were carried out by an order of the German authorities or by officials of the German civil or military administration, even when there was no order of the German authorities, or by individuals. Also included are acquisitions carried out as a result of dures, such as requisitions or other orders or regulations of the military and occupation authorities.

b. In par b of MSG 19-100.1, by use of the words "all other property removed by the enemy" it was desired to include all property which was removed in any other way. This implies that restitution of property may be claimed whatever may have been the means or the reason of dispossession. But the property removed in such manner does not entail an "absolute right" to restitution, which may be granted only within the limits consistent with reparation.

c. These "limits consistent with reparations" must be understood in the following manner. If property claimed on account of restitution is indispensable for the operation of a whole factory allocated on account of reparations, this property may be retained and not restituted. Restitution may be made only if the removal of the equipment does not seriously diminish the production capacity of the plant and does not destroy the completeness of the equipment to such an extent that when this

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**ATTACHMENT 2****MILITARY GOVERNMENT REGULATIONS TITLE NO. 19****19-1 RESTITUTIONS**

**Scope.** This Title covers the methods and procedures applicable to restitution of property in any form (except Monuments, Fine Arts and Archives, for which see Title 19 MGR) to governments of claimant nations as defined in WCR 19-100.3.

**Part I.****DEFINITION: OBJECTIVES****19-100****Definitions****19-100.1**

**Property subject to Restitution.** Restitution will apply to all property covered by the definition contained in this paragraph as same is interpreted in WCR 19-100.2

a. The question of restitution of property removed by the Germans from Allied countries must, in all cases be examined in light of the Declaration of 5 January 1943 (see WCR 23-50)

b. Restitution will be limited in the first instance, to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy, by force, from the territory of the country. Also falling under measures of restitution are identifiable goods produced during the period of occupation and which have been obtained by force. All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However, the United Nations retain the right to receive from Germany compensation for this other property removed as reparations.

c. As to goods of a unique character, restitution of which is impossible, special instructions will fix the categories of goods which will be subject to replacement, the nature of these replacements, and the conditions under which such goods would

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By TJ NARA Date 8/4/99

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ATTACHMENT 2INTER ALLIED DECLARATION

Against Acts of Dispossession Committed in Territories under  
Enemy Occupation or Control.

The Government of the Union of South Africa; the United States  
of America; Australia; Belgium; Canada; China; the Czechoslovak-  
ian Republic; the United Kingdom of Great Britain and Northern  
Ireland; Greece; India; Luxembourg; the Netherlands; New Zealand;  
Norway; Poland; the Union of Soviet Socialist Republics; Yu-  
goslavia and the French National Committee;

hereby issue a formal warning to all concerned, and in  
particular to persons in neutral countries, that they intend  
to do their utmost to defeat the methods of dispossession  
practiced by the Governments with which they are at war  
against the countries and peoples who have been so wantonly  
assaulted and despoiled.

Accordingly, the Governments making this declaration and  
the French National Committee reserve all their rights to declare  
invalid any transfers of, or dealings with, property rights  
and interests of any description whatsoever which are or have  
been, situated in the territories which have come under the  
occupation or control, direct or indirect, of the Governments  
with which they are at war, or which belong, or have belonged  
to persons (including juridical persons) resident in such  
territories. This warning applies whether such transfers or  
dealings have taken the form of open looting or plunder, or of  
transactions apparently legal in form, even when they purport  
to be voluntarily effected.

The Governments making this declaration and the French National  
Committee solemnly record their solidarity in this matter.

London, January 5, 1943

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Authority NWD 775057

By TJ NARA Date 8/4/99

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ATTACHMENT 5RECEIPT AND AGREEMENT FOR DELIVERY OF CULTURAL OBJECTS

(Place) \_\_\_\_\_

(Date ) \_\_\_\_\_

1. Receipt of items described in Schedule "A", attached hereto, from the Commanding General, United States Forces European Theater, is hereby acknowledged on behalf of the Government of \_\_\_\_\_, by the undersigned \_\_\_\_\_, who is a duly accredited representative of the said Government, authorized to receive said items on its behalf and to execute this receipt and agreement.

2. The said Government hereby agrees that the items described in Schedule "A", attached, will be held by it as custodians pending the determination of the lawful owners thereof; that said items will be returned to their lawful owners within the territorial jurisdiction of said Government, as they may appear, except that:

a. if it shall appear that the lawful owner of any such item is the Government, or a public or private organization of any sort, or a national or another non-enemy state, the item in question will be turned over to the government of such state for holding on like conditions.

b. if it shall appear that the lawful owner of any such item is the Government, or a public or private organization of any sort, or a national of Germany or her allies, the item in question will be returned to the custody of the Commanding General, United States Forces, European Theater.

3. The said Government further agrees that within six (6) months from the date hereof, it will deliver to the Commanding General, United States Forces, European Theater, or to such person or authority as he may designate:

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EC  
F A.S. & M. 1597  
MCA

Laenderrat  
Special Committee Education  
Working Group Art Experts (Kunstreferenten)  
Meeting on 26 February 1948, 10.15 a.m.  
Stuttgart, Villa Reitzenstein

Agenda

1. Revision of the Law concerning Transfer of German Art Objects to Foreign Countries, dated 21 December 1925
2. Revision of the 1938 List of Art Objects of National Significance
3. Protection of Art Objects in the Implementation of Land Reform
4. Miscellaneous

SUMMARY REPORT

Item 1 of Agenda

There was consensus that the Law concerning Transfer of German Art Objects to Foreign Countries, dated 21 December 1925, must be revised. Since speedy action is necessary to ensure the protection of German art objects, the 1925 Law shall, as an interim measure, be reinstated by way of ordinances to be issued at Land level. The wording of these ordinances should be identical in the individual Laender. (Regierungsdirektor Dr. Keim, Ministry of Education, Munich, will prepare a pertaining draft). As a second measure, the Laender will draft a revised version of the 1925 Law and, if possible, exchange the drafts prior to the meeting to be held on 6 April 1948.

Item 2 of Agenda

New lists on art objects of national significance shall be drawn up by the individual Laender as an appendix to the ordinances issued by the Land Governments. There was consensus that such lists must be as concise as possible. The art experts (Kunstreferenten) of the Laender will jointly discuss the individual items of the Land lists in their meeting to be held on 6 April 1948.

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Item 3 of Agenda.

It was stated that the laws concerning land reform and the pertaining implementing regulations are the responsibility of the Laender and that, consequently, it is the task of the Laender to initiate measures for the protection of art objects in the implementation of land reform. Attempts shall be made to leave castles and similar estates in the possession of their original owners for further maintenance, since the government will not be in a position to purchase such estates. On the other hand, it appears questionable as to whether any effective protection of art objects can be obtained by way of legislation, since Military Government attaches great value to an unrestricted implementation of land reform. If the individual Laender succeed in reaching any positive results, they will inform one another accordingly.

Next Meeting: 6 April 1948

(s) Knaut

(NOTE: This report was prepared and translated by the Secretariat General of the Landerrat (Ai). Checked and distributed by R&I, RGCO, APO 154).

DISTRIBUTION:

- 3-OMG for Bavaria, Major McCord
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- 1-RGCO Advisor
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ENTRY 1

RG260 BOX 84

RG260 BOX 84  
ENTRY 1

Rome, March 12th 1948

Mr. Heinrich J.  
Fine Art Commission  
Wiesbaden a/ Rhein

Dear Sir,

Prof. Volbach has had the kindness to offer me your address.

I am the owner of a very valuable collection from the Republic of Honduras (my country) and Central and Southern America. This collection, composed of 167 items, was lent by me to the "Hamburgisches Museum für Völkerkunde und Vorgeschichte" of Hamburg. This museum is very interested in this collection but cannot buy it actually for monetary reasons (the payment would have to be done in U.S. dollars or Swiss francs).

I would be very much obliged to you if you could let me know if the collection would interest you.

Hoping to hear from you soon, believe me

Yours truly,

*Günther Reinbold*

P.S. If not interested in the collection, please send me back the enclosed list.

38 Via Angelo Poliziano

Rome

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By SM

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA  
ECONOMICS DIVISION  
MUNICH GERMANY APO 407 US ARMY HSL/mw

AG-007-MGBER/B

14 April 1948

SUBJECT: German Property in Austria)

TO : Office of Military Government for Germany (US),  
APO 742, U.S.Army (ATTN: Monuments, Fine Arts and  
Archives Section, Restitution Branch, Economics  
Division)

1. The attached memorandum by Dr.Birkmeyer is forwarded  
for your information.

2. The undersigned has been informed unofficially and  
verbally only that the Restitution Branch Memorandum No.12,  
like any directive coming from OMGUS, is not applicable in the  
US Zone of Austria. The writer added, in the same conversation,  
that the validity of OMGUS directives came from the authority  
of the War Department which was also the ultimate authority back  
of USFA directives and practices.

3. Miss Eve Tucker, of RD&R Division, USFA, has been some  
critical, albeit in a friendly spirit, of some of our directives  
and measures taken in the application of them. It is understood  
here that Mr. James Garrison, Director of RD&R, was called to  
Washington for consultation.

4. There are two basic problems. The first is found in the  
incident cited above and in the application of Restitution Branch  
Memorandum No. 12. The other problem arises from the fact that  
the Austrian authorities contend that restitution should be  
effected of any object that was in Austria prior to the occupa-  
tion. Ancillary to that contention is the fact that the Austrians  
claim anything here that can be shown to have been acquired in Austria  
without attempting to prove duress, dispossession, confiscation  
or loot.

5. This office would welcome a clarification of the points  
mentioned above and the outlines of a working agreement that  
would be acceptable to both OMGUS and USFA.

For the Chief, Restitution Branch:

*Robert Leonard*  
HERBERT S LEONARD  
Chief, MFA&A Section  
Restitution Branch

1 Incl:

Memo by Dr.Birkmeyer

Tel: MM 4-389

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OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Economics Division  
APO 633 US Army

Wiesbaden, Germany  
21 April 1948

Mrs Amelia Reinbold /  
38 Via Angelo Poliziano  
Roma, Italy

Dear Madam,

I regret that I can offer no encouragement so far as the sale of your interesting collection in Germany is concerned and am therefore returning the list as you requested. Quadripartite laws prohibit all transactions in Germany involving foreign exchange, so that a sale here could be arranged only in terms of marks which, I gather, are of no interest to you. I do not know of any American collectors here who have a special interest in this field.

Dr Morey tells me that he has already suggested to you several American museums which might be interested. In case he has not included the following institutions, I think that you might write to:

- a. The Institute for Middle American Studies,  
Tulane University, Louisiana
- b. Dr Walter Heil  
M.H. de Young Memorial Museum  
San Francisco, California
- c. Prof Stephen Pepper  
Department of Art  
University of California  
Berkeley 4, California
- d. Dr Frederick Douglass  
Denver Museum  
Denver, Colorado.

You're truly

THEODORE A. HEINRICH  
Chief, MFA&A Section

1 Incl: a/s

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Authority MWD 725057  
By S

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)  
Property Division  
(Reparations & Restitution Branch)  
APO 403

Karlsruhe, Germany  
23 June 1948

MEMORANDUM

SUBJECT: Restitution Policy and Procedure

I.

At a conference with the Chiefs of the Foreign Restitution Missions held on 22 June 1948, Mr. de Keyserlingk made the following statements with respect to policy and procedure in the field of non-cultural restitution :

1. Forthwith, claims will not be released to or held for NCT. However, property removed in the course of a transaction essentially commercial in character (NCT) will not be considered subject to restitution under the London Declaration and the ACA definition of the term "restitution".
2. Consequently, except in the case of peace treaty nations the Missions will only have to prove that the property claimed was physically removed during occupation. The burden of proof that a normal commercial transaction was involved will be on the Germans. Where it appears that the property was removed by a looting corporation or upon orders of O.K.H., O.K.W., or the like, NCT is excluded and the Germans will not be heard. This means that, although not essential, the processing of claims will be greatly expedited if the Missions can submit proof of circumstances which by their nature exclude the assumption of NCT.
3. The German holder will be given a very short time limitation in which to present his case. He will not be heard with general dissertations but only with facts supported by documentary evidence. On the other hand, the Missions will also be held to submit their proof without delay and will be required to present facts and not conclusions or probabilities. As far as time limitations are concerned, it is envisaged to allow the German side an average of 15 days and the Missions an average of 30 days.

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4. It will be decided on the merits of each individual case whether or not there was a normal commercial transaction. The mere fact that payment was made will not be considered to constitute NCT. On the other hand, NCT will be considered present where an article was ordered before the war but delivered during occupation. Another test will be whether or not buyer and seller transacted business before occupation. Other general principles may be developed as cases are decided.

5. The test of NCT will not be applied retroactively, i.e. valid releases in the hands of Missions will not be reexamined in the light of the new policy except where a GME petition is pending as of this date.

6. All claims for IWT craft and rolling stock will be taken out of restitution and will be referred to Transport Group, Office of the Economics Advisor, OMGUS, Berlin, APO 742.

7. All motor vehicle claims will be handled by the same Operations Officer, Mr. Mitterer. The amendment to Memorandum No.5 will be strictly applied, i.e. unless the German holder can show that the vehicle came to Germany in a poor condition, he will not be allowed to invoke Memorandum No.5. It is believed that this will, for all practical purposes, eliminate Memorandum No.5 as far as motor vehicles are concerned.

8. Motor vehicles will be restituted in their present condition, i.e. repairs as well as new tires, batteries, etc. will be considered in the light of wear and tear.

9. Where the claimant nation can prove that the motor vehicle in question was manufactured during occupation, an irrefutable presumption of restitutability will apply. Where the claimant nation cannot prove the year of manufacture or where the year of manufacture antedates occupation, the mere fact of foreign manufacture is insufficient proof of restitutability.

10. All claims for Reichsbahn equipment will be handled by the same Operations Officer, Mr. Gilles, formerly with Transport Division, OMGUS.

11. The following changes in restitution personnel will take place :

a. Mr. Stokely will take Major Furie's place;

b. Mr. Copp will review all claims subject to GME applications in the light of the new NCT policy;

c. Mr. Squire will be in charge of Austrian, Hungarian and Luxembourg Missions, and of Horse claims;

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e. Mr. Denson will be in charge of the Italian and Belgian Missions.

f. A new Operations Officer will handle securities and FED matters.

g. A new Operations Officer will assist Mr. Paoli in expediting French claims.

h. Mr. Requardt and probably two new Operation Officers will handle special and more voluminous claims.

12. It is expected that the reorganized Restitution Branch will be in full operation with completed staff and under simplified procedure and policy within 3 weeks. Until such time the Missions are requested to withhold the submission of meritorious claims.

13. It is expected that the Office of the Finance Advisor, OMGUS, Berlin, will issue a master list of securities by the end of July. With the consent of the Missions, claims for securities on file with Restitution Branch will be returned to the Missions to be resubmitted at such time.

## II.

With respect to cultural restitution, Mr. Howard, Chief of MFA&A, made the following points :

1. Although no specific date has been set for the filing of claims for cultural objects, it is suggested that claims be submitted as promptly as possible within the next six weeks. A cut-off date may be established by higher authority somewhat sooner.

2. Cooperation is requested in disposing of all claims of objects of little or no value. It is suggested that all claims for objects which are not of cultural value be immediately dropped.

3. The criterion of normal commercial transaction will be applied to cultural objects with certain modifications. Those modifications include the idea that a considerable or unusual increase in business between an art dealer and one in an occupied country is reasonable evidence of force or duress, and that any evidence which we receive that a dealer in Germany was acting for or with the support of the Nazi party or any military or para-military organization in

Germany will invalidate any claims for normal commercial transactions.

4. We expect to place in a dead file, that is, on an inactive status, all claims for objects which have not been found and for which no clear indication has been given that they are probably within the U.S.Zone. Such claims will be considered valid claims and will be reopened upon receipt of information that objects are in the U.S.Zone of occupation in Germany.

5. In answer to questions, it was stated that experts in this field would be welcome. They should report to Missions in Karlsruhe and then be sent to Munich or Wiesbaden.

6. It is expected that an MFA&A Fine Arts Officer will report to Wuerttemberg-Baden very shortly.

K.A. de KEYSERLINGK

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OFFICE OF MILITARY GOVERNMENT FOR BAVARIA  
PROPERTY DIVISION  
RESTITUTION BRANCH MFA&A SECTION  
MUNICH GERMANY APO 407

US ARMY

III  
ESI/

AG-017-GBPR/B

24 August 1948

SUBJECT: Jurisdiction of USFA over certain material in the Central Collecting Point.

TO : Office of Military Government for Germany (US), Property Division, Restitution Branch, MFA&A Section, APO 403, U.S.Army (ATTN: Mr.Richard F.Howard)

1. It has just been learned that one of the bases for the rather elaborate procedure whereby USFA retained jurisdiction over material brought here from repositories located in Austria was to provide a position for Mr. Andrew C. Ritchie who worked here then as representative of USFA.

2. It was believed, so the writer has been informed, that the disparity in age between Mr. Ritchie and Mr.Craig Smyth, the then director of the Central Collecting Point, was such that Mr. Ritchie felt that he could not work under the Director of the Central Collecting Point. Thus to save face, honor and to allow the indicated work to proceed, this complicated arrangement was developed whereby Mr.Ritchie worked here with some semblance of independence as a representative of USFA.

3. The arrangement could have been terminated with the departure of Mr. Ritchie. That, however, was not done and it was probably believed that this agreement, like some others that were made in the interests of expediency, would lapse into desuetude.

4. It has now been revived in its most malignant form by the energy of Miss Eve Tucker of USFA who, not knowing the origins, sees certain gains in the ends. It has been pointed out by the undersigned that the solution envisaged by Miss Tucker will lead inevitably to inequities and in those inequities the undersigned can not participate.

5. It is again requested that OMGUS take such steps as are necessary to abrogate something that never should have been made.

FOR THE LAND DIRECTOR:

HERBERT S. LEONARD  
Chief, Monuments, Fine Arts and Archives Section  
Restitution Branch

Revd. 100-4-389

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[HQ EUROPEAN COMMAND]

Staff Message Control  
Incoming Message

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UEP

**P R I O R I T Y**

EUCOM 87/28C

TOD 281607Z TOR 282330Z

FROM HQ DEPT OF THE ARMY FROM CHIEF CIVIL AFFAIRS  
DIV

TO FOR ACTION : CINCEUR

TO FOR INFO : EUCOM; USFA

REF NO : WX-88362 DATE: 28 AUG 48 CITE: CSCAD-EGON

Recurads Nov 45 WX-85965, Mar 46 WX-99226, urad Jul CC-5324.  
Fol for your info is an agreed US pos apd by State and Army Dept, which is now  
in process of being prepared for issuance as directive to you:

"Subj of this directive is external restitution from Germany.

1. This directive is issued to you as Commanding Gen of the US Forces of Occupation and as Mil Governor in GERMANY. It amplifies Para 17A of JCS-1779/1 (SWNCC-327/4 and supersedes WX-85965, Nov 45, as amended (SWNCC-204/2), and WX-99226, Mar 46, as amended (SWNCC-204/5). Para 2 sets forth the basic policies of this govt which affect external restitution. Para 3 ET Seq represent specific instructions based upon these basic policies.

2. You will be governed by the fol basic policies of your govt in completing the program of restitution from GERMANY:

A.

(1) Policy of fulfilling internatl obligations and respecting property rights.

(2) Policy of giving economic and political assistance to countries participating in the European Recovery Program.

(3) Policy of protecting the cultural heritage of all nations.

B.

(1) Policy of denying certain types of products to countries in Soviet orbit.

(2) Policy of meeting essential reqmts of the minimum German economy.

(3) Policy of avoiding the restitution of property to the SOVIET UNION or a Soviet Satellite which is claimed independently by a non-nat'l or a refugee nat'l of the claimant govt.

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(4) Policy of bringing the entire restitution program to a conclusion as soon as is feasible.

3. Policies 2A (1) and 2A (2), separately or together will prevail over policy 2B (2) unless the property is required for the German economy with great urgency, comparable, EG, with the need to retain rolling stock.

4. With re to policy 2B (1) you will from time to time be given guidance as to the products which this govt desires to deny to the economy of the SOVIET UNION and its satellites. You will suspend restitution of such products from GERMANY even if they appear subj to restitution by internatl agreement under policy 2A (2). You will also suspend restitution in all cases where there is a conflict between the urgent reqmts of the Germany economy as indicated in 2B (2) and internatl obligation as stated in 2A (1) and also when there is a conflict between the policy in 2A (1) and 2B (3). You should report action taken under this para together with the grounds therefor.

5. You should, where possible, avoid informing the representatives of any claimant country that a claim has been deferred or rejected on the grounds set forth in Para 2B (1), (2), or (3) above. In such cases other legal or procedural grounds should, if possible, be stated. You should consult your govt before making any overt refusal to execute an agreement to which the US is a party.

6. The legal bases for restitution to the UN are the agreements of the Allied Control Auth, so long as they are considered to be in force. Property removed from a UN in the course of a transaction essentially commercial in character is not considered to be subj to restitution under such agreements.

7. The legal bases for restitution to ITALY, RUMANIA, HUNGARY AND BULGARIA are the relevant provisions of the treaties of peace with these countries. In the absence of Control Council decision implementing the treaties, you will proceed with restitution to these countries as provided in this directive. You will bear in mind that property which is lawfully owned by a natl of ITALY, RUMANIA, HUNGARY, or BULGARIA, which is determined to be not subj to restitution under Para 2 of the relevant article of the peace treaty, falls under Para 1 of such article.

8. You will make restitution to AUSTRIA of property removed from AUSTRIA after 12 March 1938 upon the same terms as are set forth in the relevant article of the treaties of peace referred to in Para 7 of this directive. You will coordinate restitution to AUSTRIA with the US High Commissioner so that, at his discretion, and within the means avail to him, products, subj to policy stated in Para 2B (1), may be denied entry into Soviet Occupied Areas.

9. You will make restitution to FINLAND in the same manner as if the US were a signatory of the treaty of peace executed by that country.

10. You will make restitution to ITALY, RUMANIA, HUNGARY, BULGARIA, AUSTRIA, AND FINLAND of property removed from these countries under circumstances which do not fall within the terms of the treaties of peace or of Para 8 and 9 of this directive where to do so appears equitable and folo from application of the policies set forth in Para 2, 3 and 4 of this directive. In particular, and without limiting the generality of the foregoing, you will make restitution to

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ITALY, so long as it is a participant in the European Recovery Program, of property removed from that country, as set forth in Article 77 of the Italian Peace Treaty, after 23 July 43, including property removed by or under the authority of the so-called Republican Fascist Govt.

11. You will report to this govt, with your recommendations, the facts with respect to any property which appears to have been removed from ALBANIA by the Germans by force or duress.

12. The disposition of property removed from LATVIA, ESTONIA, and LITHUANIA is subj to later decision except for ships which are disposable under this agreement (see WX-84577, 15 April 46). [SOVIET UNION] is not recognized as a proper restitution claimant for property removed from those countries.

13. The restitution of railway rolling stock and of inland waterway craft will be governed by special arrangements with the claimant governments. The disposition of looted gold, currencies, and securities will be made pursuant to separate instructions.

14. Confirmation curad, Aug WX-86914, you are auth to announce 31 Dec 48 as target date for terminating restitution deliveries, subj to conditions cited in urad Jul CC-5324."

WX-85965	SMC IN 174	1 DEC 45	D/CAD
WX-99226	SMC IN 2084	5 MAR 46	D/CAD
CC-5324	SMC IN 6328	27 JUL 48	D/CAD
WX-84577	NOT IDENTIFIED IN SMC FILES		

ACTION : D/CAD.

ADDED DIST TO CMG REST BR KARLSRUHE  
BY OIC, SMC 1 SEP 48

INFORMATION: AG RECORDS  
D/Log

SMC IN 5891 AUG 48 SMC TOR-290553Z GK/bjb REF NO: WX-88362

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RFTAN/OMGUS (REAR) FROM RESTITUTION BRANCH FROM HOWARD

RFWAD/OMG FOR HESSE FOR MFA&A (FOR HEINRICH)

CONCERNING TELEPHONE CONVERSATION OF 31 AUGUST, BETWEEN HOWARD AND HEINRICH, BELIEVE THAT SUBSTANTIAL PROGRESS IN TURNING OVER REPOSITORIES ON CUSTODY RECEIPT CAN AND SHOULD BE MADE IN NEXT TWO WEEKS. DO NOT BELIEVE IT ADVISABLE TO DELAY TOO LONG ON REPOSITORIES INSPECTED AND READY TO BE TURNED OVER MERELY FOR THE SAKE OF DOING IT IN LARGE BATCHES. THIS GIVES FALSE PICTURE OF ACCOMPLISHMENTS AND LEADS TO UNFAVORABLE COMPARISON WITH OTHER LAENDER WHICH MAKE OUT CUSTODY RECEIPTS AS REPOSITORIES ARE INSPECTED. HELP HAS BEEN AND WILL CONTINUE TO BE GIVEN YOU ON INSPECTIONS, BUT WHEN BORN REPORTS INSPECTING SIXTY REPOSITORIES IN TWO TRIPS, AND FOUND THAT MOST HAD BEEN LONG SINCE EVACUATED, AND WHEN YOUR STAFF THEN REPORTS AN ADDED NUMBER INSTEAD OF A DECREASED NUMBER STILL REQUIRING ACTION DURING THE TWO WEEK PERIOD COVERED BY HIS TRIP, QUESTIONS NATURALLY ARISE AS TO THE ACCURACY OF YOUR RECORDS. THERE IS NO, REPEAT NO CRITICISM OF FAILURE TO EVACUATE REPOSITORIES REQUIRING TRANSPORT AND PRESENTING SPECIAL PROBLEMS, BUT BELIEVE MUCH CAN BE ACCOMPLISHED BY PLACING RESPONSIBILITY UPON GERMAN AUTHORITIES WHERE IT BELONGS, AND WHICH HAS BEEN REPEATEDLY DIRECTED

SIGNED 1645 HOURS, 31 AUGUST 1948 BY HOWARD

RICHARD F. HOWARD

Deputy Chief for Cultural Restitution  
(MFA&A)

Tel: KARLSRUHE 617 ext. 251

100202

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Authority NND776057  
By T 1199  
REPRODUCED AT THE NATIONAL ARCHIVE

RG 260 BOX 67  
ENTRY 1

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RFTAN/OMGUS (REAR) FROM RESTITUTION BRANCH FROM HOWARD  
RFWAD/OMG FOR HESSE FOR MFA&A FOR HEINRICH

PROGRESS OF CLAIMS IN HESSE IS HIGHLY SATISFACTORY BUT THERE REMAIN A FEW WHICH NEED PRIORITY EFFORT. OUR RECORDS SHOW YOUR MAIN PROBLEM TON CONSIST OF 33 FRENCH, 11 DUTCH, 9 SOVIET AND 6 POLISH CLAIMS MOST OF WHICH ARE BASED UPON DECLARATIONS. EVERY EFFORT SHOULD BE USED TO SATISFY OR DROP THESE CLAIMS IN THE NEXT TWO OR THREE WEEKS. YOU MAY DROP ALL CLAIMS OF LITTLE VALUE BY 15 SEPTEMBER IF NOT INVESTIGATED BY YOU OR BY MISSION REPRESENTATIVES AT THAT TIME. STRONGLY URGE SHIPMENTS GO OUT AS SOON AS POSSIBLE. WE WILL INFORM MISSIONS.

SIGNED 1500 HOURS, 31 AUGUST 1948 BY HOWARD.

RICHARD F. HOWARD

Deputy Chief for Cultural Restitution  
(MFA&A)

Tel: KARLSRUHE 617 ext. 251

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RFTAN/OMGUS (REAR) FROM RESTITUTION BRANCH FROM HOWARD  
RFTAF/OMG FOR WUERTTEMBERG-BADEN FOR MFA&A FOR LOVEGROVE

EVERY EFFORT SHOULD BE MADE TO COMPLETE INVESTIGATION AND TO SHIP OR DROP ALL SMALL CLAIMS BASED UPON DECLARATIONS DURING NEXT TWO OR THREE WEEKS. OUR RECORDS SHOW THAT THE BULK OF THIS PROBLEM IS REPRESENTED IN YOUR LAND BY 107 FRENCH, 17 DUTCH, 14 SOVIET AND 12 POLISH CLAIMS. USE EVERY DEVICE TO HAVE MISSION REPRESENTATIVES PICK UP THESE OBJECTS OR DROP THE CLAIMS. DROP ALL CLAIMS OF LITTLE VALUE YOURSELF IF NOT INVESTIGATED BY 15 SEPTEMBER. REPORT PROGRESS AT THAT TIME.  
SIGNED 1500 HOURS, 31 AUGUST 1948 BY HOWARD.

RICHARD F. HOWARD

Deputy Chief for Cultural Restitution  
(MFA&A)

Tel: KARLSRUHE 617 ext. 251

100204

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By T L1099

RG 260 BOX 67  
ENTRY 1

HQ EUROPEAN COMMAND - STAFF MESSAGE CONTROL - INCOMING MESSAGE

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UEP CONFIDENTIAL

EUCOM 17/30C PRIORITY

T00 291751Z TOR 300641Z

FROM : HQ DEPT OF THE ARMY FROM CHIEF CIVIL AFFAIRS DIVISION  
TO FOR ACTION : OMGSUS  
TO FOR INFO : EUCOM  
REF NO : WX-90003 29 SEP 48 CITE CSCAD-PG

Reurad July CG 5324

1. Note from French Embassy to State 18 Sept 48 requests postponement to 31 Dec 48 transfer "to the Germans this month stolen works of art now under American control and among which are French paintings"; also requests inventories of collecting points be given French auth. French note describes proposed transfer of collecting points as nearly equivalent to first step toward abandonment of restitutions.

2. French request may be based on misunderstanding of facts. Understood here that in transfer of art collecting points to German control MG continues retain control over cultural property subj to external or internal restitutions and that transfer in effect involves only German cultural property. If this is so, French requests are without basis in fact. Please confirm. French note also indicates possible misunderstanding French govt meaning of target date termination restitution 31 Dec 48. Has French mission AM zone been told this target dates does not involve cultural claims, processing of meritorious claims, security currencies as outlined urad?

CC-5324 SMC IN 6328 28 Jul D/CAD

ACTION : D/CAD Dist TO OMG REST BR KARLSRUHE  
VIA SMS

INFORMATION : AG RECORDS  
D/Log

SMC IN 5924 SMC TOR 3006427 SEP 48 HE/ ajo REF No: WX-90003

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RG 260 BOX 67  
ENTRY 1

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RFTAN/OMGUS (REAR) FROM RESTITUTION BRANCH FROM HOWARD  
RFHAE/OMGUS BERLIN FOR PROPERTY DIVISION FOR MCJUNKINS

SUBJECT IS PLAN FOR DISPOSITION OF FILES. IN COOPERATION WITH DE  
KEYSERLINGK IN TOUCH WITH AG RECORDS HEIDELBERG. THEY HAVE ONLY ONE  
COPY OF REFERENCE MANUAL. WE PLAN TO DIVIDE FILES INTO MAJOR CATEGORIES  
AS FOLLOWS: (1) EXTERNAL RESTITUTION CLAIMS, INCLUDING CORRESPONDENCE  
AND GERMAN DECLARATIONS (2) INTELLIGENCE, INCLUDING INTERROGATIONS AND  
INVESTIGATIONS (3) REPORTS, SPECIAL AND MONTHLY, FROM INDIVIDUAL  
OFFICERS AND LAENDER (4) HISTORICAL, INCLUDING ALL MATERIAL BEFORE  
1 JANUARY 1947 (5) RECEIPTS (6) PROPERTY CARDS (7) MATERIAL ON WAR  
DAMAGE, INCLUDING PHOTOGRAPHS (8) CORRESPONDENCE NOT SPECIFICALLY  
COVERED IN OTHER CATEGORIES (9) PERSONALITY FILES AND RECORDS OF GERMAN  
AGENCIES CONCERNED WITH MONUMENTS, FINE ART AND ARCHIVES (10) BOOKS  
(11) SMALL FILE OF POLICY AND PROCEDURAL MATTERS EXPECTED TO BE  
USEFUL EVEN IN E & CR DIVISION (12) CORRESPONDENCE CONCERNING INTERNAL  
LOOT AND CLAIMS UNDER LAW 59.  
  
CATEGORIES (1) THROUGH (8) WILL BE TURNED OVER TO AG RECORDS. ROUGH  
ESTIMATE THAT THEY WILL REQUIRE 20 BOXES.  
  
CATEGORIES (9), (10) AND (11) WILL BE RETAINED AS CURRENT. CATEGORY  
(12) ALREADY SHIPPED TO CENTRAL FILING AGENCY, BAD NAUHEIM FOR THEIR  
USE.

SIGNED 1 OCTOBER 1948, 1715 HOURS BY HOWARD.

RICHARD F. HOWARD

Deputy Chief for Cultural Restitution

(MFA&A)

Tel: KARLSRUHE 617, ext. 251.

100206

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Authority NND775057  
By T 6199

RG 260 BOX 67  
ENTRY 1

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RIFTAN/OMGUS (REAR) FROM RESTITUTION BRANCH FROM HOWARD  
RFBAN/OMG FOR BAVARIA FOR MFA&A FOR MUNISING

PROGRESS OF COMPLETION OF CLAIMS HAS BEEN SATISFACTORY, BUT MUST BE  
CONTINUED AT PRESENT RATE OR FASTER TO CLEAN UP BY TARGET DATE OF  
1 NOVEMBER 1948. OUR RECORDS SHOW THAT YOU NOW HAVE 104 ACTIVE CLAIMS.  
THIS MEANS THAT YOU SHOULD COMPLETE 70 CLAIMS BY 15 OCTOBER IN ORDER  
TO GIVE YOURSELF SUFFICIENT LEEWAY FOR MORE DIFFICULT INVESTIGATIONS IN  
LAST HALF OF MONTH.

SIGNED 1 October 1948, 1500 HOURS BY HOWARD.

RICHARD F. HOWARD

Deputy Chief for Cultural Restitution  
(MFA&A)

Tel: KARLSRUHE 617, Ext. 251.

100207

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HQ EUROPEAN COMMAND - STAFF MESSAGE CONTROL - INCOMING MESSAGE

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S E C R E T

EUCOM 01/04C

PRIORITY

TOO 032140Z TOR 040404Z

FROM : HQ DEPT OF THE ARMY FROM CHIEF CIVIL AFFAIRS DIV

TO FOR ACTION : USFA; EUCOM

REF NO : WX-90223

3 OCT 48

CITE: CSCAD-ECON

Reurred Sept P-2434 and ourads August WX-99224 (confirmed by Sept WX-89108) and August WX-88009 (confirmed by Sept WX-89102.)

1. Re restitution to ITALY, we infer from para 5 urad that you have not taken action to effect transfer this function, pursuant to our August WX-88224 (confirmed by Sept WX-89108). Request your comments or preferably your report that this action has been taken.

2. Reur para 7. Request you announce without further delay termination date for filing of claims, to be set at 90 days after announcement. Such termination date is of course without prejudice to such rights as may be given to claimants under future treaty with AUSTRIA and represents only termination US responsibility to receive claims in US Zone. Furthermore, as in GERMANY, you should continue to receive particularly grievous claims even after termination date when to do so appears equitable. Request you report action taken.

P-2434 NOT IDENTIFIED IN SMC FILES

WX-88224 SMC IN 5511 27 AUG 48 D/CAD

WX-89108 SMC IN 3000 15 Sep 48 D/CAD

WX-88009 BELIEVED TO BE WX-88001 SMC IN 4744 24 AUG 48 OMG REST BR

WX-89102 SMC IN 2804 15 SEP 48 OMG REST BR

SMC IN 475

ACTION : D/CAD

INFORMATION : AG RECORDS  
Secy GS  
D/Log  
Pol Adv  
DD/Int

DISTRIBUTION : OMG REST BR KARLESRUHE

SMC IN 475 SMC TOR: 04 0510Z OCT 48 EC/ec REFNO: WX-90223

S E C R E T

100208

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Authority NNDTTS057

Bv T 1199

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C O P Y

Bayer. Staatsministerium des Innern /  
Staatskommissariat für rassisch, religiös,  
und politisch Verfolgte/  
Sekretariat

München, 21 October 1948  
Holbeinstr. 11

Dr. A/Scha/Ro

TO: Office of Military Government for Germany (US)  
Property Division, Restitution Branch, APO 403

THROUGH: Office of Military Government for Bavaria,  
Attention: Mr. Richard F. HOWARD, Deputy Chief for Cultural  
Restitution (MFA&A)

Dear Mr. Howard,

I duly confirm receipt of your letter dated 15 October concerning the matter of the Central Collecting Point.

I agree with you that the valuables being there must be divided into 3 different groups:

1. The property of Germans, which was turned over to the custody of the Bavarian State-Government consisting of works of art and cultural objects, which fall into several categories. Herewith are involved many materials being confiscated by the Germans from countries occupied by the German forces and must be returned;

2. A great number of those valuables and works of art being robbed by the Nazis from racial, religious and political persecutees. To this group belong all those materials which I can claim for the individual restitution according to Law 59 or pursuant to the new Restitution-Law. Those which were identified and are subject to Military Government Law 59 must be dealt with the competent restitution authorities by this procedure. The other objects, provided that not identified values from Jewish property are concerned, will be subject to the IRSO according to Military Government Law, whilst another group of those, not identified, from the ownership of German political and racial persecutees, that is not subject to the IRSO, must be turned over to the restitution-funds;

3. This group is the most important, which - as you mentioned consists of such material that belonged to the former Reich or to the NSDAP or to Nazi-personalities of the highest positions in the 3rd Reich and the Party.

According to my opinion, such a property is in question that either as Reichs- or Partyproperty is due to the restitution-funds. The justification is very simple: All the Nazi- and Party-personalities had no property before the seizure of power. They had either gained their collection of works of art from Reichs- or Partyfunds or from stolen means of the racial, religious and political persecutees and those exclusively belong to the restitution of the committed wrongs.

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(red. policy)

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By making use of these objects I think we must do everything to avoid that the money for the restitution must not be derived from groups of persons who are least guilty of the injustices committed by the Nazis and that was the working population who should not be burdened with new taxes for the restitution.

It would be a good idea, if just these valuables, according to your opinion amount to some 8 to 10,000, will be thus used that rather a high amount must be gained for the restitution-funds. I believe that just America would be very much inclined for these valuables and the highest amounts could be gained there.

There would be a second possibility to effect an unburdening of the import-payments by procuring this foreign exchange, because for restitution-purposes we take those amounts of marks we would obtain by official exchange through our Finance Ministry.

But the entire disposition depends on making up a proper catalogue giving an opportunity to the dealers in works of art in America and other countries to see already before what can be evt. be sold. I agree with you that this great project, I am thinking of, would require a common discussion with highest offices of your Military Government and CMGUS. The catalogues, we want to make up, should be technically correct, illustrated, contain the history of each picture, being ingeniously printed and sold abroad against foreign exchange so that the expenses are covered.

I would welcome the opportunity of personally discussing with you this problem.

Yours truly,

Auerbach,  
State-Commissar.)

100210

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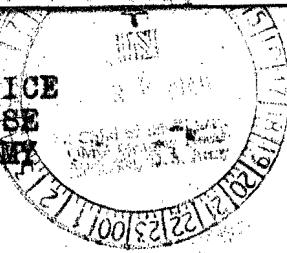
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SUB-OFFICE DILL  
WETZLAR DISTRICT LIAISON & SECURITY OFFICE  
OFFICE OF MILITARY GOVERNMENT FOR HESSE  
APO 633 US ARMY



Dillenburg, Germany (G 3938)  
1 November 1948

*W.M.* *PA*  
**SUBJECT:** Information Report Number 212

**TO :** Office of Military Government for Hesse,  
APO 633, US Army  
(Attn: Chief of Intelligence)

1. Attached here to letter received thru the German mail from CARL GERLINGHAUS, München 23, for your information.
2. This office has no idea what prompted this gentleman to write here.

1 Incl.  
letter A/S

(SAMUEL L. MAXWELL  
1st Lt., Infantry  
Mil.Govt. Officer

**DISTRIBUTION:**

3-OMGH, Chief Intl.  
1-Wetz Dist L&S  
1 File

Telephone: Dillenburg 695, 696

100211

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By CJ

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C      ROUTING SLIP: RESTITUTION BRANCH 2695, Mr. Backrach initialed.

O      P      Additional Comments: Rec'd 1 Dec 1645 hrs. Confirms telephone  
Y      message of 24 Nov. Note last date needed, 15 DEC.

Stamped 1502 HRS 01 Dec 1948 Rest. Br., OMGUS.

F102

RETTAN MISROUTE UFF

FM UFB 17/ OMGB PROP DIV REST BR MFA AND A SECT 010920Z  
TO OMG FOR GERMANY PROP DIV REST BR MFA AND A SEC APO 403 ATTN MR. RF  
HOWARD

WD GRNC

MGB R-3965 PER YOUR LETTER TWO TWO NOVEMBER CMA SUBJECT BEINHEIMER  
CLAIMS CMA ACTIONS BELOW HAVE BEEN TAKEN CMA WILL NEED TILL ONE FIVE  
DECEMBER TO COMPLETE THESE CLAIMS: NINE ZERO LETTERS TO ALLGED HOLDERS  
WERE WRITTEN CMA ORDERING INDICATION OF PRESENT STORAGE PLACE OF  
OBJECTS PD ITEMS INVOLVED ONE ZERO FIVE PD 12 LETTERS RECEIVED WITH  
PROPER INDICATIONS OF ADDRESSES WHERE OBJECTS ARE LOCATED PD REMOVALS  
HAVE STARTED AND WILL CONTINUE PD ITEMS INVOLVED ONE OHREE PD FOUR  
ONE LETTERS RECEIVED CMA CONTAINING NEGATIVE RESULTS CMA BOMBED CMA  
LOOTED BY TROOPS CMA OWNERS NOT TRACED PD ITEMS INVOLVED FIVE ONE PD  
TO BE DROPPED PD 27 CASES ARE STILL UNDER INVESTIGATION PD ITEMS INVOLVED  
FIVE ITEMS INVOLVED THREE ONE THREE LETTERS RECEIVED INDICATING THAT  
OBJECTS ARE LOCATED IN HOUSES REQUISITIONED BY AMERICAN AUTHORITIES  
OR CIVILIANS HERE HIGHER AUTHORITY WILL BE NECESSARY PD ITEMS  
INVOLVED THREE PD SEVEN CASES DROPPED AFTER INVESTIGATION PD ITEMS  
INVOLVED SEVEN PD

01/1115Z DEC

RD 02/01/1436Z HH

100212

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OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Division  
APO 633

US Army

Wiesbaden, Germany  
4 January 1949

SUBJECT: Works of Art in Germany

TO: Oxford University Press  
Atom House  
Warwick Square  
LONDON E.C. 4, England.  
ATTN: Miss G. Joy Houston.

Dear Miss Houston,

Your letter of 8 December to Colonel Posner concerning the Oxford Companion to Art has been referred to me for answer. I regret that there is not yet any handy single source of information available on losses and survivals. We completed preparation over a year ago of a volume comparable for the American Zone to the excellent documents published by His Majesty's Stationery Office, but the Department of Army has not as far seen fit to appropriate funds for its publication. This, like the English series, is confined principally to monuments, however, and would have provided little specific information on paintings.

So far as museums in the three western zones of Germany are concerned, information can generally be obtained most rapidly by writing directly to their Directors. Their war losses have been slight and include, so far as I know, no works of major importance. Their collections suffered far heavier losses through the Hitler campaign to eliminate "degenerate" art than from the war. Nearly all of the buildings of course were more or less seriously damaged, some in fact destroyed, but most collections had been safely evacuated. All staffs are functioning again and the majority of the institutions are at least partially reopened to the public.

The situation in the Russian Zone is quite different so far as non-contemporary works of art are concerned. You probably know that the whole of the Dresden Gallery, for example, was transported to Moscow (with the exception of 19th century German paintings) in 1946, and a total of over 960,000 museum objects of all categories from the Soviet Zone is known to have followed the same route.

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The bulk of the paintings and drawings from Berlin had fortunately been evacuated to the West. We are caring in the Wiesbaden Collecting Point for about 1200 paintings from the Kaiser Friedrich Museum, about 200 from the National Galerie, several hundred from the Schloss Museum, Sans Souci and Schloss Charlottenburg, and nearly the whole of the Kupferstichkabinett, as well as small sculptures, porcelains, the Guelph, Lueneburger, Dionysius and other Treasures, and various other collections. I will send you under separate cover catalogues of several of the exhibitions arranged by us here, as these may serve as check-lists to much of the Berlin and other important materials preserved in Wiesbaden. Another large group of National Galerie paintings is sheltered in Schloss Celle near Hannover, but I presume you are in touch with Mr Christopher Norris concerning British Zone affairs.

Berlin losses were relatively heavy, between the disastrous Flieger-turm fire of May 1945 and subsequent Soviet removals. Nearly 300 paintings were burned, of which the most serious loss was the Signorelli "Pan". The losses from the sculpture collections were also heavy. The Lion Gate, the Miletus Gates and other of the large architectural reconstructions are intact, but the Russians have dismantled and removed all the original sculptures from the Pergamon Altar, leaving only the plaster reconstructions.

The attached sheet will give you a rough idea of the current status of the more important American Zone museums.

The Oxford Companion to Art will surely be very widely welcomed and I should be happy to give every possible assistance from here. Please feel free to send me any specific questions concerning this area and I shall do my best to secure prompt and accurate replies.

Yours truly

THEODORE A. NEIMRICH  
Chief, MFAA Section

1 Incls/a/s

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By [initials]

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**CONFIDENTIAL**

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)

Property Division

APO 742

Berlin, Germany

**CONFIDENTIAL****8 February 1949**

**SUBJECT:** Processing of Cultural Materials from Austrian Repositories  
Now at Munich Central Collecting Point

**TO :** Restitution Branch, Property Division  
Office of Military Government for Bavaria  
APO 407, U. S. Army

Attn: Chief, Restitution Branch and  
Chief, MFA&A, Restitution Branch

1. In accordance with agreements of August 1945 and July 1946 between USFA and OMGUS, and recent conversations between Major Anastasas, Chief, MFA&A Section, Reparation and Restitution Branch, OMGUS, Lt. Col. McKee, RD&R Division, USACA, and representatives of your headquarters, disposition will be made of the cultural materials removed from Austrian repositories to the Munich C.C.P. as stated herein.

2. It is noted that over 2000 items have already been restituted to countries formerly occupied by the Germans and that the materials consist largely of items collected for the intended "Hitler-Linz" museum which was to have been built in Linz, Austria.

3. Screening of these materials to establish identification and origin with the aid of microfilm of invoices and correspondence of the proposed Linz museum will be completed promptly. Screening should result in classification of the materials into the following major categories. Disposition of the material in any category will be as stated under that Category.

Category I. Material clearly proven to be of German origin and acquired in Germany.

Disposition. These items will be retained at the Munich Central Collecting Point and released into the custody of the Minister President of Bavaria as German art in accordance with existing directives.

Category II. Material clearly proven to be of Austrian origin and subject to restitution. (Acquired in Austria between 12 March 1938 and 9 May 1945.)

Disposition. These items will be returned to the custody of USFA, which will provide the necessary transportation.

Category III. Material removed from countries occupied by the Germans (other than Austria) and subject to restitution in accordance with existing U.S. policies and procedures.

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RG 59 Box 10

Lot 620-4

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1108960044889  
REINHOLD RUECKER

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Disposition. These items will be restituted to the appropriate countries directly by the Munich Central Collecting Point.

Category IV. Paintings by Austrian artists, with no Austrian export stamp, and no other evidence of origin.

Disposition. These items will be released to USFA as having been presumably removed from Austria and USFA will provide the necessary transportation.

Category V. Material whose origin cannot be traced, and material shown to have been legally acquired outside of Germany prior to recognized dates of occupation under restitution procedures.

Disposition. These items will be released to USFA for final disposition. USFA will provide necessary transportation.

4. A copy of this letter is being dispatched to USFA by separate letter (copy enclosed), with a request that they complete arrangements promptly with the Munich Central Collecting Point for delivery to USFA custody of items found to be in Categories II, IV and V.

5. It is requested that disposition of these materials be expedited.

*ORREN R. McJUNKINS*  
ORREN R. McJUNKINS  
Chief - Reparations and  
Restitution Branch

Tel: BERLIN 43050

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- 2 -

100216

RG 59 Box 10  
Lot 620-4

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OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Division  
APO 633

US ARMY

Wiesbaden, Germany  
(28 April 1949)

PD/MFA&A

SUBJECT: Numismatic Plate

TO : Herrn Walter Goseing  
Darmstadt  
Grafenstrasse 28

1. It is regretted that this office cannot act as a negotiator for sales of any kind between institutions or individuals and I am not sufficiently acquainted with the numismatic departments of American museums to suggest which museums might be interested in your plate, should you wish to write directly. I am therefore returning your photographs.

2. In any case provisions of Control Council Law No 53 would make it impossible for you at the present time to conduct a sale of gold or silver coins abroad.

THEODORE A. REINHOLD  
Chief, MFA&A Branch

Incl: a/s

100217

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By SM

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File # 100218

Oberkaufungen, May 15<sup>th</sup> 1949

Mrs Helene Grande née Behreus  
⑯ Oberkaufungen, Kreis Hassel  
Leipzigerstrasse 2 1/2

To:

Property division of Military Government  
- Fine Arts Branch -

Wiesbaden  
Landeshaus

Sale of an ancient Bible.

An inhabitant of Oberkaufungen is forced by a distressed condition to sell an ancient (from Lutheran age originating - picture - Bible)

I courteously ask, if the above mentioned office know of someone interested in acquiring such a Bible.

Mrs Helene Grande geborene Behreus

17 MAY 1949

100218

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By [Signature]  
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ENTRY 1

Heinrich

OFFICE OF MILITARY GOVERNMENT  
7780TH OGUS GROUP WUERTTEMBERG-BADEN SECTION  
**FIRST MILITARY GOVERNMENT BATTALION (SEP)**

APO 154 E & C/R US ARMY

MUSEUMS, FINE ARTS AND LIBRARIES

STUTTGART, GERMANY

[27 May 1949]

SUBJECT: Painting by Roemersvale "Money Changers"

TO : Office of Military Government for Germany (US)  
Education and Cultural Relations Division  
Cultural Affairs Branch  
APO 807 US Army (Bad Nauheim)  
ATTENTION: Mr BREITENBACH, Fine Arts

1. Attached herewith copy of the letter, dated 25 June 1945 which Dr. Sieger wrote to the Minister-President of Wuerttemberg, Dr. Maier.

2. Our records show that pictures 1 through 5 plus 8 and 11 were picked up by Lt. Rorimer in 1945 and turned-over to the Wiesbaden Central Collecting Point.

3. French officers took pictures No. 6, 7, 9 and 10 into custody in November 1945, from the residence of the now deceased Otto Ortlieb, Kressbronn/Bodensee, French Zone.

4. The Récuperation Artistique, 20 bis Avenue Rapp, Paris, France, is now in possession of painting No. 6. Since it would appear that this picture belongs to the City of Berlin and that the French have no claim against it, it is suggested that it be returned to Germany and stored in the Wiesbaden Central Collecting Point until its true ownership can be established.

1 Incl: a/s

Tel: 40756/316

William A. Lovegrove

WILLIAM A. LOVEGROVE  
US Civilian

07033 2.48

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C O P Y  
of  
C O P Y

Bopfingen, (25 June 1945)

My dear Doctor!

Since your name was mentioned in connection with the future government for WUERTTEMBERG, I take the liberty of approaching you, through Herr Konrad WITTNER, in the following important matter: At the end of March 1945, I arrived in BOPFINGEN, my father's home; I arrived as a member of the Wehrmacht, and upon special orders of the Reich Capital, in order to transfer valuable paintings belonging to the latter. The subjects in question are the following:

- l) RUBENS "Portrait of Marquis Spinola"  
2) VAN DYCK "Portrait of an English Nobleman"  
3) REMBRANDT "Resuscitation of Lazarus"  
4) DOU "Rembrandt's Mother"  
5) CUIP "Moonlight Landscape"  
6) ROEMERSVALE "The Money-Changers"  
*lighed Rep p40* 7) WATTEAU "Portrait of the Actor Poisson"  
8) RUBENS "Representation of Madonna with Infant"  
9) THOMAS DE KEYSER "Portrait of Buergermeister Jantzen"  
10) THOMAS DE KEYSER "Portrait of Buergermeister Jantzen's wife"  
11) KEY "Portrait of the Duke of Alba".

Paintings No. 4 and 5, which had been stored with acquaintances here, have already been confiscated by the new Buergermeister, Alfred RICHTER (a former broadcasting director of STUTTGART), as I learnt after my return from the Oberland, which is occupied by the French. Paintings Nos. 1, 2, 3 and 8 are in Landgemeinden (rural governmental units) of this region, stored with persons whom I know; I possess the receipts. Paintings 6, 7, 9 and 10, as well as 11 are in the French-occupied Oberland. Upon completion of the transfer of the paintings I immediately reported to BERLIN, as was my duty, since my mission was completed when the transfer was effected. If necessary, I can give the exact details as to the value, the origin and other interesting date. The corresponding certificates were retained in BERLIN - likewise the receipts for the paintings signed by me for the reception of the paintings. I here-with declare expressly and under oath that all listed paintings originate from the possessions of the Reich capital and were listed completely.

I should like to submit the following data concerning myself:

I am a doctor of law and was active as a public trustee in business matters in BERLIN. I was neither a Party member

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- 2 -

nor a member of one of its formation. In 1937, I acquired membership in the "Reichskammer der bildenden Künste" (Reichs Chamber for Pictorial Arts) and also acquired the capacity of an expert in paintings by the 17th and 18th century. In August 1939, I was arrested by the BERLIN Gestapo Directorate without a warrant of arrest, on suspicion of favoring Jewish property; on 10 October I was released without subsequent investigation and trial. In the spring of 1941, I was called up as G.v.K. to the Wehrmacht and served for four years as ordinary medical soldier. During this time, I was now and then consulted for purchases made by the Reich Capital, and I have never performed any services whatsoever for either private persons or for officials.

I particularly stress the fact that I never bought in enemy occupied foreign countries and that the valuables in question are not confiscated objects and did not come from enemy possessions. I can give exact information about most of the ~~enemie~~ objects. I should like to add that painting No. 11, by KEY, was given me in exchange for two paintings of the Raphael School which I had to leave behind in BERLIN because of their size. Unfortunately, I had to destroy the records of the receipts since, for obvious reasons, I could not expect objective attitude in the zone occupied by the French.

I should like you to advise me as to what should be done with the valuable objects indicated which are to be regarded particularly for their intrinsic worth.

Yours very sincerely

signed: Dr. Erwin Sieger

AG Translation Branch  
T-2385a 15 July 45

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By T 1109

RG260 BOX 84  
ENTRY 1

HEADQUARTERS  
UNITED STATES AIR FORCES IN EUROPE

HC 1007

A.P.O. 633 U.S. Army

3 JUN 49

SUBJECT: Painting by Kapstein

TO: Chief, Monuments, Fine Arts and Archives  
Landhesse, OMGUS  
APO 633, US Army

1. Request information as to whether or not your division is interested in an oil painting signed Kapstein, representing a herd of cattle. This painting is presently in the United States having been sent there in 1947 by a member of the US military forces who obtained it from Adolf Meyer, Bremen, Germany.
2. Can you, from information at your disposal, place a value on the picture in question.
3. An early response will be appreciated.

FOR THE COMMANDING GENERAL:

Tel: Wiesbaden 7313

*Walter W. Dillon*  
WALTER W. DILLON  
MAJOR USAF  
ASST. AIR ADJUTANT GENERAL

F7 Jun 1949

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ENTRY 1

OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Division  
APO 633 US Army

Wiesbaden, Germany  
9 June 1949

PD/MFA&A

SUBJECT: Painting by Kapstein ]

TO : Major Walter W. Dillon  
ASST. AIR ADJUTANT GENERAL  
Headquarters USAFE  
APO 633, US Army

Information provided in B/L is insufficient to state whether this question would be of further interest to this Section. The artist is presumably contemporary and his work would have no considerable value.

It is not clear whether the picture is supposed to have been illegally acquired and exported.

If the present holder is able to show a valid receipt for its purchase and is not subject to the terms of Law 59 governing expropriated property, this Section would have no interest.

W.R.RULE  
Chief, Property Division

100223

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By   
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RG260 BOX 84  
ENTRY 1

Honnef (Rhein) [June 21st 1949]  
Luisenstr. 19

To

C/O Fine Arts and Monuments  
Military Government

Wiesbaden.

Dear Sir,

I am in possession of a picture  
of PAUL KLEE, size 30 x 25 cm, oval,  
tempera painted on card-board, still-life,  
signed, originating from the year 1914.  
On the back of the picture the artist himself  
wrote:

schöpferisch (translated: creative  
handschriftlich( " ) handwritten  
Herewith I beg to enquire whether you are  
interested to buy the picture.

Hoping to hear from you,

I am  
Yours faithfully

*Julius Brecky*  
*artist-painter*

24 JUN 1949

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By SAC

RG 260 BOX 84  
ENTRY 1

*File : Miscellaneous*

OFFICE OF MILITARY GOVERNMENT FOR HESSE,  
Property Division  
APO 633

MR/es

US Army

Wiesbaden, Germany  
29 June 1949

SUBJECT: Sale of a Picture by Paul Klee

TO: Mr. Julius Bretz  
Honnenf (Rhein)  
Luisenstr. 19

In answer to your inquiry of 21 June 1949, we should like  
to advise that this office has no authority to purchase art objects  
of any kind.

JOHN R. CAIN  
Chief  
Property Control Branch

Telephone:  
Wiesbaden 59231,  
Ext 361

100225

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Authority MWD 775057  
By EPA

RG260 BOX 85

ENTRY 1

OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Economic Affairs Division  
Property Branch  
APO 633 US AIR FORCE

JRC/hs

Wiesbaden, Germany  
29 August 1949

SUBJECT: Export of Personal Effects from US Zone of Occupation

TO: Office of Military Government for Germany (US)  
APO 807, US Army

Attn: Education and Cultural Affairs Division  
Mr. Th.A. HEINRICH, Chief Museums Branch

1. As you know, works of art and cultural objects including jewelry presently exportable under the export program previously being administered by the Land Office for Property Control and Restitution requires the approval of the Restitution Branch of Military Government, which Branch is no longer in existence.

2. As has always been our practice since date of re-organization in CMGH we continue to submit these applications to you, for approval.

3. It has been recommended by Frau Bartsch of the Land Office that a letter of policy be supplied whereby objects having a minor value be approved for export without specific concurrence from Military Government Office or Officer.

4. It is my understanding that you have indicated that objects not exceeding an intrinsic value of 10,000 Mark should be exported without MG approval. It is requested that you further consider the issuance of such a policy letter and we wish to assure you that the issuance is recommended by this office.

Tel: WIESBADEN 21341  
Ext 366, 360

*John R. Cain*  
JOHN R CAIN

Chief, Property Branch

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Authority MWD 775057

By John R. Cain

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RG 260 BOX 80  
ENTRY 1

OFFICE OF THE US HIGH COMMISSIONER FOR GERMANY  
Office of Economic Affairs  
Property Division  
Wiesbaden Central Collecting Point  
APO 633 US Air Force

PAH/ee

Wiesbaden, Germany  
10 October 49

SUBJECT: Applications for Export of Jewelry

TO: Landesamt für Vermögenskontrolle  
und Wiedergutmachung  
Wiesbaden, Biebricher Allee 142  
Attn: Mrs. Bartsch

1. With reference to your telephone query concerning ways to simplify processing of applications for export licenses for jewelry and related objects, this office agrees that such items with a value less than DM 5,000.— may be approved by your office without superscription from this office.
2. Applications concerning jewelry of greater value and to works of art will continue to be referred to this office for final approval as heretofore.
3. The change in practice concerning jewelry and similar objects of small value must be made a matter of zone-wide policy and you will be informed as soon as this has been established. It is possible that the basic limit may be somewhat raised. In the meantime this letter will serve as your authority to approve on your own discretion applications for jewelry valued not more than DM 5,000.—.

THEODORE A. HEINRICH  
Chief, Museums Section, E & CR Div.  
Director, Wiesbaden Central Collecting Point

Tel.:  
Wiesbaden 21279

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Authority 2nd 775051  
NARA Date 6/15/96  
S.E. M.A.D. 6/15/96

RG 260 Box 58  
ENTRY 1

17 November 1949

MEMORANDUM

TO : Mr. Frank J. Miller

On 18 November 1949, while in Berlin, Mr. Rosden visited me in Mr. McNulty's office and introduced himself as a Washington attorney engaged by the State of Bavaria to represent it in the matter regarding which he was seeing me. The case involved the art objects in Munich which belonged to (Goering) and other Nazis which were subject to neither external nor internal restitution and which according to Control Council Directive No. 57 and legislation in implementation thereof have become the property of the State of Bavaria. The State of Bavaria, he stated, was obligated to use this property for the purpose of recompense or restitution to victims of national socialism and felt that it could not properly do this under any arrangement whereby it retained title of this property. It therefore wished to sell these art objects abroad in hard currency countries as the best method of obtaining a maximum return for the objects. While Mr. Rosden felt that it would not be desirable for our government to request or suggest the export and sale of German art objects abroad, he felt that it would be proper to permit the State of Bavaria to make such exports if it desires to do so. Mr. Rosden also stated that a part of the hard currency derived from the sale of German art objects should be made available to Displaced Persons or other victims of national socialism living or planning to live outside of Germany. I told him that this proposal ran counter to the policy of retaining in Germany art objects which were part of the German cultural heritage and the policy of making

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ENTRY 1

- 2 -

recompence or restitution to victims of national socialism in no currency other than German. Mr. Rosden was aware of this and has an appointment with Mr. McCloy for the following Friday or Monday for the purpose of submitting the proposal to Mr. McCloy. He stated that he had advised us merely by way of information since we are an interested Division of HICOG.

Mr. Rosden also represents the restitutees in the case of Dreyfuss versus Merck & Pinck which is now in the Board of Review, and mentioned another matter to me in which he said he had a mandate from all the Laender of the United States Zone.

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ENTRY 1

C O P Y

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY  
Office of Economic Affairs  
APO 757

Frankfurt, Germany  
(November 17, 1949)

Office of the U.S. High Commissioner for Germany  
Office of Public Affairs  
Education and Cultural Relations Division  
APO 807, U. S. Army

Gentlemen:

Reference is made to letter AG 524 (PD), 26 May 1948, subject "Export of Household Furniture and Personal Effects," and to application for export used in connection therewith, copies of which are attached hereto.

It will be noted that in paragraph 2 c. of the letter, and at the end of the application, reference is made to the Restitution Branch, and to the requirement that approval of that branch be given in cases involving export of jewelry, works of art or cultural objects of value and importance.

In amending the reference letter on 5 July 1949, the reference to the Restitution Branch was changed with permission of your division, to the Education and Cultural Relations Division. Consequently, it is now necessary to secure permission of your division in such cases.

It is therefore requested that this office be advised at your earliest convenience, of the name of the competent office within your division to which such requests for approval should be made. It is understood that a small number of requests are currently being received, which require the decision of an E&CR Officer when such objects are desired for export.

Very truly yours,

FRANK J. MILLER  
Chief, Property Division

Enclosures:

1. Letter dated 26 May 1948, Export of Household and Personal Effects with 2 encls.
2. Letter dated 5 July 1949, amending letter stated as encl. 1 above.

C O P Y

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By

GER - [Mr. Byrnes]

November 28, 1949

GEN/D - William C. Johnstone, Jr.

Survey of Post-war Problems Relating to Cultural Property in  
the American Zone of Germany.)

It is requested that Miss Ardelia R. Hall, the Arts and Monuments officer of the Department who works in IGI, visit the American Zone of Germany and Austria to investigate the progress of American and Allied cultural restitution, reconstruction of historic and artistic monuments, and rehabilitation of cultural institutions, specifically, museums, libraries and archives, with a view of completing the United States program and formulating recommendations of the Department for the final post-war settlement of cultural property. It is proposed that the visit should be arranged as soon after January 1, 1949, as possible.

The necessity for such a fact-finding visit has been obvious for some time. The monthly reports of the Monuments, Fine Arts, and Archives Sections on which the Department formerly relied for detailed and current information have not been prepared by the MPAA officers since April, 1948.

The present chief MPAA officer in charge of cultural restitution, Theodore A. Heinrich, has written informally to the Arts and Monuments officer in a letter dated August 24, 1949, "What of the rumors that you were coming over this summer? The Department should really give you a chance to see for yourself what the problems still are and how great they are. I hope you can somehow manage. You know how welcome you would be." And again in a letter dated October 7, 1949, "I think it important that you have an opportunity to inspect and study some of the urgent problems on the spot here."

The urgent problems as they appear from this distance on the basis of information in the Department are outlined in the attachment and the related documents have been assembled in a dossier, which may be obtained from Miss Hall.

The travel expenses should come from the GARIOA or Department funds. As the Arts and Monuments functions are not specifically included in the USIE program overseas nor specified under Public Law 402, USIE funds should not be used.

It is

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By PAM NARA Date 7/9

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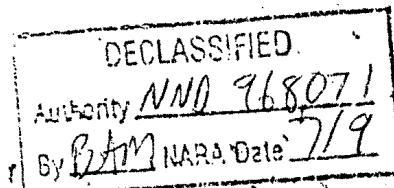
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It is recommended that this proposal be presented to the Office of the High Commissioner; and appropriate clearance for the visit to UNPA in Austria be obtained from the Department of the Army.

OKR:LLI:ABH:msm

OKR

MUR:wm



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Box 28

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Attachment 1

**Survey of Post-war Problems Relating to Cultural Property in the American Zone of Germany.**

Briefly, the survey of post-war problems relating to cultural property in the American Zone of Germany should include consultation with the Department officers in the Office of the High Commissioner in Frankfurt, with the NFAMA officer in Wiesbaden (Theodore A. Reinrich), in Bad Kreuznach (Major Breitenbach), in Munich (Stephan Hanning).

Miss Hall and the appropriate NFAMA officer should make a survey of the continuing functions of the NFAMA section; inspect the Central Collecting Points and repositories of cultural property; investigate the residual problems of cultural restitution in order to evaluate the amount of work, time, and staff required for the rapid completion of the cultural restitution program and to obtain the necessary information and advice for the immediate formulation of United States Government policies relating to the final settlement; consult with the German art authorities in the Laender and in the American sector of Berlin in order that informed German opinion may be appraised; and inspect the present condition and reconstruction progress of historic buildings in Germany. (The protection of historic architecture was a primary function of the NFAMA section under OCMUS.)

In view of the special problems remaining to be settled in Austria, it is necessary to consult with the Department officers and USA in Vienna. It is understood that many of these residual problems present serious administrative difficulties and must be handled with discretion. On the return trip stop-overs should be arranged, if possible, in Paris and London for consultation with UNESCO, ICOM, government and museum officials.

**Problems Relating to Cultural Property in American Zone and Austria.**

I. American Zone of Germany.

A. External Restitution of Cultural Property in the American Zone.

1. Determine number and nature of claims not satisfied.

2. Determine

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2. Determine war repositories of art, libraries and archives not yet investigated or not yet cleared.
  3. Determine and account categories of cultural material still held in the Central Collecting Points (i.e., St. Stephen's Crown, etc.).
  4. Inspect works of art in Central Collecting Points subject to external restitution not identified.
  5. Inspect documents of Nazi art transactions available in Central Collecting Points.
  6. Inspect MFAA records and photoarchives of claims already processed.
  7. Special problems.
    - a. Restitution to Austria. Investigate Austrian claims for cultural property which have been processed and objects returned. Also claims refused.
    - b. Restitution to Italy. Investigate restitution made to Italy, also basis of selection by MFAA of eighteen (18) works of art returned in November, 1948.
    - c. Estonia, Latvia and Lithuania. Inspect property in Wiesbaden Central Collecting Point or an inventory, should it be packed in storage, to determine quantity and quality held for eventual restitution.
- B. External Cultural Restitution in Other Zones.
1. Determine, in so far as possible, extent of external cultural restitution made by the British, French and USSR in their respective zones.

C. Nazi

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C. Nazi Collections: Confiscated National Socialist Property amounting to \$150,000,000 which Dr. Auerbach proposed to sell for benefit of claimants.

1. Investigate transfer of Nazi collections in relation to previous Department policies and recommendations.
2. Determine what objects are held. Basis of screening restitutable property from that of legitimate Nazi ownership and who was responsible for the screening.

D. Reconstitution of German-owned collections.

1. Investigate projected planning for displaced German-owned public collections now under the trusteeship of the German Laender.
2. Also determine what privately owned German collections are held in the American Zone.
3. Determine present status of interzonal exchange between all zones.
  - a. Has interzonal exchange between American and British Zones been completed? Inquire as to collections in American Zone which had not been returned in 1948.
  - b. What libraries and archives have been exchanged between French and American Zones? What collections of art await exchange (no art collections have been reported to be exchanged thus far.)
  - c. What interzonal exchanges have been made by American, British and French zones with Soviet Zone? (British have returned archives).
4. Inquire as to collections, archives, libraries in Soviet Zone. Get confidential report of German curator who visited Russian Zone. Inquire further into Soviet removals from Berlin. Inquire about libraries returned from American Zone to Soviet Sector of Berlin.

E. Investigate

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5. Investigate possibility of quadrapartite agreement for the interzonal exchange of all cultural property in Germany as part of final post-war settlement.
- E. Final Post-war Settlement of Cultural Property.
1. Obtain EICOG and MFAA recommendations for the final post-war settlement of cultural property and the possibility of arriving at a satisfactory settlement, before the peace treaty, with Germany, if it is possible.
- F. Investigate MFAA records, documents and photoarchives to be transferred to Washington with closing out of programs of restitution of movable objects and of the protection of fixed monuments in Germany. Investigate German collections of records and photographs (i.e., Marburg, Hitler photos of fixed monuments, etc.)
- G. Additional items to be discussed with MFAA officers.
1. Constable Report of June, 1949.
  2. German Art Libraries in Italy.
    - a. Obtain full information from Berlin sources on organization of societies or foundations, resources, membership, trustees, officers, etc.
    - b. Obtain reports on German reaction.
  3. 1457 Mainz Psalter including request for German approval of its reproduction in United States and German reaction.
  4. Works of art looted during the war recovered in United States and others reported missing from Germany by Breitenbach (Chief MFA officer in ECR).
  5. Revision in Germany of MFAA, Survey of Historic Architecture in American Zone to bring 1946 - 1947 text up-to-date for publication in the United States probably by the Princeton University Press.

II. Austria

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By PBM NARA Date 7/9

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II. Austria.

A. Restitutable Cultural Property Still in Austria.

1. Inquire further as to looted cultural property subject to restitution in Austria under USFA jurisdiction and German public collections under quadripartite control (i.e., the Kassel Museum Rembrandts).
2. Explore methods of obtaining a prompt and satisfactory settlement.

OEX: III: ARHall:mms

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Problems Relating to Cultural Property in American Zone and Austria.

I. American Zone of Germany:

A. External Restitution of Cultural Property in the American Zone.

1. Determine number and nature of claims not satisfied.
2. Determine war repositories of art, libraries and archives not yet investigated or not yet cleared.
3. Determine and amount categories of cultural material still held in the Central Collecting Points.
4. Inspect works of art in Central Collecting Points subject to external restitution not identified.
5. Inspect documents of Nazi art transactions available in Central Collecting Points.
6. Inspect MFA&A records and photoarchives of claims already processed.
7. Special problems.
  - a. Restitution to Austria. Investigate Austrian claims for cultural property which have been processed and objects returned. Also claims refused.
  - b. Restitution to Italy. Investigate restitution made to Italy, also basis of selection by MFA&A of eighteen (18) works of art returned in November, 1948.
  - c. Estonia, Latvia, and Lithuania. Inspect property in Wiesbaden Central Collecting Point or an inventory, should it be packed in storage, to determine quantity and quality held for eventual restitution.

E. External Cultural Restitution in Other Zones.

1. Determine, in so far as possible, extent of external cultural restitution made by the British, French and USSR in their respective zones.

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F. Nazi Collections: Confiscated National Socialist Property amounting to \$150,000,000 which Dr. Auerbach proposed to sell for benefit of claimants.

1. Investigate transfer of Nazi collections in relation to previous Department policy and recommendations.
2. Determine what objects are held. Basis of screening restitutable property from that of legitimate Nazi ownership and who was responsible for the screening.

G. Reconstitution of German-owned collections.

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  - a. Has interzonal exchange between American and British Zones been completed? Inquire as to collections in American Zone which had not been returned in 1948.
  - b. What libraries and archives have been exchanged between French and American Zones? What collections of art await exchange (no art collections has been reported to be exchanged thus far.)
  - c. What interzonal exchanges have been made by American, British and French zones with Soviet Zone? (British have returned archives).
4. Inquire as to collections, archives, libraries in Soviet Zone. Get confidential report of German curator who visited Russian Zone. Inquire further into Soviet removals from Berlin. Inquire about the libraries returned from American Zone to Soviet Sector of Berlin.
5. Investigate possibility of quadrapartite agreement for the interzonal exchange of all cultural property in

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Germany as part of final post-war settlement.

H. Final Post-war Settlement of Cultural Property.

1. Obtain HICOG and MFA&A recommendations for the final post-war settlement of cultural property and the possibility of arriving at a satisfactory settlement, before the peace treaty, with Germany, if it is possible.

I. Investigate MFA&A records, documents and photographives to be transferred to Washington with closing out of programs of restitution of movable objects and of the protection of fixed monuments in Germany.

J. Additional items to be discussed with MFA&A officers.

1. Constable Report of June 1949.

2. German Art Libraries in Italy.

- a. Obtain full information from Berlin sources on organization of societies or foundations, resources, membership, trustees, officers, etc.

- b. Obtain reports on German reaction.

3. 1457 Mainz Psalter including request for German approval of its reproduction in U. S. and German reaction.

4. Works of art looted during the war recovered in United States and others reported missing from Germany by Breitenbach (Chief MFA officer in ECR).

5. Revision in Germany of MFA&A, Survey of Historic Architecture in American Zone to bring 1946 - 1947 text up-to-date for publication in the United States probably by the Princeton University Press.

II. Austria:

A. Restitutable Cultural Property Still in Austria.

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2. Explore methods of obtaining a prompt and satisfactory settlement.

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PROPOSED GERMAN CONTROL OF CULTURAL RESTITUTION

(Shows need for clarification of policy)

In Munich, February, 1950, Ted Heinrich told me that:

In August of 1949, at the time of the meeting of the Society of German Art Historians in Munich (a special committee meeting at the Kultus Ministerium), the Germans (believing that MFAA would withdraw and close out their activities) proposed that a German Commission be established with headquarters in Munich with a permanent staff to carry on all restitution activities in the future in all three western zones. The Bavarian Government had refused to appropriate the money for the financing of such a commission. The Bonn Government had said they would finance the Commission and staff if all Allied restitutions records in all three zones were transferred to the Germans.

They modified the proposal by suggesting participation by Allied members as working members or observers.

Meeting was presided over by Chief of Cultural Affairs Branch of Bavarian Education Ministry, Victor Sattler (he was a member of the original staff of the Collecting Point in Munich).

Dr. Keim is in a position between the Cultural Affairs Branch and the Ministry.

Count Metternich who would presumably be the chairman of any such office under the Federal Government.

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Professor Dr. Helzinger and Dr. Rothel were among the other Germans who took part in the meeting.

The Americans were Breitenbach, Mansing and Heinrich. The British were Hugh Murray-Baillie; his superior Christopher Morris was not there (in Venice).

The French were Rose Valland who suggested the scheme because she was afraid the Americans were pulling out; Mr. Mongin (whom I met in Wiesbaden) at the time was head of MFAA in French Zone.

Hesse: Basic law is supplemented by an act of statute prohibiting the export of scheduled objects.

Bavaria has also a strict law.

Both based on the Prussian Law of 1919. (I don't think either are too satisfactory. A.R.H.)

One of the big difficulties on the German side is that MFAA restitution activities are under the Land Education Ministry. No Education Ministry is yet allowed on the Federal level in the German Bonn Government where the activities might normally be placed. The Finance Ministry and the Interior Ministry would like to take on the control. A Foreign Ministry also. Graf Metternich is the Landes Conservator of North Rhine - Westfalia with his headquarters in Bonn.

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A Foreign Ministry might be a logical place if a Foreign Ministry came into existence. Today there is only the liaison office between the Federal Government and NICOG with severely limited functions, as German foreign relations are the number one reserved-power under Occupation Statute.

Metternich is in a strong position due to extremely high respect and confidence given him by Allies and Germans alike and his unquestioned professional and moral probity. He is the leading Catholic layman in the Cologne Diocese and very close to the Cardinal of Cologne. He enjoys the confidence of all the Allied Governments and of the Allied authorities in Western Germany.

He feels strongly that the activities should be placed on a Federal level rather than a Lam level.

Metternich prevented the removals, while in office, from public collections in France, Belgium and the Netherlands. But he was removed and placed under house-arrest in Bonn. Franzel Wittgenstein worked for him and was also removed and sent to the Russian front.

Rene Valland's office formerly called: Section pour la Recuperation des Biens Spoliés. It is now called: Bureau pour la Remise en Place (des biens culturels spoliés).

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Frankfurt/M., April 22, 1950

The Hon. John J. McCloy,  
American High Commissioner,  
Frankfurt/M.

Dear Mr. McCloy,

You may remember that I discussed with you in November last year the question when the Bavarian Government would be permitted to liquidate those values reposing with the Collecting Point at Munich which are not subject to restitution, so that the proceeds would be available for the purpose of the General Claims Act?

You were kind enough to refer the matter to your General Counsel and to the Property Control Division.

I talked to these gentlemen. But, while they were attempting to be helpful, it appeared that they were unable to take any steps because, apparently, the State Department had reserved the matter for themselves.

In the meantime, I have discussed the matter in Washington with the Bureau of German Affairs. In the absence of the Chief, I talked to Mr. Lewis, the Deputy Chief, who checked the entire matter and determined that there exists an order by the State Department to hold everything for the time being. He informed me that the sole reason for this order was the necessity to determine first whether and in how far the objects collected in Munich would be subject to restitution. He assured me that the values reposing with the Collecting Point would be at the disposal of the Bavarian Government as soon as it would be determined that they are not subject to restitution. Understandably, the Bavarian Government, particularly the Finance Ministry and even more so my client, Dr. Auerbach, in his capacity as Attorney General for persecutees, are anxious to obtain these values, so that they can liquidate them and use the proceeds for the purposes indicated hereinabove.

The Bavarian Government and also Dr. Auerbach are equally as concerned about the possible rights of restitution claimants, as are the American Government. Therefore, they would like to undertake the task to determine as speedily as possible which of the objects d'art are subject to restitution. They wish to classify these objects into 3 classes as follows:

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Class A: Consisting of all objects concerning which claims have been filed pursuant to the various Restitution Laws.

Class B: Consisting of all objects, the history of which indicates that there is a possibility of Restitution Claims.

Class C: Consisting of all objects the history of which shows beyond doubt that they are not subject to internal restitution.)

In order to determine whether such objects fall under Classes B or C, the Bavarian authorities should be given an opportunity to check into the history of the objects in question. I understand that there is in the hands of the American authorities both a list of the objects collected as well as a card index indicating in many instances their history. So far, the Bavarian Government has not been given an opportunity to check into these indices. Although the Minister President of Bavaria has been appointed trusteeship implies, nevertheless, the Bavarian Government has not even been supplied with a list of the values in regard to which the head of such government is to exercise supervision as a trustee.

It is respectfully requested that the Bavarian Government and particularly Dr. Auerbach in his capacity both as Attorney General for persecutees and President of the General Claims Agency for Bavaria be supplied with both a list of the items held as well as with access to the card index, or a duplicate thereof, so that a thorough investigation can commence.

I remain,

sincerely yours,

Dr. George Eric Rosden

