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OFFICE OF CENSORSHIP
UNITED STATES OF AMERICA

CONFIDENTIAL
POSTAL CENSORSHIP

Record No. NIFIN 37240
Page 1 of 1 pages.

FROM: Dr. Kurt <u>StavenHagen</u> San Bernardino 18 Mexico, D.F. (Col. del Valle)		TO: <u>Guaranty Trust Company of New York</u> 140 Broadway New York City, N.Y. U.S.A.			
LIST: Y 7128,6631		LIST:			
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OSS-1: Hart (C)
9/7 R.B.

COMMENT

MEXICAN RESIDENT REQUESTS NEW YORK BANK TO RELEASE BLOCKED JOINT ACCOUNT TO RESIDENT IN U.S.

RE: Account Mr. Sigurd Van Laewen and/or Dr. Kurt Stavenhagen

Writer states:

"Mr. Sigurd Van Laewen, now released from the army, and with his new address: 4128 Wilshire Boulevard, Los Angeles 5, Cal., writes me, that our mutual account is blocked at present. I do not quite understand the reasons why this account should be blocked, as I am a legal resident of the United States, with first papers No. 8541 of June 16, 1941."

"I arrived from Holland in the United States on June 10, 1940, leaving Holland before the German invasion. From there I went to Mexico and I immigrated with my family on quota No. 19769 to the United States on April 12, 1941. Since then I am a legal resident of the United States, and I have my re-entry permit No. 1330102. I have been in the United States again from June 19, 1942 to February 27, 1943 and at this time none of my accounts were blocked. I am now temporary in Mexico, with a special permit of the U.S. Department of Justice of August 17, 1942 (3129-D-8541)."

"I therefore can not see any reasons why this account should be blocked, and I herewith kindly ask you to release this account to Mr. Sigurd Van Laewen, so that he can dispose of it."

Entire letter quoted.

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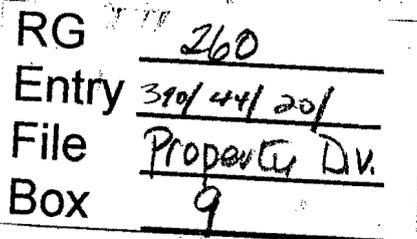
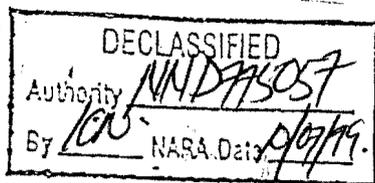
Form OC-3a
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22 January 1948

MEMORANDUM

SUBJECT: Request of Polish Mission Concerning Decontrol Program

TO : Finance Division
Property Control Branch

1. Paragraph 1 of a letter of 11 December 1947, from the Polish Military Mission to Control Council for Germany, which was referred to the Legal Division for comment by Item 1 of Finance Division Carrier Sheet of 7 January 1948, subject: "Request of Polish Mission Concerning Decontrol Program," states that:

"According to the Directive published on 25 June, 1947, full responsibility for properties of absentee owners which have not been released to agents up to 1 March 1948, will be turned over to German State Property Control agencies."

The Polish Mission raises the question of the applicability of Article 23 of the Introductory Law to the German Civil Code to the properties of Polish absentee owners. That Article provides as follows:

"A guardianship or curatorship can be ordered in the country over a foreigner, when the state of which he is a national does not take over these functions, if the foreigner has need of these functions under the law of his country, or if he has been restricted in his legal capacities in Germany."

2. All properties within the German Reich owned by Polish nationals were subject to seizure under the Verordnung ueber die Behandlung von Vermoegen der Angehoerigen des ehemaligen polnischen Staates, RGBl. I (1940) 1270. See opinion rendered to your Division on 27 October 1947, subject: "Polish property in Germany". All Polish properties which were seized under this Ordinance were placed under property control pursuant to paragraph 2 of Article 1 of Military Government Law No. 52, as implemented by 17 MGR 380. Polish properties not seized under the provisions of that Ordinance would be subject to property control pursuant to paragraph 1 of Article 1 of Military Government Law No. 52. All Polish properties under property control are presently being administered by the German Property Control Office, established by 17 MGR, under the general supervision of the Property Control Branch.

3. Polish properties seized under the Verordnung ueber die Behandlung von Vermoegen der Angehoerigen des ehemaligen polnischen Staates and placed under property control pursuant to paragraph 2 of Article 1 of Military Government Law No. 52 are not affected by the decontrol program announced by Military Government on 25 June 1947. See opinion rendered to your Division on 27 October 1947, subject: "Polish Property in Germany". Such properties will be restituted to the former owners or to their successors in interest under the provisions of Military Government Law No. 59. However, any Polish

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By	100 NARA Date 10/17/19

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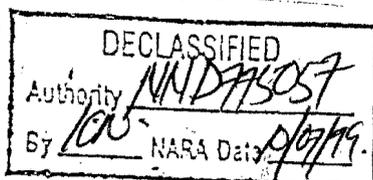
property which "was placed under property control solely by reason of absentee ownership, as provided in Article I, paragraph 1 (f) of Military Government Law No. 52, and no other reason for control exists" would be affected by the decontrol program announced on 25 June 1947. See OMCUS Letter of 25 June 1947, subject: "Decontrol of Property of Certain Citizens and Residents of United Nations and Neutral Countries", AG 386 (FD).

4. Article 23 of the Introductory Law to the German Civil Code is not applicable to a property control program instituted under or pursuant to Military Government Law No. 52. By its terms Article 23 applies only to curatorships (Pflegerchaft) and not to the type of custodianship exercised over property administered under Military Government Law No. 52, whether by Military Government property custodians or by the German State Property Control agencies. See Staudinger, Kommentar zum BGB (9th Ed) 622-24. Property Control custodianship is not in the interest, or on behalf, of a particular person, but exists to protect a wide complex of interests, public and private. A curatorship, on the other hand, exists to protect and represent the interests of an individual. See Black's Law Dictionary (1933) 489. Moreover, even if Article 23 of the Introductory Law to the German Civil Code were by its terms applicable to the type of custodianship exercised by the German Property Control Office over Law No. 52 property, Article VI of Military Government Law No. 52, which specifically provides that: "In case of any inconsistency between this law or any order made under it and any German law the former prevail", would preserve the integrated system of administration contemplated by Law No. 52.

5. The rules governing the appointment of curators to represent absentee Polish owners or their successors in interest in proceedings under Military Government Law No. 59 have been discussed in a letter forwarded to your Division for your concurrence on 16 January 1948.

Rm 2115, Dir Bldg
Telephone 44614

JOHN M. RAYMOND
Colonel GSC
Associate Director



RG	260
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File	Property Div.
Box	9

C O P Y

C O P Y

Berlin, Germany
19 June 1947

Buckingham, Deolittle & Burroughs
Second National Building
Akron 8, Ohio

Attn: Mr. Hugh Colopy

Gentlemen:

Reference is made to your letter dated April 19, 1947, in which you inquire whether a German citizen who is presently residing in the United States Zone of Germany may by will leave certain real estate situated in that Zone to his sister, your client, who is an American citizen residing in Akron, Ohio. It is our opinion that he may do so.

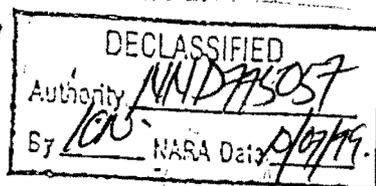
The Treaty of Friendship, Commerce, and Consular Rights between the United States and Germany, signed at Washington on December 8, 1923, which deals to some extent with questions relevant to the present case, is to be considered as suspended or abrogated at the outbreak of the war since its provisions were incompatible with the prosecution of hostilities. The Control Council, in paragraph 6 of its Proclamation No. 2, of September 20, 1945, has asserted the right to give directions concerning the revival or application of any treaty to which Germany has been a party; but it has not as yet acted in regard to the Treaty of December 8, 1923. Therefore, your question has to be considered without reference to that treaty.

In the absence of an applicable treaty, the present case is governed by the law of Germany, since the testator is a German citizen residing in Germany and the property involved is located there. The German law on succession does not discriminate against the citizens of other countries. Even where the foreign country does not reciprocate, testamentary dispositions by German citizens in favor of citizens of that country are under no restrictions on that ground. Certain provisions in the field of the law on succession which were enacted under the Nazi regime and which operated or could operate to the disadvantage of foreign nationals have been abrogated by Control Council legislation and therefore need not be further considered.

The German law on succession opens two distinct ways in which your client's brother may dispose of his real estate in her favor by his will:

(1) He may designate her as his "testamentary heir", in which event, at his death, she would succeed to his entire property, rights, and obligations, and the title to the real estate would immediately descend to her by operation of law.

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(2) He may give her the real estate by devise, in which event, at his death, no title to the property, but merely a claim against the statutory or the testamentary heir for conveyance of the property by deed would be vested in her. If her claim is not satisfied voluntarily by the heir, she would have to enforce it in a manner similar to the prosecution of any ordinary contractual claim.

In the present case the first method might be more suitable than the second if it is to be expected that the brother's entire estate will consist mainly of the property which he intends to leave to your client. However, the second method might be preferable if the estate is expected to comprise a considerable amount of other valuable assets which he wishes to leave to other individuals so that it would be practical to have one or several of the latter as heir or heirs, and to make the property intended for your client the subject of a devise.

There is no Control Council or United States Military Government legislation which would prevent the German citizen from making a will in favor of his American sister. Military Government Law No. 53, a copy of which is enclosed, prohibits in paragraph 2, except as licensed, "any transaction with respect to or involving . . . (a) property wherever situated if the transaction is between or involves any person in Germany and any person outside Germany". According to paragraph 11 the term "transaction" means "acquiring, importing, borrowing or receiving with or without consideration, remitting, selling, leasing, transferring, removing, exporting, hypothecating, pledging or otherwise disposing of; paying, repaying, lending, guaranteeing, or otherwise dealing in any property mentioned in this law". It is our opinion that the making of a will does not constitute a transaction within the meaning of this law. The general words "or otherwise dispose of", which follow an enumeration of specific transactions, are to be understood to apply only to acts of a kind similar to those specifically enumerated. Therefore, like the preceding specific terms, the general words apply only to acts or events having operative effect from the standpoint of the transfer of legal interests and not to the creation of inchoate rights, as by disposition of property in a will.

While, as shown in the preceding paragraphs, the German citizen may leave the property to your client by his will, no prediction can be made as to the effect of laws which will be existing at the time of the testator's death. Should present legislation still be in force, the legal situation would be as follows: your client would not require a license under Military Government Law No. 53 in order to acquire title to the property if she had been designated "testamentary heir", since in this case the title would pass to her by operation of law and without a conveyance. If, however, the property was left to her by devise, she would need a license in order to become the owner, since, in that case, by operation of law only a claim for delivery of the property would be vested in her and the conveyance to her of the real estate would be an ordinary transfer covered by Law No. 53. Although such a license will not be granted in advance of the event and no binding assurance can be given, it would not be contrary to present Military Government policy to grant an appropriate license, permitting the transfer of the property.

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By	100 NARA Date 10/17/99

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Even if your client is designated testamentary heir, it would be necessary, under the provisions of paragraph 1 of Military Government Law No. 53, that she apply for a license before she could take possession of the property or give any instructions regarding its disposition, since such actions would constitute "transactions" as therein defined.

Upon acquisition of the property by your client, her interest therein would be subject to property control under paragraph 1 of Military Government Law No. 52. Heretofore in many instances Military Government has protected absentee owners of non-German nationality by taking such property into custody. The present policy is to discontinue that function where possible, however, and to permit the management of such property by an acceptable custodian nominated by the owner.

The above observations are based on the assumption that the testator's title to the property is not defective, especially that his title is not tainted by acquisition through acts generally considered unlawful, but permitted or encouraged by the Nazi regime. Should his title be defective, considerations would be presented which are not discussed in this letter.

While, as a rule, it is not the function of this Division to provide opinions in matters of German law which concern solely private interests, the general importance of the questions involved permitted us to deal fully with your inquiry.

Very truly yours,

Inclosures:
As stated

Alvin J. Rockwell
Director

RG 260
 Entry *Records of the Property Division*
 File *General Records of the Director 44 2 50*
 Box *11*

DECLASSIFIED
 Authority 775057
 By TJ NARA Date 12/30/99

Law 59

Complaint of Thes Corf, San Francisco, re Law 59 Claim

- | | | | | |
|---|--------------------------------------|----|-----------------|---|
| 1 | FC & EA
Branch
PD
Wiesbaden | PD | 31
May
49 | <p>1. There is attached hereto the original of a letter received from the above-named person, living at 46 Eagle Street, San Francisco, California, together with a typed, legible copy thereof and newspaper clipping showing Americans in Paris.</p> <p>2. The circumstances of Mrs. Corf's case are not known to this office, except as briefly indicated in her letter. It is assumed from the letter that Bud Nauheim has additional information.</p> <p>3. Request that the matter be considered in the light of any facts in possession of the Central Filing Agency, and, if appropriate, that a reply be drafted and dispatched.</p> <p>4. In this connection, it occurs to us that Mr. Ragan has indicated on numerous occasions that JRSO contemplates the establishment of a Board of Equity to deal with cases of still-living claimants who for some reason failed to qualify under Law 59. If you consider it in order, you may wish to send a copy of the relevant correspondence to Mr. Ragan with this in mind.</p> |
|---|--------------------------------------|----|-----------------|---|

FOR THE DIRECTOR:

2 Incls: a/s

FRANK J. MILLER

Telephone BERLIN 43750

Mr. Miller - Sub ject File

120681

RG 260
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 File ^{General Records of the} DIRECTOR '44-'50
 Box 11

DECLASSIFIED
 Authority 775057
 By T J NARA Date 12/30/99

San Francisco, California
 46 Eagle Str., May 16th 1949

Dear Sir:

As an American citizen by choice I would like to find out what right the American "Militaerregierung" has to award my property in Germany to the Juedische Nachfolgeorganisation. That the Nazis stole property I know but it's new to me after studying the Constitution that organisations in Germany whom we taxpayers maintain handle our property this way without even consulting us.

In Jan 1947 I asked for a passport in order to go to Germany and France to look after my affairs. After having taken my \$ 10.- I got the document with the restriction of going to Germany, as I had told the State Dept. this was my real purpose. So I didn't go to Europe at all and by now as the \$ 10.- were never given back (as in decent business ~~XXXXXXXXXX~~ deals) it is first thrown out. At the time I complained that rich people and such with connections could go to Germany like Mrs. J.F. Byrnes (first to entertain), Mr. Val Garsen industrialist, Duke and Duchess of Windsor, Elliot Roosevelt and wife and last not least the parents of the "thief" Major Watson going by military airplane paid by us taxpayers, a.s.o.

During the war I gave my blood, bought bonds, offered my services to the Civilian Defense and now I see how working people are treated. Well it teaches me a lesson and I hope many more too. I wrote last month to Zentralanmeldeamt Neuheim per air explaining why I am too late with filing my claims but I am still waiting for an answer.

- 1) I did not know anything about this filing until I met a refugee who came to this country lately.
- 2) As I inherited this property from my father I left Europe in a hurry. I couldn't take my deeds with me and I didn't remember names and addresses of my debtors until I located somebody who sent me a copy of my father's last will.

And now I shall be punished because the Occupation Army, for whom my husband and I pay plenty, deems it right to take my property and gives it who knows whom. This business sure makes good Americans out of us !!! and I still doubt the right. I don't mind German Traculeins to eat in designated Army steak bars as guests of American Army personnel (also from our money) but I still don't want my own used for any strange purpose. My husband is a native son, veteran of World War I is suffering of pernicious anemia and we haven't got the income of all these people who want to Germany already 2 years ago when

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By TJ NARA Date 12/30/99

it was still behind the Iron Curtain for plain humans like the family
Cerf.

Expecting your answer I am yours

Thea Cerf

P.S. Two years ago I wrote to the Dresdner Bank in Hannover (the
only address I remembered) to find out about my account, but
they answered they aren't allowed to give me any information.
I first got news that in the French Zone claims can be filed
until 15th of Aug. 1949 also in the British Zone. Why are
we Americans left in the cold?

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 By SR NARA Date 8-23-98

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A. Brantback
11/7/47

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
 Economics Division
 Restitution Branch
 APO 742

Berlin, Germany
 7 November 1947

MEMORANDUM NO. 12

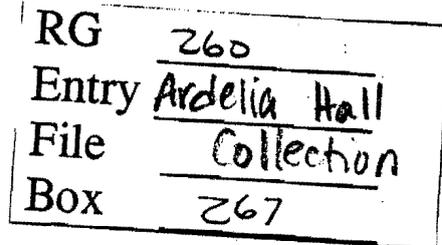
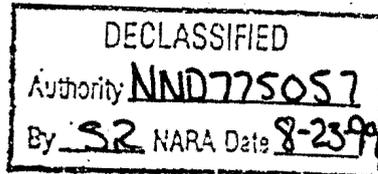
SUBJECT: Restitutability of Property of German Origin

TO : Restitution Control Branch,
 APO 403, U.S. Army

1. We have been requested to pass on the question as to whether property which was taken by the Germans from Germany to occupied countries, which remained under German control in the occupied country and which, in its original form, was thereafter taken back to Germany, is subject to restitution.

2. Since the prerequisite of continued German control excludes a finding of removal by force, it would appear that such property could only be restitutable if it qualified under the definition of "all other property removed by the enemy" which has been interpreted to imply "that restitution may be claimed whatever may have been the means or the reasons of dispossession" (see Appendices "A" and "B" of CORC/P(46)143; MGR 19-100.2). As the property under discussion was never subject to an act of dispossession, it follows that, by definition, such property does not fall within the category of "all other property removed by the enemy".

3. The same conclusion is reached if the question of restitutability is examined in the light of the London Declaration of 5 January 1943 by which the signatories expressed

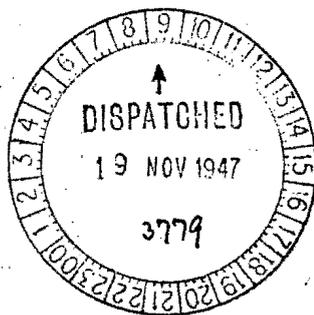


their intention "to defeat the methods of dispossession practiced" by the enemy and reserved all their rights to declare invalid any transfers or dealings regarding property rights and interests in occupied territories. No property rights and interests other than German being involved, there is no room for the application of the London Declaration.

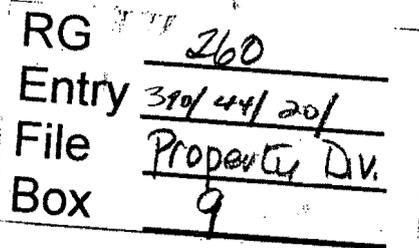
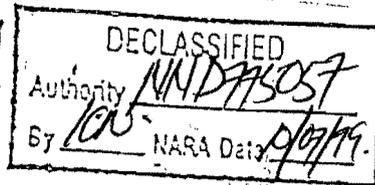
4. Consequently, it will henceforth be the policy of this Branch, in implementing restitution in the U.S. Zone of occupation in Germany, to consider as non-restitutable any property which was taken by the Germans from Germany to an occupied country, which remained under German control in the occupied country and which, in its original form, was thereafter taken back to Germany.

5. German control will be presumed where no transfer of title was involved in the transaction. On the other hand, the term "control" does not include mere financial control over the holder of property in occupied territory, such as may have been exercised for instance by a German firm over a subsidiary or other affiliated company to which the property was sold and shipped from Germany.

6. You are authorized and directed to proceed in accordance with the above.



JOHN H. ALLEN
Colonel, GSC
Chief, Restitution Branch



COPY

Applicability of German Law to Successor Organizations Appointed under Article 13 of Military Government Law No. 59

1. Legis. LA 19 Apr. 1. By a memorandum of 30 January 1948 this Branch was asked to examine the question as to what extent a successor organization, to be appointed as heir to persecuted persons under Article 10 of Military Government Law No. 59 will, or properly should be subject to German law particularly German tax and tort law. It is contemplated, we are informed, that a corporation organized under the law of New York will be designated as successor organization. This successor organization will, by Regulation to be issued under Article 13 of Military Government Law No. 59, be deemed to operate as a charitable organization under German law.
- Br. Br. 1948
2. Pursuant to Article 11 of Military Government Law No. 59 after 31 December 1948 the successor organization may, under certain circumstances, prosecute claims for confiscated property. When such claims have been successfully prosecuted, the successor organization will administer and dispose of restituted properties under such regulations as may be promulgated by Military Government under Law No. 59. It is anticipated that it will be necessary for the successor organization to conduct a wide variety of business operations until such time as the restituted properties can be liquidated under favorable conditions.
3. The extent to which the successor organizations will be subject to German law is not regulated in Military Government Law No. 59. Article 91 of that law would exempt the successor organization, in common with all other persons natural and juristic, from "inheritance taxes, or other public assessments, fees or costs . . . levied in connection with the return of confiscated property." It would be possible, of course, for Military Government, under its general legislative power and pursuant to the provisions of Article 13 of M. G. Law No. 59, to exempt the successor organization from other German taxes or legislation.
4. Unless it is otherwise provided by legislation, the successor organization appointed under Article 13 of Military Government Law No. 59 will be subject to German law to the same extent as any other foreign corporation operating in Germany. Upon approval by the Minister of Economics the successor organization would be admitted to do business in Germany under the provisions of paragraph 12 of the Gewerbeordnung. Thereafter its operations in Germany would be subject to the following provisions of law.
5. Tax provisions. Foreign juristic persons are, as a general rule, required to pay taxes upon income earned and property located in Germany. Section 3 of Grundsteuergesetz, RGBL. I(1934)1031; Section 2 of Gewerbesteuer-gesetz, RGBL. I(1936)979. But foreign juristic persons who have either their business office (Geschäftsleitung) or their head office (Sitz) in Germany, are liable for the corporation and property taxes upon all income and property. Cf., Section 2 of Koerper-schaftssteuergesetz, RGBL. I(1934)1031; Sections 2 and 7 of Vermoegensteuergesetz, RGBL. I(1934)1052. It is not clear whether a successor organization administering properties in Germany could have its business office abroad. If the successor organization does not have its business office abroad, all of its income will be subject to taxation in accordance with applicable German law. No convention regulating questions of double taxation exists between Germany and the United States.
- a. Corporation (income) tax. Since the successor organization contemplated is to be a charitable organization it will, in any case, have the advantage of Section 4 of the Koerperschaftsteuergesetz, which provides that:

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Applicability of German Law to Successor Organizations Appointed under Article 13 of Military Government Law No. 59

"(1) From the corporation tax are freed:

* * *

"6. Koerperschaften, Personenvereinigungen and Vermoegensmassen, which, according to their Articles of incorporation, trust deed or other charter are to serve, and in their actual business management directly and exclusively do serve, religious public (gemeinnuetzigen) or charitable (mildtaetigen) purposes (Zwecken). If they have an economic enterprise (wirtschaftlichen Geschaeftsbetrieb), which is more than a mere administration of their property (Vermoegensverwaltung), than they are taxable to that extent.

* * *

"(2) The tax exemptions contemplated by paragraph 1 are not applicable, insofar as the domestic income is subject to tax withholding (Steuerabzug)."

b. Other taxes (Property Tax, business tax and real property tax). Tax exemptions for charitable organizations, based upon the same general approach as is used in the Koerperschaftsteuergesetz, are provided for in Section 3(6) of the Vermoegensteuergesetz, loc. cit. supra; Section 3(6) of the Gewerbesteuer-gesetz (RGBl. I(1936)979), and Section 4 (3b) (6) of the Grundsteuer-gesetz (RGBl. 1 (1936) 986).

6. Tort Liability. A charitable organization organized under the law of New York and admitted to do business in Germany will be subject to German tort law to the same extent as any like German charitable organization. If the successor organization is a corporation organized under the law of the State of New York, it would, as indicated in paragraph 4, be equally subject to German tort law.

JAMES E. HEATH
 Acting Chief, Legal Advice Branch

Incls: n/c
 Telephone 44614

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By 100 NARA Date 1/27/79

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4 Feb 48

OMGUS

1 CHIEF OF STAFF, UNITED STATES ARMY, WASHINGTON DC

1 EUCOM FRANKFURT

R E S T R I C T E D

PAREN FOR CSCAD FROM OMGUS SIGNED HAYS UNPAREN PD REFERENCE WILLIAM XRAY
NINE FOUR EIGHT ONE SEVEN PD ONLY RESTITUTABLE PROPERTY OF A PERSECUTED
PERSON DYING AFTER EIGHT MAY ONE NINE FOUR FIVE WAS INTENDED TO BE COVERED
BY ARTICLE TEN OF MILITARY GOVERNMENT LAW NO FIVE NINE PD IF NECESSARY
THIS CONSTRUCTION OF ARTICLE TEN WILL BE MADE CLEAR BY AN AMENDMENT TO THE
LAW OR BY ISSUANCE OF IMPLEMENTING REGULATIONS

FD

Legal

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J. M. Raymond, Col, 42276

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COEX

3 February 1948

MEMORANDUM

SUBJECT: General Claims Law

TO : Director, Legal Division

1. On 20 and 21 January 1948 I attended a conference of a legal committee of the Laenderrat in Stuttgart. The topics considered were a draft of a law on Compensation for Political Confinement, draft of implementations of M. G. Law No. 59, and a partial preliminary draft of a General Claims Law.

2. Sometime ago Mr. Schopler prepared a memorandum commenting on a draft of a law to compensate inmates of Nazi concentration camps which was discussed at a conference in Stuttgart in October which I attended. This memorandum pointed out several places in the draft which were considered to be not clear. I was informed, however, that since that time this draft law had been redrafted and that a new draft had been forwarded to the Laenderrat Directorate. A copy of this draft was not available. I considered it therefore inappropriate to raise questions under that draft law without knowing what the present draft provides.

3. Prior to the January conference Mr. Schopler prepared, and furnished me with, two memoranda concerning implementing regulations under M. G. Law 59 which set forth our objections to a possible hierarchy in restitution agencies, stressed the qualifications that we deem essential to membership in any Tribunal administering the Restitution Law, and described the nature of the Board of Review as contemplated by Military Government. These points were communicated to the German representatives present through Mr. Dickman, of the Finance Division.

4. Discussion of the implementing regulations was confined almost entirely to the matter of restitution agencies, since it was felt that until these were established there would be no cases for the restitution chambers, and moreover, the establishment of restitution chambers would be a relatively simple matter inasmuch as it would involve only administrative creation of the chambers in present German courts. The view was expressed by the German representatives that the restitution agencies should not be established at Kreis level since to do so would create an unnecessary number of such agencies. Bavaria contemplates establishing these agencies on a Regierungbezirk level which would result in about five such agencies; Wuerttemberg-Baden desires to establish such agencies in about four principal localities; Hesse desires to establish such agencies at a level between the Kreis and the Regierungbezirk contemplating about eight such agencies. It was also considered desirable to establish an administrative routing agency in each Land to which the Central Office in Bad Nauheim might send claims.

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By	100 NARA Date: 1/17/99

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5. A partial preliminary draft of a General Claims Law was discussed. This draft contained only a few preliminary Sections. The discussion was mainly concerned with the questions of volume of possible claims and the possibility of financing their payment.

6. Copies of drafts of the implementing regulations and General Claims Law are being referred to Mr. Schopler for his examination.

7. The next meeting of the Laemterrat Committee is scheduled for 24 and 25 February 1948 at which time further consideration will be given to implementing regulations under M. G. Law no. 59 and to the General Claims Law.

WILLIAM E. McCURDY
Chief, Legal Advice Branch

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By	100 NARA Date 1/17/19

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SUBJECT: PD 007 (REST/MFAA 418)
Request for Legal Opinion Regarding Bernheimer Restitution Claim

2 Property LD 24 May
Division 1948

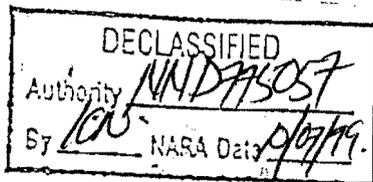
1. You request our opinion to use as the basis for answering the attached letter from Fides, Treuhandvereinigung, of Zurich, which represents claimants under MG Law No. 59.

2. Fides asserts that its clients are persecutees entitled to internal restitution of property "lost under the Nazi government", including works of art and cultural materials removed from the Netherlands during German occupation thereof. Fides says that: (a) its clients' Munich Art Firm "Ludwig Bernheimer" was aryanized by the Nazis and the firm name changed to "Munchaner Kunsthandels-gesellschaft"; (b) that its clients were forced to leave Germany; (c) the aryanized firm purchased the objects in question, with Bernheimer assets, paying the Dutch seller fair value in Dutch Florins. The basis of the Fides complaint is that external restitution will deplete Bernheimer assets and unjustly enrich the Netherlands or persons represented by that government. It is noted that external restitution procedures do not require payment.

3. The question presented is whether cultural objects purchased from assets which may be made the object of a claim under MG Law No. 59 are subject to external restitution. In the opinion of this Division, the question should be answered in the affirmative.

4. On 5 January 1943 certain allied nations reserved 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 . . . 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" (Inter-Allied Declaration, 5 January 1943; MGR 23-50; underscoring supplied). At the Paris Conference on Reparations, 21 December 1945, it was agreed that all cases of external restitution of property should be examined in the light

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Request for Legal Opinion Regarding Bernheimer Restitution Claim

of this Declaration and that "in general, restitution should be confined to identifiable goods which (i) existed at the time of occupation of the country concerned, and were removed with or without payment . . ."

5. A Control Council interim restitution delivery program for identifiable cultural objects was established by CORC/P(45)185 amended by CORC/M(45)26, providing that "an object, even though private property, will be restored to the representative of the claimant government acting on behalf of the individual concerned and not to that individual." Cultural objects are defined as: "all movable goods of importance or value either religious, artistic, documentary, scholarly or historic, the disappearance of which constitutes a loss to the cultural heritage of the country concerned," and "such objects as rare musical instruments, books and manuscripts, scientific documents of an historic or cultural nature, and all objects usually found in museums, collections, libraries and historic archives." The program makes return of such objects to the country from which they were taken mandatory if identification and ownership can be easily determined. Cables EX-85965 and EX-99226, cited in item No. 1, declare American policy on external restitution as an interim measure without prejudice to formulation of a definitive restitution program. Appendix A to CONL/P(46)3 (Revise) sets up the "definitive restitution program", and limits restitutions to identifiable goods existing at the time of the occupation of the country concerned and taken by the enemy from that country by force. CORC/P(46)110 defines "force" to include duress, which may occur with or without "looting", and other forms of dispossession.

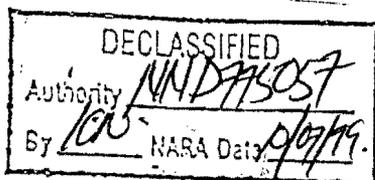
6. MGR 18-101 defines cultural objects to include recognized works of art and all movable goods of importance or value. The term "looted cultural materials" is defined in MGR 18-104 to include "all cultural objects and materials" acquired since 1 January 1933 by Nazis within Germany or those acquired in territories by Germans or their allies either directly or indirectly, whether by purchase or other transaction, regardless of the consideration. MGR 18-106 provides that identifiable works of art and cultural materials will be restituted to the governments of the countries from which they were taken. "Loot" is defined as "objects which have been the subject of an act of dispossession by the enemy and which were in existence and located in an occupied territory and removed by the Germans subsequent to the date of the commencement of the German occupation of that territory." The receiving government is required to execute a receipt, as provided by MGR 18-550, for the objects concerned, at the time of the transfer. The Government agrees (1) to restore the objects to the U. S. if delivery is made by mistake; and (2) to indemnify the U. S. against any claim for loss, etc. resulting from the restitution.

7. The property involved here would seem clearly subject to external restitution pursuant to the foregoing directives. Restitution to the Netherlands will not prejudice the rights of the clients of Fides to make a claim under MG Law No. 59 for the restitution of property actually confiscated from them by the Nazis. It is pointed out that the property claimed by the Netherlands was never owned by the persons whom Fides represents. The U. S. authorities must return this property to the Netherlands in accordance with quadripartite commitments. If it wishes, Fides may, of course, present the case of its clients to the Netherlands Government.

FOR THE DIRECTOR:

JAMES E. HEATH
Acting Chief, Legal Advice Br.

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Conflict between CC Directive No. 50 and Military Government Law No. 59

2 PD 1D 22 April 1948

1. The several questions raised in Item 1 of this carrier sheet are answered as follows:

2. Article VIII of Control Council Directive No. 50 provides, in effect, that property owned by the Nazi

organizations listed in Control Council Proclamation No. 2 and Control Council Law No. 2 shall be restituted according to the general restitution procedures adopted in each Area of Occupation. With respect to internal restitution, such procedures were established for Bavaria, Bremen, Hesse and Wuerttemberg-Baden by Military Government Law No. 59. Therefore, all property within the purview of Article VIII of Control Council Directive No. 50 will be restituted so far as internal restitution is concerned, under the provisions of Military Government Law No. 59. See also Military Government Law No. 58.

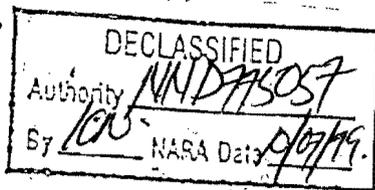
3. Reports on such property should be filed pursuant to Article 73 of Military Government Law No. 59 and in accordance with Regulation No. 2 under that Law. Where property is presently under Military Government Control, any information required for the administration of Military Government Law No. 59 should be submitted by the agencies having the property under control.

FOR THE DIRECTOR:

JAMES E. HEATH
Acting Chief, Legal Advice Branch

Tel. 42351
Rm. 2123 Dir Bldg.

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Entry	<u>310/44/20/</u>
File	<u>PROPERTY DIV.</u>
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Request for Legal Opinion (Rathenau)

2 C/MFAA LD 25 May 1. Reference is made to Item No. 1 of this Carrier
Section 1948 Sheet requesting an opinion regarding title to two
Rest.Br. paintings. The pictures are of considerable value
PD and were owned by a Mr. Rathenau, who delivered them
to a lawyer named Sedlmayer, apparently pursuant to

an agreement, before fleeing Germany. It is asserted that Sedlmayer violated this agreement by selling the pictures to Dienstelle Muehlmann for Hitler's Lina Museum. Through mistakes the pictures were restituted to The Netherlands government over a year ago, as a result of erroneous OSS reports. The Netherlands government displayed the pictures in the United States. Rathenau, then (and now) in New York, saw the pictures and asked for possession. At about this time The Netherlands government learned that the restitution was made in error and that the pictures had never been in The Netherlands prior thereto. In view of this, The Netherlands government, which seems to entertain no doubt regarding the validity of Rathenau's claim, gave him conditional custody and possession of the pictures, pursuant to an agreement. We are informed that Rathenau, who is now in possession of the pictures, wishes to give them to the Metropolitan Museum of Art.

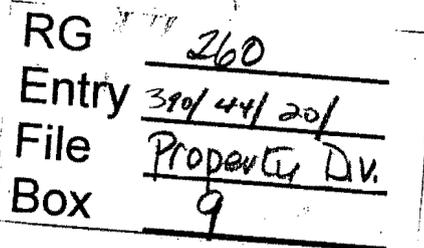
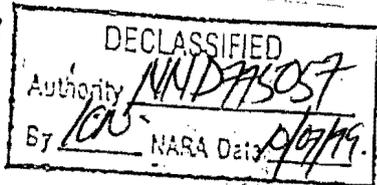
2. We are asked for an opinion as to (a) whether Article 6 of MG Law No. 59 is applicable to this case; (b) whether Sedlmayer's act, in disposing of the pictures, amounts to an embezzlement; (c) whether Rathenau's title to the property is clear and can be confirmed.

3. Article 6 of MG Law No. 59 excludes certain bailments and fiduciary agreements from the operation of Parts III to VII of the law and, in effect, removes such matters from the scope of the law. In the absence of more complete information regarding the agreement between Rathenau and Sedlmayer, we cannot determine whether this agreement constituted a bailment or fiduciary relationship between the parties within the meaning of Article 6 of MG Law No. 59. If this question should arise in connection with any claim filed pursuant to that law, it could of course, be decided by the Restitution Chamber (see Article 67 of the cited law).

4. This Division cannot, on the limited facts stated in Item No. 1 regarding the agreement between Rathenau and Sedlmayer, give an opinion as to whether Sedlmayer's act in disposing of the pictures constituted an embezzlement. For the same reason, we cannot pass on the question of whether Rathenau's title to the pictures is "clear". Moreover, we call attention to the fact that an opinion of this Division on this point could not have the effect of "confirming" Rathenau's title to this property. The decision of a court would be necessary to accomplish this result.

5. The following comments are offered to suggest what Military Government should do in order to protect its own interests and those of other possible claimants to this property. The possibility exists that internal and external restitution claims may be filed for this property. All internal restitution claims (under MG Law No. 59) must be filed by 31 December 1948 (see Article 56, Part IX, MG Law No. 59). We believe that The Netherlands government should be so advised and requested not to make an unconditional release of the pictures to Rathenau until it is advised by Military Government sometime after that date that no claims against this property have been filed under MG Law No. 59. If such claims are made, the United States could, pursuant to the receipt executed by The Netherlands government when it received the pictures (see MGR 18-550), require The Netherlands government

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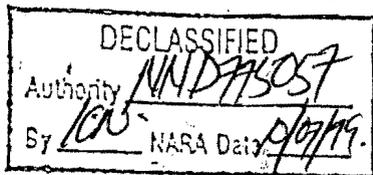
Request for Legal Opinion (Rathenau)

to restore them. In addition, we recommend that The Netherlands government be asked to request Mr. Rathenau to submit to Military Government, prior to 31 December 1948, a statement, supported by appropriate documentary evidence, of his claim to these pictures. This Division will be happy to examine this statement and advise as to whether it appears to substantiate Mr. Rathenau's claim. If this should prove to be the case and no other claims (on the theory of external restitution or otherwise) have been made for the property by 31 December 1948, Military Government could notify The Netherlands that it has no objection to the unconditional release of these pictures to Mr. Rathenau and that, if such transfer is made, it releases The Netherlands from the obligation to return this property contained in the receipt given in connection with the original transfer to The Netherlands. In thus authorizing the release of this property, Military Government would not adjudicate Mr. Rathenau's title there-
to but would merely return to a claimant property to which he appeared to have title and with respect to which no other meritorious claims have been made.

FOR THE DIRECTOR:

Tel. 42457
Rm. 2112, Dir. Bldg.

JAMES E. HEATH
Acting Chief, Legal Advice Br.



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Entry	390/44/201
File	Property Div.
Box	9

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20 July 1948

SUBJECT: Request for an Opinion concerning interpretation of Individual Articles of MG Law No. 59

TO : Chief
Property Control and External Assets Branch
Property Division
APO 633, U. S. Army

1. In your memorandum of 5 May 1948 and subsequent memorandum of 12 May 1948 several questions are raised relative to the interpretation of certain provisions of MG Law No. 59. The following discussion sets forth our preliminary views subject to final construction of that law through Restitution Authorities and the MG Board of Review pursuant to Article 69 of the Law. Attention is called to Article 94 of the law, which states that the German text shall be the official text, the provisions of Article II, paragraph 5 of MG Law No. 4 notwithstanding.

2. QUESTION:

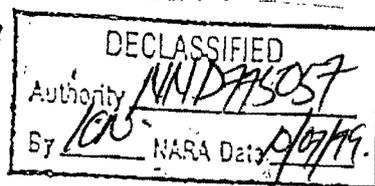
What is the meaning of the term "identifiable property" as used in Article I, paragraph 1 of MG Law No. 59?

ANSWER:

a. The purpose of Military Government Law No. 59 is to reestablish the status quo ante insofar as possible with respect to property confiscated from persecuted (Article 15). To this end the Law provides supplementary or alternative relief, where the confiscated property cannot be restituted in the state in which it was at the time of confiscation either because of legal or financial changes in the structure of an enterprise (Article 22) or because the confiscated property has undergone a fundamental change enhancing its value (Article 26) or because of deterioration or destruction of the property (Articles 30 and 31). In this connection it should be noted that the phrase "Identifiable property" is used only in Article I of the Law which is in the nature of a preamble. The substantive provisions (Parts II-VII) refer throughout to "confiscated property" as the property subject to a claim for restitution. "Confiscated property" is defined in Article 2 of the Law and refers to property to which a claimant was entitled, or to which he had a "well founded legal expectancy of acquisition", as of the time of confiscation.

b. In view of the fact that the substantive provisions of the Law indicate that the property which can be claimed is the property existing at the time of confiscation, it must be concluded that the phrase "identifiable property" refers to property identifiable as of the time of confiscation as that to which a claimant was then entitled or to which he then had a well founded legal expectancy of acquisition.

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c. It will thus be seen that claims for the recovery of money paid under discriminatory tax measures are claims for "identifiable property" within the meaning of Military Government Law No. 59. But the question arises whether such claims are barred by the provision of Article 91 (2) of the Law that "no taxes ... shall be refunded or subsequently levied in connection with the return of confiscated property". In our opinion this provision does not bar claims for the refund of discriminatory taxes. Had it been intended by this provision to limit the right to restitution of confiscated property we think it would have been included in Part IV of the Law among the substantive limitations on restitution. Article 91 (2) must refer only to ordinary taxes previously levied on the property subject to restitution and not to taxes which in themselves constituted confiscation of property.

3. QUESTION:

Are reports to be made by a public authority or other public agency pursuant to Article 74 (2) of the Law subject to the provisions of Regulation No. 2 under MG Law No. 59, and do custodians come under the provisions of Article 73 or 74 (2) of the Law?

ANSWER:

a. It will be noted that the preamble to Regulation No. 2 states that it is issued in implementation of both Articles 73 and 74. Moreover, Appendix A of the Regulation setting forth certain sections of Military Government Law No. 59 quotes Articles 73 and 74 in full. Nothing in Regulation No. 2 is inconsistent with the provisions of Article 74 (2). It would therefore appear that Regulation No. 2 applies to reports required from public authorities under Article 74 (2) as well as to reports required from private individuals under Article 73.

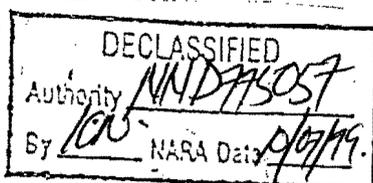
b. Since Regulation No. 2 applies equally to reports required under both Articles 73 and 74 it is not necessary to determine whether custodians are covered under Article 73 or under Article 74.

4. QUESTION:

To what extent are banks, in the course of their normal business operations (as exemplified in the letter of the Nassauische Landesbank in Wiesbaden, dated 8 April 1948, to the Central Filing Agency which is inclosure 1 of your memorandum of 5 May 1948) subject to the duty to report property under the provisions of Article 73 of MG Law No. 59?

ANSWER:

a. Letter (Incl. 1) contends that a bank shall be considered exempt from reporting property in its possession in view of the fact that Regulation No. 2, Appendix B, Points 18 and 19, and Part C, I and II, refer to "acquisition" (Erwerb) of the property by the reporting person. The letter urges that the word "acquire" connotes right of disposal and that a bank is not required to report such property since it is only a custodian.



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b. In the letter of 10 April 1948 of the Land Civilian Agency (Inclosure 2 of your memorandum of 5 May 1948) this interpretation of the meaning of "acquired" is disputed. It is pointed out that this word has a more general sense than "right of disposal over" and that since Article 73 of Military Government Law No. 59 specifically requires anyone in possession of confiscated or presumably confiscated property to report this fact to the Central Filing Agency, the word "acquired" as used in Regulation No. 2 means merely "acquired possession of", whether or not the "right of disposal" was also "acquired".

c. We are of the opinion that the interpretation of the Land Civilian Agency is correct and that banks in possession of confiscated or presumably confiscated property must report such fact to the Central Filing Agency as required by Articles 73 and 74 of Military Government Law No. 59 and Regulation No. 2 thereto.

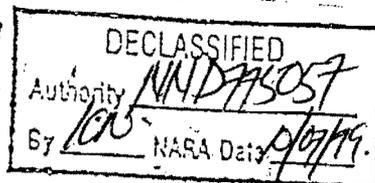
5. QUESTION:

Is the recording of an amicable settlement involving the transfer of real estate before a Restitution Agency pursuant to paragraph 2, Article 63, a recording within the meaning of Sections 313 and 925 of the German Civil Code (BGB)?

ANSWER:

a. No. Under Sections 313 (and 128) of the German Civil Code a contract by which one party agrees to transfer his right of ownership in land requires judicial or notarial authentication (Beurkundung). This means that the parties must appear before a Court or a Public Notary and make their declarations orally in the presence of the Judge or Notary who prepares a record thereof. Ordinarily the term "Court" refers to the German Amtsgericht (Section 167 of the Law concerning Matters of Non-contentious Jurisdiction, of 17 May 1898, RGBl. 189, as amended). Settlements concluded before an ordinary court of Law (Prozessgericht), or before the judge in charge of judicial executions (Vollstreckungsrichter) have been held to satisfy the statute. Settlements executed before non-judicial administrative authorities (Verwaltungsbehoerden) are ordinarily inadequate in this respect. The Restitution Agency, in contra-distinction to the Restitution Chamber (Art. 63), is not a court, but an administrative authority. It is clothed with the powers of a "Vollstreckungsgericht" (court in charge of judicial executions) only for purposes of enforcing settlements and final orders (Art. 65). In recording settlements the Restitution Agency acts as an administrative authority, and therefore settlements recorded by the Restitution Agency pursuant to Art. 62 (3) do not satisfy the statutory requirements respecting contracts within the purview of Section 313 of the German Civil Code (BGB).

b. The foregoing is also true of the "Auflassung" (agreement to transfer the right of ownership in a piece of land) under Section 925 of the German Civil Code. Declaration regarding such a transfer may be made either before the Land Registry Office, or, under the provisions of the two Ordinances concerning "Auflassungen" of May 11, 1934 (RGBl. 1/378) and January 9, 1940 (RGBl. I/46) before any local court or notary public; or, in case of judicial settlements, before any court of law including a "Vollstreckungsgericht" (court in charge of judicial executions). Except in certain instances specified by law, declarations regarding such a transfer may not be made before any other authorities. Cf. Palandt, Burgerliches Gesetzbuch (1941), pp. 986 et seq. There is, as yet, no provision in MG Law No. 59, as implemented, which would permit such declarations to be made before the Restitution Agency.



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c. The statements made in paragraph 5a above apply equally to the transfer of shares of a limited liability company, G.m.b.H., which pursuant to Section 15 of the Law concerning Limited Liability Companies in the version of 20 May 1898, RGBl. 846, as amended, must be effected by means of a contract authenticated by a court or public notary.

d. No general statements can be made at this time respecting similar situations which under German law involve the requirement of recording before a court or public notary.

6. QUESTION:

Must a claim for restitution be filed with the Central Filing Agency before an amicable settlement can be recorded by a Restitution Agency?

ANSWER:

Yes. In our view Article 62 and the other Articles of Part IX of the Restitution Law clearly indicate that the Restitution Agency has jurisdiction to record a settlement only in cases in which a petition has been filed with the Central Filing Agency. Paragraph 1, Article 62, provides that if "no objection has been raised against a petition . . . , the Restitution Agency shall issue an order granting the petition". Paragraph 2 of this Article authorizes the Restitution Agency to dismiss a petition on the merits in certain circumstances. Paragraph 3 empowers the Agency to record an amicable settlement. It seems clear from the first two paragraphs of this Article that the settlement which the Agency is given power to record must be one with respect to which a petition has been filed with the Central Filing Agency. An examination of other Articles of Part IX (Filing of Claims) supports this view. Article 55 provides for the establishment of a "Central Filing Agency for the filing of petitions for restitution", and authorizes that Agency to transmit a petition to the appropriate Restitution Agency or Agencies. Article 57 states that "unless otherwise provided in this Law, any claim within the scope of this Law may be prosecuted only under the provisions and within the periods of limitations set forth in this Law". (Underscoring supplied). Except as provided in Part XI (Special Proceedings), a claim may be prosecuted under this law only by filing a petition with the Central Filing Agency pursuant to Articles 56 and 58. Finally, it should be noted that unless a petition is filed as indicated above, the authorization contained in General License No. 10 under MG Law 52 and General License No. 4 under MG Law No. 53 would not be applicable. For these reasons it is believed that the authority of the Restitution Agency to record a settlement extends only to cases where a petition has been duly filed under the Law.

FOR THE DIRECTOR:

Telephone BERLIN 43519

JAMES E. HEATH
Chief, Legal Advice Branch

RESTRICTED

VOLUME III

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

LEGAL DIVISION

APO 742

DIGESTS OF SELECTED OPINIONS

1 March 1946 - 15 May 1946

Note: This is the third volume of the Digests of Selected Opinions.

The first two volumes covered the period 15 July 1945 - 28

February 1946. The complete texts of the opinions digested

herein are compiled in volume III of the Selected Opinions.

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DECLASSIFIED
Authority: 111076038
By: V. P. NARA Date: 83
REPRODUCED AT THE NATIONAL ARCHIVES

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11

OPINION : The new Law for Liberation from National Socialism and Militarism prohibits major offenders, offenders and lesser offenders from being active in a profession. Until further clarification, judges and lawyers who were active Nazis or militarists should not be employed in any public position above ordinary labor. In private employment such persons should not be permitted to hold any position which involves acting in a supervisory or managerial or organizing capacity or in setting policies. Employment in a law office should not be authorized unless the position involved is in fact a minor one in which the incumbent is not in any position to interview clients, give legal advice, or to engage in any other activities characteristic of the practice of law.

PROPERTY, PENSION, Of Deceased Nazi

27 April 1946

FACTS : Property in the estate of a deceased Nazi who had been a civil servant since 1920 and a unit leader of the NSDAP from 1937 to 1939 and who was killed in January 1944 was blocked by Military Government. Funds belonging to members of his family and not derived from him were also blocked.

QUESTION: Does the blocking of property under Law No. 52 apply to lawfully acquired property in the estate of a Nazi who died before Military Government became operative?

OPINION : No. Military Government Law No. 52, which became effective on 18 September 1944, contains no provision that the law should have a retroactive effect in a case such as this, where the transfer of property occurs by operation of law and not with the intent to "defeat or evade this law or the powers or objects of Military Government or the restitution of property to its rightful owner". However, Article 37 of the Law for Liberation from National Socialism and Militarism permits German authorities to confiscate the estate of those deceased Nazis adjudged major offenders or offenders.

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DECLASSIFIED
AUTHORITY: 11/11/83
BY: V.P. NARA Date: 11/11/83

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ADOPTION

26 April 1946

QUESTION:

Is it possible for a United States citizen or Allied National to adopt a child (either German or an Allied National) in occupied territory?

OPINION :

Yes, provided the adoption laws of both Germany and the country of which the adopter is a national are fully complied with. No Control Council or zonal legislation forbids a United States national from adopting a German national; but inasmuch as a contract between adopter and adopted is necessary, both under American and German law, a license should be sought from the Treasury Department in order to avoid a possible violation of the Trading With The Enemy Act.

ART, WORKS of, Control and Export

2 April 1946

FACTS :

An artist, a former German national made stateless by Nazi decree was forced in 1943 to return to Germany. He did so bringing his paintings with him. He has received permission to visit Switzerland and requests permission to take his paintings with him.

A displaced person requests permission to take four paintings which he owns to Brazil. The paintings are of "rather moderate quality and not of special value".

QUESTION:

What is included in the term "works of art" under Law No. 52?

OPINION :

The term "work of art" as used in Law No. 52 is limited to those paintings which critics agree possess substantial merit and are of more than temporary and current interest. The words "or cultural material of value or importance" following the term "work of art" import a like meaning to the latter expression. The "value" and "importance" are believed to refer to value or importance in the world of art, though the money worth of the art object would be a factor in determining its value or importance.

QUESTION :

May these paintings even though not considered as works of art of value or importance be removed from Germany?

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Authority: UNO 76038				
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By: V.P. NARA Date: 83				

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OPINION : No. Military Government Law No. 53, Article I forbids the exporting, remitting or other removal of any property from Germany. This includes works of art. Exports are, however, permitted under instructions or licenses of Military Government.

BUSINESS, Engaging In 8 March 1946

FACTS : A German citizen who was formerly a member of the Nazi Party but now rehabilitated under Military Government Law No. 8 transferred his interest in a German publishing firm to his son, an American soldier. The transfer was without consideration but in the nature of a transfer in anticipation of inheritance.

QUESTION: Is such a transfer to an American citizen lawful?

OPINION : No. The transfer comes within the terms of the Trading With the Enemy Act which makes it unlawful for any person in the U.S. to trade with the enemy "except with the license of the President". The words "to trade" are defined to mean "receive any form of property" and the "United States" includes territory occupied by the military force. Violation of this section could be avoided by obtaining such a license from the Treasury Department.

QUESTION: Does the prohibition in ETOUSA directive of 4 April 1945 against engaging in business by military personnel apply to the transfer of stock ownership?

OPINION : No. Such a transfer is not one that would place him in the class of one using his presence here to obtain commercial advantage. Nor does it come within the definition of "engaging in business" although an active operation of the business would be prohibited.

CITIZENSHIP 10 April 1946

QUESTION: Under what circumstances may a German lose his German citizenship?

RESTRICTED

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Entry	Ext. 1107	By	NR
BOX	287	NARA Date	83
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 By VR NARA Date 83

RG 260
 Entry Int'l Law
 Box 227

RFH/fb

PD 007 (RES/MFAA) 406
 Request for Legal Opinion

H-21.1

MFAA SECTION FILES

1 Legal C/MFAA 2
 Div Sect Apr
 Rest Br 48
 PD

1. It is requested that an opinion be rendered on the following case.

2. A certain Mr. Rathenau owned two pictures of considerable importance, which he turned over to an Aryan lawyer, Dr. Sedlmayer, upon his flight from Germany. Sedlmayer, later sold these pictures, contrary to the agreement which had been entered into, to Dienststelle Muehlmann for Hitler's Lins Museum.

3. Reports from the OSS Art Looting Investigation Unit indicated that these pictures had been acquired by Muehlmann from the Netherlands. They were, therefore, restituted to the Netherlands government a year and a half or two years ago. The Netherlands government included them in an exhibition of paintings recovered from Germany which was circulated in the United States. During this exhibition, the pictures were recognized by Rathenau, who was then and is now residing in New York.

4. Up to that point, although the Netherlands government knew that Rathenau was the supposed owner, they had not been able to find him. Therefore, upon his application to them, the Netherlands government turned the pictures over to Rathenau in custody. This was not an outright release because at about that time the evidence was uncovered that the pictures had never been in the Netherlands and were, therefore, wrongfully restituted to them. Nevertheless, Mr. Rathenau now has possession of them under custody agreement with the Netherlands government.

5. It is the opinion of this section and of the Claim Section of Property Control Branch, that Article VI of MG Law No. 59 is applicable and that the whole case is a pure embezzlement, and that Mr. Rathenau's title is clear and could be confirmed. Incidentally, Mr. Rathenau desires to give the pictures to the Metropolitan Museum of Art.

6. It is requested that your opinion be given as to correctness of these conclusions.

FOR THE CHIEF, RESTITUTION BRANCH:

Telephone 43255
 Rm 1108 Eoon Bldg

RICHARD F. HOWARD
 Chief, MFAAA Section

443
 021700

120704

2 April 1946

OPINION

SUBJECT: Control and Export of Works of Art.

TO : Director, Economics Division
[Attn: Chief, M.F.A. & A. Section]

1. You have requested our opinion on two problems concerning the control and export of works of art. The facts as presented are:

a. Thirty-five paintings are in the possession of the artist, a former German national made stateless by Nazi decree. In 1943 the artist was forced by the Nazis to return to Germany, and he carried all of his paintings with him. He has received permission from United States authorities to visit Switzerland, and requests permission to transport the paintings to that country when he leaves Germany.

b. A Dutch subject who has a status of a displaced person requests permission to take four paintings which he owns to Brazil. In the opinion of the Monuments, Fine Arts and Archives officers, the paintings are "of rather moderate quality and not of special value".

2. The provisions of U. S. Military Government Law No. 52 must first be considered. Article II of the Law reads:

"3. Except as hereinafter provided, or when licensed otherwise authorized or directed by Military Government, no person shall import, acquire or receive, deal in, sell, lease, transfer, export, hypothecate or otherwise dispose of, destroy or surrender possession, custody or control of any property:-

Id] which is a work of art or cultural material of value or importance, regardless of the ownership or control thereof."

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In our opinion the term "work of art", as used in Sec. 3 (d) of U. S. Military Government Law No. 52, does not encompass paintings or other objects of little or no distinction in the art world, but is limited to artistic works which connoisseurs and critics agree possess substantial merit and are of more than temporary and current interest. This interpretation is confirmed by the circumstance that the expression "work of art" is immediately followed by "or cultural material of value or importance", which is the only other category of property covered by Sec. 3 (d). It is to be noted that such "cultural material" is limited to that possessing "value or importance". Following a familiar rule of statutory construction, the accepted inference is that the earlier expression "work of art" is to be given a like meaning, on the reasoning that this provision of the law is dealing with a single general class of property. We do not believe, moreover, that the concept of "value", as applicable either to cultural material or works of art, operates to set up the money worth of the item as the sole criterion of measurement; we think the "value" and "importance" referred to mean value or importance in the world of art, although the money worth of the item would undoubtedly be a factor to be taken into account in determining its value or importance in the sense we have indicated. U. S. Military Government Law No. 52 is concerned with property either owned by the German Reich or the Nazi Party or its adherents, or property which has possibly been subject to wrongful taking or disposition during the Nazi Regime. Property in the latter category includes that owned or controlled by churches, charities and schools and that which consists of works of art or cultural materials. There is nothing in the law to indicate an intent to prohibit dealings in or the disposition of property for the sole reason that the transaction involves a certain sum of money or a certain market value.

3. There has been established by regulation no standard or test to be used in determining whether a particular item is a "work of art . . . of value or importance". We believe that this determination is properly to be made in each case by Military Government through the appropriate Monuments, Fine Arts and Archives agency.

4. Assuming that it is determined by the appropriate branch of Military Government that the subject paintings are not works of art of value or importance, and therefore are not within Article II of U. S. Military Government Law No. 52, there is the further question of their removal from Germany. U. S. Military Government Law No. 53, Article I, reads:

"2. Any transaction with respect to or involving any of the following is also prohibited, except as duly licensed by or on instructions of Military Government:-

(d) The exporting, remitting or other removal of any property from Germany."

U. S. Military Government Law No. 53 defines property to mean

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RG 260
Entry ECONOMIC
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By 7J NARA Date 8/31/99
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"all movable and immovable property" including but not limited to "works of art and other cultural material". (Article VII, 11 ICG).

5. The thirty-five paintings (referred to in paragraph 1 a. above) fall not only within U. S. Military Government Law No. 53 as quoted above, but the export of commodities is prohibited or restricted by the 7 July Directive, Title 13, Part 2, Section 1; JCS 1067/6, paragraph 41 (c); and Control Council Proclamation No. 2, Section V, paragraph 14 (c). Exports are permitted under instructions or licenses of Military Government, but there is at present no general license for such items as the paintings in question, nor is there any established policy therefor.

6. Although no general license has been issued, U. S. Military Government Law No. 53 provides that transactions may be approved by Military Government. The licensing of transactions involving currency and foreign exchange under U. S. Military Government Law No. 53 is the responsibility of the Foreign Exchange and Blocking Control Branch of the Finance Division. It is suggested that that Division be consulted, although it is possible that clarification is needed as to what Division has the responsibility for licensing the removal of property from Germany. It is believed that the Finance Division would also be the appropriate agency to give the necessary licenses or instructions under the other enactments referred to in paragraph 5.

7. We believe that the four paintings owned by the Dutch subject (referred to in paragraph 1 b. above) likewise fall within the prohibitions noted in paragraph 5. We reserve judgement on your statement that the Dutch citizen is a displaced person, a status we believe to be questionable on the facts as presented. Displaced persons are encouraged to take with them their personal possessions, but the "conveyance of any property from Germany is subject to export regulations (see U. S. Military Government Law No. 53 and any further instruction issued in connection therewith)". SHAEF, "Guide to the Administration of Assembly Centers", September 1944, CA/69 (Revised May 1945), Part II, Section 12 (p. 61) and Appendix 4 (p. 83). This policy is a guide for the appropriate Division in determining whether a license to remove property in a given case should be granted. However, licenses are not, of course, restricted to displaced persons.

Telephone OMCUS 43462
Room 2118 Dir Bldg

Charles Eddy
Legal Advisor



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Authority NND 765036
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By <u>VR</u> NARA Date <u>83</u>	Box <u>227</u>

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Economics Division
Restitution Branch
AFO 742

29 October 1946

Rechtsanwalt Max L. Cahn
Opernplatz 6
Frankfurt a/Main
Greater Hesse, Germany

Dear Sir:

This office acknowledges the receipt of your letter concerning the removal of art property from Germany, dated 24 August 1946, sent to the Office of Military Government for Greater Hesse and forwarded to us on 24 September 1946.

We regret to inform you that Military Government Law No. 53, article 1, paragraph 2 (d) prohibits the "exporting, remitting, or other removal of any property from Germany". Thus, we are not in a position to authorize the shipment of the art objects belonging to Frau Maria Nussbaum to Palestine.

Any amendment of Law 53 which would permit the removal of this art property from Germany will be brought to your attention.

Sincerely yours,

RICHARD F. HOWARD
Chief, MPAA Section

MPAA FILES

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COPY

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
Economics Division
Restitution Branch
APO 742

Berlin, Germany
7 November 1947

MEMORANDUM NO. 12

SUBJECT: Restitutability of Property of German Origin

TO : Restitution Control Branch,
APO 403, U.S. Army.

1. We have been requested to pass on the question as to whether property which was taken by the Germans from Germany to occupied countries, which remained under German control in the occupied country and which, in its original form, was thereafter taken back to Germany, is subject to restitution.

2. Since the prerequisite of continued German control excludes a finding of removal by force, it would appear that such property could only be restitutable if it qualified under the definition of "all other property removed by the enemy" which has been interpreted to imply "that restitution may be claimed whatever may have been the means or the reasons of dispossession" (see Appendices "A" and "B" of CORC/P(46)143; MGR 19-100.2). As the property under discussion was never subject to an act of dispossession, it follows that, by definition, such property does not fall within the category of "all other property removed by the enemy".

3. The same conclusion is reached if the question of restitutability is examined in the light of the London Declaration of 5 January 1943 by which the signatories expressed their intention "to defeat the methods of dispossession practiced" by the enemy and reserved all their rights to declare invalid any transfers or dealings regarding property rights and interests in occupied territories. No property rights and interests other than German being involved, there is no room for the application of the London Declaration.

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Box	303

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Authority <u>NWD 775057</u>
By <u>IE</u> NARA Date <u>9-9</u>

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4. Consequently, it will henceforth be the policy of this Branch, in implementing restitution in the US Zone of occupation in Germany, to consider as non-restitutable any property which was taken by the Germans from Germany to an occupied country, which remained under German control in the occupied country and which, in its original, form, was thereafter taken back to Germany.

5. German control will be presumed where no transfer of title was involved in the transaction. On the other hand, the term "control" does not include mere financial control over the holder of property in occupied territory, such as may have been exercised for instance by a German firm over a subsidiary or other affiliated company to which the property was sold and shipped from Germany.

6. You are authorized and directed to proceed in accordance with the above.

JOHN H. ALLEN
Colonel, GSC
Chief, Restitution Branch

- 2 -

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Entry	<u>A. Hall</u>
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Box	<u>303</u>

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By <u>IE</u> NARA Date <u>9-9</u>

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DECLASSIFIED
Authority NND 775042
By BAW NARA Date 7/28

RG 260
Entry (D+3524)
Box 129

Berlin, Germany
29 May 1947

Dear General Friis:

Thank you for your letter of 10 May 1947 regarding the possibility of returning the Runic Stone and the Danish cannon.

The proposal and resolution to which you refer do not modify the quadripartite definition of restitution and must be read in connection with the opening paragraph thereof, which reads as follows:

"The question of restitution of property by the Germans from Allied countries must be examined, in all cases, in the light of the declaration of January 3, 1943."

The Declaration of January 3, 1943 is the London Declaration and includes only property which was removed during World War II.

The resolution agreed to on 25 February 1947 by the Reparations Directorate of the Allied Control Authority provides the method by which a restitution claim for unique objects may be presented to the Reparations, Deliveries & Restitution Directorate. However, as neither the Runic Stone nor the Danish cannon comes within the quadripartite definition of objects subject to restitution, the resolution is not applicable.

There is no quadripartite procedure which provides for the return to you of the Runic Stone or the Danish cannon. On the contrary, a request of the Egyptian Government for the return of the famous bust of Queen Nefertiti, by letter dated 14 April 1946, was refused by the Reparations, Deliveries, and Restitution Directorate on 10 January 1947. As you can appreciate, we have had and will have other requests similar to yours, and I do not believe we should establish a precedent unilaterally which would be inconsistent with quadripartite decisions.

Sincerely,

Comeback Copy sent to ED and O/DMG
" " " O/SS

FRANK A. KEATING
Major General, U. S. Army
Deputy Military Governor

Major General E. D. Friis
Head of Danish Military Mission
Berlin-Nikolassee



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FRANK VON PAPAN JR.

Munich, Bayernstr. 33

6 June, 1947

Mr. R.F. Howard
Chief, M.P.A. & A.
Recn. Div., Constitution Branch, GIBUS
APO 742
US Army

Dear Mr. Howard,

A common friend, Col. Walter L. Kluss, has advised me to ask for your assistance in the following matter.

In November 1944, the estate of my mother at Wallerfangen, Sazny was occupied by American troops. Before she had to leave the place, my mother had stored all paintings and other valuable pieces of furniture in the basement of the house, in order to protect them from fire. On December 21. or 22., according to reports from inhabitants who had remained at Wallerfangen, the house was set on fire, but before that the contents of the basement were removed in several trucks. The basement itself was not affected by the fire.

Among the paintings and other art objects removed were many of considerable value, as you will see from the list which I enclose. In view of the great number of pieces I don't believe that they can all have been taken as souvenir possibly part of the lot is still in Germany and perhaps at one of the many collecting points.

I may point out that Wallerfangen was the personal and exclusive property of my mother and therefore is not affected by the expropriation pronounced by a German denazification court against my father. I may also point out that the greater part of the pieces included in the list have been in the property of my mother's family for many years, partly several hundred years, and that none has been acquired during this last war or in an occupied country.

I would appreciate it very much, if you would be kind enough to advise me what, if anything, could be done to recover at least part of the collection. In many cases, as for instance with the old family portraits, it has no great material value except for the family.

I enclose copy of an article which appeared in "Yank" in March or April 1945 and which might give some indications where the stuff could have gone, since the unit which occupied Wallerfangen, is mentioned.

I hope you do not consider it an imposition if I ask for your help in this matter, and without the advice of Col. Kluss I would not have dared to do so. Therefore I hope you will forgive me for having taken the liberty to write to you.

Very sincerely yours

FRANK VON PAPAN JR.

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Authority <u>RWD715057</u>
Bv

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Economics Division
Restitution Branch
APO 742
Berlin, Germany

ED 007 (HHS/MPAA)

20 June 1947

SUBJECT: Von Papen Collection

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

Attn: MPAA Section

Restitution Branch
Economics Division
Office of Military Government for Hesse
APO 633, U.S. Army

Attn: MPAA Section

1. Attached is a list of art property missing from the collection of Franz von Papen, Wallenfangan, Germany.

2. It is requested that any information concerning the location of subject property be forwarded to this office.

FOR THE CHIEF, RESTITUTION BRANCH:

1 Incl: a/s

Telephone 43420

RICHARD F. HOWARD
Chief, MPAA Section

MPAA Reading File

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List of lost art treasures

I.) Paintings

- Salvator Rosa (signed) : Landscape with a group of knights (1 : 0,60 m)
- " " " : Landscape with ambush on travellers
(both in black frame)
- Unknown Italian master : St. Thomas putting his finger into side of Christ
16th century
- " " " : Christ's sermon on the Mount (each 0,85 : 0,50 m,
black frame)
- Italian Master,
School of Naples, 18th cent. : Madonna with Child, (1,30 : 0,80 m)
(carved, golden frame of the period)
- Van Dyck (not signed) : Knight in armour with red scarf. Pendant to
Van Dyck's Prince of Orange in the Munich Pinakothek
(ca 1 : 0,60 m, black frame)
- Italian School, 17th cent. : Madonna with child, (ca 1:0,80) gold frame
- Spanish Master, 18th cent. : Madonna seated on landscape, with angels and
sheep (ca 0,40 : 0,30, gold frame of period)
- " " 17th " : Madonna with Child, (ca 0,35 : 0,30) painted
on tin, Frame of incrustated wood
- " " 18th " : Madonna seated in landscape with sheep
ca. 1,75 : 1.10, gold frame, modern
- Correggio (copy) : "La notte", black frame
- Dutch Master 17th " : 2 landscapes with group of riders
ca 0,25 : 0,35, gold frame
- " " " " : Bouquet of flowers in vase
ca 1:0,60, this form:
- Cesbron, French painter : 2 pastel-paintings of flowers, peonies and poppies,
oval, 0,60, gold frames
- C.F., Deiker, German Painter: Hunting scene, stag after fight,
(signed) ca 0,30 : 0,20, gold frame
- Holland - Wiltz (signed) : 6 Pastel-paintings (gold frames)
a) water with reed and ducks, ca 0,60:0,55
b) " " " " herons,

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- Holland - Wiltz (signed) : c) Swiss landscape
d) Landscape with cows under a tree
e) Hunting scene with wild bore and hounds
f) " " " wolf and hounds,
: 1 pastel-painting, landscape with sheep, oval,
ca. 0,30, gold frame
- v. Werner, German painter 1880 : View of a village with church and estate,
(signed) water colours.
- Ernst Roeder, German p. (signed) : Scenes of French-German war 1870.
Lancers and Hussars in a patrol fight,
ca 1.20 : 1.30, gold frame
- Jacobsen, German painter : Moonshine-landscape: water with fisherman's
(signed) hut, 1.20 : 0.85, gold frame.
- Ungewitter, German painter : Squadron of 18th century Saxon Mounted Guards,
(signed) in front man in canary-yellow uniform, ca.
0.60:1.00, gold frame, pastel-painting.
- Austrian painter (Vienna) : Horse drive in the Prater (aquarell water-
(signed) colours)
- Spanish Master, 16th cent. : Crucifixion, ca 1.10 : 0.70, old gold frame
- School of Canaletto, Italian : View of Venice - Canale Grande,
ca 0.30 : 0.40
- Austrian painter, 19th cent. : Mozart seated at a piano in the dark, with
(signed) candle light, ca 1.30:1.20, gold frame
- Dutch Master, 16th Cent. : Interior of a church, sepia, ca 0,45:30,
old gold frame
- I.v.P., German paint. modern : Madonna, surrounded by flowers, old gold frame,
(signed) ca 0,50:0,30
- German painter, 18th century : St. Nicholas with crozier, oval 1.20, white frame
- Spanish painter, Murillo school : St. Joseph with Child, oval, 1.20, gold frame
- Italian Painter, modern : 2 landscapes of the gulf of Naples, ca 0,50:0,35
- E. Koshner, German painter : 6 paintings in water-colours:
(signed) studies of various time's uniforms of a
russian lancer, ca. 0.35:0,25

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II. Family Portraits.

- v. Meuss, German painter, : Lady in black, ca 1.40 : 0.80, gold frame
signed, 1874
- Hommel, German painter, : Portrait of Reich Chancellor v. Papen
signed, 1932 ca 1.20 : 0.75
- Miehe, German painter, : Officer of the Guard-lancers, white chest.,
signed, 1910 oval,
- v. Blasas, Austrian painter signed Head of a young man, Pastel-painting
1937 ca 0.50 : 0.40
- " " " : Head of a young lady " "
- Fiesel, German painter : Child in blue with roses, pastel
signed, 1913 ca 1.20 : 0.75
- " " " : Head of a young boy, pastel, oval,
ca 0.40
- Voigt, German painter : Portrait of a child
1885
- Sinzel, German painter : Portrait of a man in dark suit
(signed 1875)
" of a lady in black, middle-aged
oval, ca 1.30, gold frames,
both with escutcheon in the left corner.
- E. Hinton, German painter : Portrait of the same gentleman with his daughter
signed, 1876 on horse-back, ca 0.70 : 0.50
- Unknown German painter : Head of an officer of the lancers,
1869 ca 0.35 : 0.25
- Unknown German painter : Man in armour (escutcheon in upper left corner)
17th century
- " " " : Lady in brown
ca 0.70 : 0.50, both black frame
- " " " : Man in white uniform with armour. (escutcheon)
- 18th century, : Lady with blue-powdered hair dress, style of the
(about 1750) period, ca. 0.70 : 0.50 both gold frames, baroque
style

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- Unknown German painter Empire : Man in blue coat with gold buttons,
escutcheon
- " " " : Lady in brown, ca 0.40 : 0.35
both wooden empire frames
- Junker, German painter : Man riding a bay mare through a wood
signed, 1932
- Miche, German painter : Pastel-painting: Young girl in white,
signed, 1911 sitting on a chair in a garden,
ca 1.40 : 0.85
- Unknown French painter : Lady in blue, powdered hair, oval, frame
about 1760 Louis XVI,
- Unknown painter : Portrait of a young man
about 1834
- " " : Same with wife.

(67 paintings in total)

III Miscellaneous

7 coloured English engravings:

- 4 plates of a hunting race
1 plate "Pleasant ride home"
1 " " "Gay family life"
1 " " "A beggar boy"

1 coloured French plate of Napoleon at Malmaison.

2 sepia plates: scenes of Parisian life, sign. E. Mathes 1900

Chodowicki: Frederic le Grand a cheval

French engraver: Prince Henry, frere de Fred. le Grand

" " : various plates of the period of Louis XV.

2 plates 16th century : crucifixion.

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Carries, French Sculptor, 19th century, bronze-bust of a bishop
in ornate, half length, life size.

Pederspiel, German sculpt., 19th century: Head of a young girl, life size,
marble.

Collection of 16th and 17th century glasses, painted, partly on silver basis
7 goblets with arms

1 Neuticaa, 17th century, with silver basis (shell engraved, picturing
Diana and her maids taking a bath)

Jardiniere of Chinese bronze, ca 1.20 : 0.60, on wooden Chinese stand

Chinese porcelain bucket for flowers, painted yellow and rose, 0.50 high.

Italian enamel, 17th century : a shell, mostly white, decorated with flowers

Italian cloisonne, 18th cent. : big bucket for flowers

2 pairs of Chinese vases (K'ing.dyn.) with wooden stay

Box, boule, containing chess-board with Indian figures, 17th cent. ivory.

Set of porcelain, 20 pieces, of the famous "Carl Theodor" manuf. Hannu

2 porcelain figures, Manuf. of Meissen, Saxony
a) a cook b) a heron, both 0.60 high

2 China-painted vases, Chinese 18th cent., each 1.00 high

2 Chinese bronze plates, 18th cent., 0.25 m diameter

Several flower cups in bronze, cloisonne and old Meissen porcelain

Mantel clocks for mantel piece

1 Boule with stay, French, 18th cent. 0.60 high

1 Boule, Austrian, 18th century, 0.40 "

1 English, ebony-wood with bronze 0.35 "

1 French, black marble with statue of St. Marcus in bronze

6 of modern style in bronze or black or white marble.

1 pair of candle-sticks, bronze Louis XV, for mantel piece

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By <u>[signature]</u>

- 6 -

- 1 Pendulum clock, Dutch baroque, inlaid wood, ca 2 m high
- 1 " " German " " " " " "
- Status of a saint, wood of limetree, baroque, German, ca 0,60 high
- Status of Madonna with Child, wood, partly gilded, Spanish Renaissance, ca 0,30 high
- 1 Crucifix in ivory, German, 18th cent., 0,80 m
- 1 " " " " " " 0,40 m
- 1 " wood-carved (copy of 14th cent. crucif. at Coesfeld) 1,50m

IV) Old furniture of art value (all original of the respective epoch)

- 1 cupboard, Flemish renaissance, Brussels, dark oak, ca 2:1 m
- 1 " , French renaissance, richly carved with figures, pear- or lime-tree, 2,30:1,80
- 1 buffet, Flemish baroque, oak, 1,60:0,80
- 1 cupboard, old-Lorraine, oak, folding-doors with glass, 2,30:1,60
- 1 chest of drawers, Louis XV, richly ornamented, black marble plate
- 1 secretaire, Louis XVI, richly inlaid, yellow marble plate, signed, 1,70:0,75
- 1 " Louis XV, bois de rose, inlaid, rose marble plate, ca 1,60:0,75
- 1 " Louis VI (lady's secretaire) on feet, white marble plate
- 1 chest of drawers, Louis XVI, inlaid, on feet, grey marble plate, 3 drawers
- 1 round table, Louis XVI, white marble plate, diameter 0,60
- 1 small " " " " " " oval
- 1 small lady's needle-work table, Louis XVI, inlaid, rose marble plate
- 1 table, Chinese, with elephant heads on corners, teak wood, plate of cloisonne, flower design, 0,80 high, 0,60 square
- 1 box, French Boule, 0,30 :0,50
- 1 glass-cupboard, Louis XVI, cherry-tree wood, 1,50:0,65, with old "bissen china.
- 2 arm chairs, renaissance, with Spanish leather

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DECLASSIFIED
Authority NWD 76057
By

- 7 -

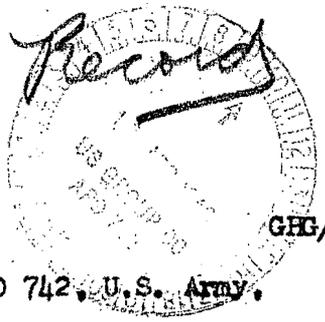
2 chairs renaissance, with Spanish leather
 2 arm chairs, German, gothic
 2 chairs, French, Francois I, Spanish leather seats
 1 mirror, wooden frame, very richly carved, gilded, 1.00:0.75
 1 " broad wooden frame " " " 1.80:1.20
 6 arm chairs (set) Louis Phillipine, cover of petit point
 2 chairs Regence " " " "
 1 parevent, Louis XVI, subasson with white frame
 1 carpet, Smyrna, white ground with flower design, 7 : 5 m
 1 " old Persian, blue ground, 5 : 6 m
 1 " Smyrna, red ground 5 : 4 m
 1 carpet, white ground, Austollan, 5.40 : 4.20
 1 set of chairs, Louis XVI, cover of red velvet
 2 chairs, Louis XV, cane-bottom, oak
 2 chairs, Louis XVI, " " nut-trees, carved
 1 pair of appliques, Louis XV, bronze, 5 candle arms, 0.60

120720

DECLASSIFIED
Authority <u>AND 775 057</u>
By

RG 260
Entry OMGUS 746
Box 9

DECLASSIFIED
Authority NND 775042
By MMS/ARA Date 8-3-99



Transmittal of Property Claim to Theater
Lemont Moore, 5 Mar 46

AG 007 (ED) (5 Mar 46)

2nd Ind.

GHG/gb

Office of Military Government for Germany (U.S.), APO 742, U.S. Army,
12 April 1946

TO: The Adjutant General, War Department, Washington 25, D.C.

1. For your information and to serve as a guide in advising individual claimants such as Jean Cassell, Baron van Doorn, mentioned in basic communication, the policy of this headquarters is based on the following:

a. Dealing only with foreign art experts invited by this headquarters as representatives of the claimant governments and not as representatives of firms or individuals of such countries. An object, even though private property, will be restored to the representative of the claimant government acting on behalf of the individual concerned and not to that individual.

b. Determining, with the invited art expert of the country concerned, whether the object was removed from the claimant country by the Germans.

2. In the case mentioned in basic communication, the Cassell collection has been determined, to the satisfaction of our officers working in conjunction with the accredited French representatives, to have been removed from France by the Germans. Therefore it is going back to France.

3. It is urged that Baron van Doorn be reassured about the safety of his collection, and about the integrity of the French "Commission de Recuperation Artistique", who will keep it in good condition until his claim, if properly submitted to the French government, is honored.

FOR THE MILITARY GOVERNOR:

G. H. GARDE
Lieutenant Colonel, AGD
Acting Adjutant General

come back copy sent to Econ. Div.



46

~~69 170~~

607
X
386 prop.

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RG 260
Entry OMBUS #16
Box 9

DECLASSIFIED
Authority NND 75042
By MMG/ARA Date 8-3-99

Copy/mvs

SUBJECT: Transmittal of property claim to Theater.

AGOB-C 095 Cassell, Jean 1st Ind. GB/bk 1E 863.
(13 Mar 46).

WD, AGO, Washington 25, D. C., 18 March 1946.

TO: Commanding General, Office of Military Government, U. S.
Zone of Occupation, Germany, APO 757, c/o Postmaster,
New York, New York.
ATTN: Chief of MFA & A Section.

As a matter of primary interest.

BY ORDER OF THE SECRETARY OF WAR:

/s/ Gerald Smolloy (?)
Adjutant General.

46
(35) 110

120723

RG 260
 Entry ©MGS/RA
 Box 9

DECLASSIFIED

Authority NND 75042
 By MM/SARA Date 8-2-99

Copy/mvs

March 5, 1946

Dear Captain Richey:

The American Commission has received an inquiry from Jean Cassell, Baron Van Doorn, saying that his rather extensive collection of fine and decorative arts was stored in various repositories located in the American Zone of the Military Government in Germany.

It has come to his attention through personal channels that some of his collection which was confiscated by the Germans has been moved by American authorities to such depots as the Munich Collecting Point. At the present time, Mr. Cassell is making the proper claims for his property and has requested that during the interim period all of his collections be left in their present locations, subject, of course, to any decisions which might be made by the Military Government authorities in charge. The Collection, known by the code word "Bertha", consists for the most part of packing cases some of which are marked "Cassell". Mr. Cassell's present address is 240 Broad Avenue, Englewood, N. J.

We are forwarding this information to you in event you wish to transmit it to the Theater.

Sincerely yours,

Lamont Moore
 Assistant Secretary

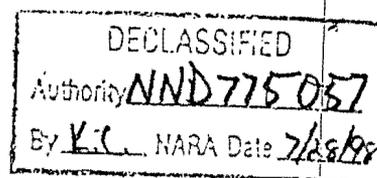
Captain Homer G. Richey
 Civil Affairs Division
 Room 4 B 943, The Pentagon
 War Department
 Washington 25, D. C.

46

~~1107~~



120724



PROPERTY DIVISION, OEA
 CULTURAL PROPERTY BRANCH
 COLLECTING POINT, MUNICH
 10 Arcisstrasse

July 17, 1951

To: Mr. Leonard J., Ganse
 OLCB, Legal Affairs Div.
 28 Ludwigstr., Munich

Dear Mr. Ganse:

I request herewith legal opinion as indicated below on the status of works of art held at the Central Collecting Point, whether under the Bavarian Treuhand-schaft or the Collecting Point (an activity of HICOG, Frankfurt).

- 1.) Is Control Council Directive No. 50 to be applied to works of art kept in Central Collecting Point, Munich ?
- 2.) If so, under which article/or articles of the Directive do these properties fall?
- 3.) Are the different groups of properties (for example: internal German, externally restitutable, Jewish, unidentified) affected differently by the Directive?
- 4.) Of which properties does the Bavarian State have control or title of ownership?
- 5.) Of which properties can the Bavarian State dispose, specifically by sale?

Sincerely,

S. LANE FAISON, JR.
 HICOG, PROP. DIV. OEA
 COLLECTING POINT MUNICH

120725

Rb 260

Bsp 84

File Miscellaneous

Helmuth B o c k.
Reichsforststr.32.

Ffm-Niederrad, d.12.11.47.

Military Government
Art Section APO 633 US Army
W i e s b a d e n.

Betr. R e t u r n of art items.

1. I am owner of 2 oil-paintings which were located in Frankfurt/Main, Falkensteinerstr.46. (Sperrgebiet)
2. With letter April 47, I asked the "Hessischen Kultusminister" to release the items. The Wiesbaden minister turned my application over to the Ffm Town-Mayor Office, and this office gave me your address as competent authority. After having been informed by Capt. Orval O. Logan, Real Estate Officer, Ffm that the paintings are not to be located I ask for an ~~immediate~~ indemnity. Experts have estimated the value of both paintings

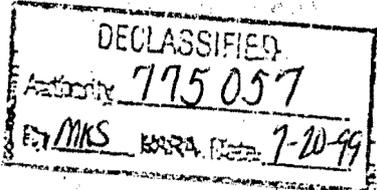
Rm 5000.-

The paintings Works of E.v. Müller: "2 girls of Tyrol"
I want you to take immediate action on this matter and to inform me as soon as possible.

Helmuth Bock

H e l m u t h B o c k.

120726



RG 260
Entry DMGUS
Box 267

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
ECONOMICS DIVISION
MUNICH GERMANY APO 407

US ARMY
HSL/irm

AG-007-MGBER/B

3 December 1947

SUBJECT: Pre-War Paintings from the Göring Collection

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

1. According to O.I.R. Report No. 2 (The Göring Art Collection) p. 143 Göring gave 150 paintings to Goudstikker (Miedl) in exchange for the Vermeer-Van Meegeren, Christ and the woman taken in adultery. The paintings were chosen by Göring in Carinhall in the presence of W.A. Hofer and Miedl.

2. Among the 150 paintings thus selected were eleven which according to W.A. Hofer originate from Görings pre-war collection. They are:

- 1) (15) Hamilton, Hunting Still-life with White Falcone
- 2) (62) Santvoort, Portrait of a Lady
- 3) (63) Hochhäuser, " " " "
- 4) (79) Aalsloot, Winter Landscape
- 5) (80) Van Bommel, " "
- 6) (89) Claes Molenaer, Fair Scene
- 7) (90) School of the Lake of Constance about 1480,
Nativity
- 8) (91) Southern German Master, about 1480, Temptation
of St. Anthony
- 9) (93) Van Hilligen? Cavalry Combat
- 10) (104) Jan Beth, River Scenery
- 11) (118) West German Master 16th c., Man with Dog

3. Since the Vermeer was restituted to Holland consideration should be given to the problem, whether or not a request for the return to Germany of the above listed paintings is justified. It is requested that this office be advised of the policy decision made in this case.

For the Chief, Restitution Branch:

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

Telephone: Munich Military 2802
Munich Civil 30054

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10/11/00

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Authority
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OFFICE OF

RG

Entry
Box

260

DMGUS

262

MILITARY GOVERNMENT FOR BAVARIA

ECONOMICS DIVISION

APO 407

US ARMY

HSL/irm

AG-007-MGB

3 December 1947

ECON

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

For the Chief, Restitution Branch:

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

Telephone: Munich Military 2802
Munich Civil 30054

1545
101100 M182

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Activity 775 057
MKS 7-20-99

Paintings from the Goring Collection
REF/B 3 December 1947
RG 260
Entry omgys 1st Ind.
Box 262

Office of Military Government for Germany (U.S.), Berlin,
Germany, APO 742, U.S. Army, 19 December 1947

TO: Office of Military Government for Bavaria, APO 407,
U.S. Army, Attn: MFA&A Section

1. It is believed that no useful purpose will be served by raising this question at this time. In the first place, it would involve the problem of German internal assets if the pictures are located in Holland; in the second place, even supposing that they were returned, the further problem of the disposition of things which belonged to the person condemned by the International Military Tribunal, would be difficult.

2. It is, therefore, believed that no further action should be taken. If circumstances should change so that this policy is altered, your office will be notified.

FOR THE CHIEF, RESTITUTION BRANCH:



RICHARD F. HOWARD
Chief, MFA&A Section

Telephone BERLIN 43255

DECLASSIFIED
Activity 775 057
MKS
Date 7-10-99

Paintings from the Göring Collection
BDR/B 3 December 1947

Office of Military Government for Germany (U.S.), Berlin,
Germany, APO Box 260, U.S. Army, 19 December 1947
1st Ind.

TO: Office of Military Government for Bavaria, APO 407,
U.S. Army, Attn: MFA&A Section

1. It is believed that no useful purpose will be served by raising this question at this time. In the first place, it would involve the problem of German internal assets if the pictures are located in Holland; in the second place, even supposing that they were returned, the further problem of the disposition of things which belonged to the person condemned by the International Military Tribunal, would be difficult.

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FOR THE CHIEF, RESTITUTION BRANCH:

RICHARD F. HOWARD
Chief, MFA&A Section

Telephone BERLIN 43255

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Authority 775057
By TJ NARA Date 12/30/99

RG 260
Entry Records of the Property Division
File General Records of the DIRECTOR W4 150
Box 9

COPY

4 Feb 48

OMGUS

1 CHIEF OF STAFF, UNITED STATES ARMY, WASHINGTON DC

1 EUGEN FRANKFURT

R E S T R I C T E D

PAREN FOR CSCAD FROM OMGUS SIGNED HAYS UNPAREN PD REFERENCE WILLIAM KRAY
NINE FOUR EIGHT ONE SEVEN PD ONLY RESTITUTABLE PROPERTY OF A PERSECUTED
PERSON DYING AFTER EIGHT MAY ONE NINE FOUR FIVE WAS INTENDED TO BE COVERED
BY ARTICLE TEN OF MILITARY GOVERNMENT LAW NO FIVE NINE PD IF NECESSARY
THIS CONSTRUCTION OF ARTICLE TEN WILL BE MADE CLEAR BY AN AMENDMENT TO THE
LAW OR BY ISSUANCE OF IMPLEMENTING REGULATIONS

PD

Legal

S/G
CA
CONT OFF
INTEL
FD
LEGAL
AG RECORDS

WX-94817 83274

J. M. Raymond, Col. 42276

120731

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 By TJ NARA Date 12/30/99

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 Box 10

Law 59 Reports →

Follow 1 Feb

Follow

Form HICOG 8
 (15 Sept 49)

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY

OFFICE MEMORANDUM

15 Jan 50

To: PD - Mr. Miller

Date: December 6, 1949

From: IRSE - Mr. Loewenthal

Subject: Reports on Types and Values of Property Restituted and on Nationality of Restitutees

Reference is made to several discussions held with your office regarding the introduction of a report on Types and Values of Property Restituted and on the Nationality of Restitutees as a supplement to the Internal Restitution Progress Report (MG/PD/llb/F and llc/F) at present in effect.

Attached hereto are the following three schedules:

- a Final Report on the disposition of each case made by the respective restitution authority (TAB A),
- a report on Types of Property Restituted (TAB B), and
- a report on Nationality of Restitutees (TAB C).

Final Report

The Final Report will be made by all restitution authorities upon the final disposition of a case. Copies of the report will be sent to the respective Land Central Offices and to the Central Filing Agency. The Final Report is not a new report since restitution authorities are already required to report final dispositions under Item 6 (Special Reports) of the Key Card to the Action Record Card System (TAB D). There are, however, essential differences between the reports at present submitted by restitution authorities under Item 6 and those required by the proposed Final Report. While restitution authorities submit under Item 6 lengthy decisions which are not suitable for statistical evaluation, the Final Report has been specifically designed for speedy compilation and analysis. In its form as a questionnaire it requires merely the entry of certain information in the column provided therefor. The information to be furnished has been selected after careful study of the provisions of MG Law No. 59 and the means of restitution provided for by said law.

The importance of a uniform Final Report as proposed may be illustrated by the various purposes for which it will be used by Land Central Offices and by the Central Filing Agency. In addition to furnishing the basic information for the compilation of monthly cumulative reports on Types of Property Restituted and on Nationality of Restitutees, the Final Report will serve Land Central Offices as a means for reviewing the figures of final dispositions reported by restitution authorities in their

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 Authority 775057
 By TJ NARA Date 12/30/99

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 Box 10

- 2 -

monthly progress reports. Moreover, Land Central Offices may eventually use the Final Report, in conjunction with other Action Reports, for the preparation of the entire Statistical Internal Restitution Progress Reports (MG/PD/11b/F and 11c/F), a plan which is advocated by this office after Land Central Offices have concluded their present function of forwarding petitions and reports to Restitution Agencies.

The Central Filing Agency will use the Final Report as the basis for final entries on the Action Record Card and for the maintenance of records on the dispositions of JRSO petitions.

Reports on Types of Restituted Property and Nationality of Restitutees

The above reports will be compiled by Land Central Offices on the basis of the Final Reports submitted to them by restitution authorities. Land Central Offices, in turn, will submit the two reports as annexes to the Monthly Internal Restitution Progress Report (MG/PD/11b/F and 11c/F).

The number of individual cases and JRSO cases dealt with is identical with the total number of such cases disposed of in favor of restitutees as reported in Schedule B (Cumulative) of the Internal Restitution Progress Report. These figures appear as a separate item in both reports. It should be noted that different terms are used in each of these reports for the tabulation of individual items reported, i.e. the term "Units" is used for the report on Types of Property Restituted, while the term "Awards" is used for the report on Nationality of Restitutees. The use of different terms is indicated by the fact that although both reports are basically related since they cover the same number of cases disposed of and the same total amount of values restituted, the number of individual items referred to in each report will not necessarily correspond.

To give a practical example: The disposition of two cases may result in the restitution of one property which is awarded to two claimants of different nationality. The foregoing would be tabulated as one unit in the report on Types of Property Restituted and as two awards, i.e. one award per national, in the report on Nationality of Restitutees. On the other hand, figures of the number of cases disposed of and the total amount of values restituted will always be identical for both reports. In all other respects the attached schedules are deemed to be self-explanatory.

The amount of cases finally disposed of in favor of restitutees is steadily increasing and introduction of the reports will require restitution authorities to report retroactively on a considerable number of cases. It would therefore be appreciated if your approval or comments on the proposed reports could be received as soon as practicable. In the event the reports are approved, this office contemplates to introduce them during the conference with restitution officials scheduled for December 14, 1949.

Telephone BAD NAUHEIM 2041, 2241
 Ext. 174

IRSB: W.M. Loewenthal:er

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RG 260

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Property Division*File *General Records of the
DIRECTOR W 2 150*Box *11*

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Authority 775057By TJ NARA Date 12/30/99

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Applicability of German Law to Successor Organizations Appointed
under Article 13 of Military Government Law No. 59

1. Legis. LA 19 Apr.
Br. Br. 1948

1. By a memorandum of 30 January 1948 this Branch was asked to examine the question as to what extent a successor organization, to be appointed as heir to persecuted persons under Article 10 of Military Government Law No. 59 will, or properly should be subject to German law particularly German tax and tort law. It is contemplated, we are informed, that a corporation organized under the law of New York will be designated as successor organization. This successor organization will, by Regulation to be issued under Article 13 of Military Government Law No. 59, be deemed to operate as a charitable organization under German law.

2. Pursuant to Article 11 of Military Government Law No. 59 after 31 December 1948 the successor organization may, under certain circumstances, prosecute claims for confiscated property. When such claims have been successfully prosecuted, the successor organization will administer and dispose of restituted properties under such regulations as may be promulgated by Military Government under Law No. 59. It is anticipated that it will be necessary for the successor organization to conduct a wide variety of business operations until such time as the restituted properties can be liquidated under favorable conditions.

3. The extent to which the successor organizations will be subject to German law is not regulated in Military Government Law No. 59. Article 91 of that law would exempt the successor organization, in common with all other persons natural and juristic, from "inheritance taxes, or other public assessments, fees or costs . . . levied in connection with the return of confiscated property." It would be possible, of course, for Military Government, under its general legislative power and pursuant to the provisions of Article 13 of M. G. Law No. 59, to exempt the successor organization from other German taxes or legislation.

4. Unless it is otherwise provided by legislation, the successor organization appointed under Article 13 of Military Government Law No. 59 will be subject to German law to the same extent as any other foreign corporation operating in Germany. Upon approval by the Minister of Economics the successor organization would be admitted to do business in Germany under the provisions of paragraph 12 of the Gewerbeordnung. Thereafter its operations in Germany would be subject to the following provisions of law.

5. Tax provisions. Foreign juristic persons are, as a general rule, required to pay taxes upon income earned and property located in Germany. Section 3 of Grundsteuergesetz, RGBl. I(1934)1031; Section 2 of Gewerbesteuer-gesetz, RGBl. I(1936)979. But foreign juristic persons who have either their business office (Geschäftsleitung) or their head office (Sitz) in Germany, are liable for the corporation and property taxes upon all income and property. Cf., Section 2 of Koerper-schaftssteuergesetz, RGBl. I(1934)1031; Sections 2 and 7 of Vermoegensteuergesetz, RGBl. I(1934)1052. It is not clear whether a successor organization administering properties in Germany could have its business office abroad. If the successor organization does not have its business office abroad, all of its income will be subject to taxation in accordance with applicable German law. No convention regulating questions of double taxation exists between Germany and the United States.

a. Corporation (income) tax. Since the suc-cessor organization contemplated is to be a charitable organization it will, in any case, have the advantage of Section 4 of the Koerperschaftsteuergesetz, which provides that:

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Entry *Records of the Property Division*File *General Records of the DIRECTOR JUL 2 1950*Box *11*

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Authority *775057*By *TJ* NARA Date *12/30/99*COPY

Applicability of German Law to Successor Organizations Appointed under Article 13 of Military Government Law No. 59

"(1) From the corporation tax are freed:

"6. Koerperschaften, Personenvereinigungen and Vermoegensmassen, which, according to their Articles of incorporation, trust deed or other charter are to serve, and in their actual business management directly and exclusively do serve, religious public (gemeinnuetzigen) or charitable (mildtaetigen) purposes (Zwecken). If they have an economic enterprise (wirtschaftlichen Geschaeftsbetrieb), which is more than a mere administration of their property (Vermoegensverwaltung), than they are taxable to that extent.

"(2) The tax exemptions contemplated by paragraph 1 are not applicable, insofar as the domestic income is subject to tax withholding (Steuerabzug)."

b. Other taxes (Property Tax, business tax and real property tax). Tax exemptions for charitable organizations, based upon the same general approach as is used in the Koerperschaftsteuergesetz, are provided for in Section 3(6) of the Vermoegensteuergesetz, loc. cit. supra; Section 3(6) of the Gewerbesteuergesetz (RGBl. I(1936)979), and Section 4 (35) (6) of the Grundsteuergesetz (RGBl. I (1936) 986).

6. Tort Liability. A charitable organization organized under the law of New York and admitted to do business in Germany will be subject to German tort law to the same extent as any like German charitable organization. If the successor organization is a corporation organized under the law of the State of New York, it would, as indicated in paragraph 4, be equally subject to German tort law.

JAMES E. HEATH
Acting Chief, Legal Advice Branch

Incls: n/c
Telephone 44614

RG 260

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Property Division*File *General Records of the
DIRECTOR 44-2-150*Box *!!*

DECLASSIFIED

Authority *775057*By *TJ* NARA Date *12/30/99*

COPY

SUBJECT: PD 007 (RINT/MFAA 418)
Request for Legal Opinion Regarding Bernheimer Restitution Claim

2 Property LD 24 May
Division 1948

1. You request our opinion to use as the basis for answering the attached letter from Fides, Treuhandvereinigung, of Zurich, which represents claimants under MG Law No. 59.

2. Fides asserts that its clients are persecutees entitled to internal restitution of property "lost under the Nazi government", including works of art and cultural materials removed from the Netherlands during German occupation thereof. Fides says that: (a) its clients' Munich Art Firm "Ludwig Bernheimer" was aryanized by the Nazis and the firm name changed to "Munchaner Kunsthandels-gesellschaft"; (b) that its clients were forced to leave Germany; (c) the aryanized firm purchased the objects in question, with Bernheimer assets, paying the Dutch seller fair value in Dutch Florins. The basis of the Fides complaint is that external restitution will deplete Bernheimer assets and unjustly enrich the Netherlands or persons represented by that government. It is noted that external restitution procedures do not require payment.

3. The question presented is whether cultural objects purchased from assets which may be made the object of a claim under MG Law No. 59 are subject to external restitution. In the opinion of this Division, the question should be answered in the affirmative.

4. On 5 January 1943 certain allied nations reserved 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 . . . 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" (Inter-Allied Declaration, 5 January 1943; MGR 23-50; underscoring supplied). At the Paris Conference on Reparations, 21 December 1945, it was agreed that all cases of external restitution of property should be examined in the light

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DECLASSIFIED
 Authority *775057*
 By *TJ* NARA Date *12/30/99*

COPY

Request for Legal Opinion Regarding Bernheimer Restitution Claim

of this Declaration and that "in general, restitution should be confined to identifiable goods which (1) existed at the time of occupation of the country concerned, and were removed with or without payment . . ."

5. A Control Council interim restitution delivery program for identifiable cultural objects was established by COMC/P(45)185 amended by COMC/M(45)26, providing that "an object, even though private property, will be restored to the representative of the claimant government acting on behalf of the individual concerned and not to that individual." Cultural objects are defined as: "all movable goods of importance or value either religious, artistic, documentary, scholarly or historic, the disappearance of which constitutes a loss to the cultural heritage of the country concerned," and "such objects as rare musical instruments, books and manuscripts, scientific documents of an historic or cultural nature, and all objects usually found in museums, collections, libraries and historic archives." The program makes return of such objects to the country from which they were taken mandatory if identification and ownership can be easily determined. Cables WX-85965 and WX-99226, cited in item No. 1, declare American policy on external restitution as an interim measure without prejudice to formulation of a definitive restitution program. Appendix A to COMC/P(46)3 (Revise) sets up the "definitive restitution program", and limits restitutions to identifiable goods existing at the time of the occupation of the country concerned and taken by the enemy from that country by force. COMC/P(46)110 defines "force" to include duress, which may occur with or without "looting", and other forms of dispossession.

6. MGR 18-101 defines cultural objects to include recognized works of art and all movable goods of importance or value. The term "looted cultural materials" is defined in MGR 18-104 to include "all cultural objects and materials" acquired since 1 January 1933 by Nazis within Germany or those acquired in territories by Germans or their allies either directly or indirectly, whether by purchase or other transaction, regardless of the consideration. MGR 18-106 provides that identifiable works of art and cultural materials will be restituted to the governments of the countries from which they were taken. "Loot" is defined as "objects which have been the subject of an act of dispossession by the enemy and which were in existence and located in an occupied territory and removed by the Germans subsequent to the date of the commencement of the German occupation of that territory." The receiving government is required to execute a receipt, as provided by MGR 18-550, for the objects concerned, at the time of the transfer. The Government agrees (1) to restore the objects to the U. S. if delivery is made by mistake; and (2) to indemnify the U. S. against any claim for loss, etc. resulting from the restitution.

7. The property involved here would seem clearly subject to external restitution pursuant to the foregoing directives. Restitution to the Netherlands will not prejudice the rights of the clients of Fides to make a claim under MG Law No. 59 for the restitution of property actually confiscated from them by the Nazis. It is pointed out that the property claimed by the Netherlands was never owned by the persons whom Fides represents. The U. S. authorities must return this property to the Netherlands in accordance with quadripartite commitments. If it wishes, Fides may, of course, present the case of its clients to the Netherlands Government.

FOR THE DIRECTOR:

JAMES E. HEATH
 Acting Chief, Legal Advice Br.

120737

RG 260
 Entry *Records of the Property Division*
 File *General Records of the Director 44-250*
 Box *11*

DECLASSIFIED
 Authority *775057*
 By *TJ* NARA Date *12/30/99*

COPY

Request for Legal Opinion (Rathenau)

- 2 C/MFAA LD 25 May 1. Reference is made to Item No. 1 of this Carrier
 Section 1948 Sheet requesting an opinion regarding title to two
 Rest.Br. paintings. The pictures are of considerable value
 PD and were owned by a Mr. Rathenau, who delivered them
 to a lawyer named Sedlmayer, apparently pursuant to
 an agreement, before fleeing Germany. It is asserted that Sedlmayer violated this
 agreement by selling the pictures to Dianstelle Muehlmann for Hitler's Linz Museum.
 Through mistakes the pictures were restituted to The Netherlands government over a
 year ago, as a result of erroneous OSS reports. The Netherlands government displayed
 the pictures in the United States. Rathenau, then (and now) in New York, saw the
 pictures and asked for possession. At about this time The Netherlands government
 learned that the restitution was made in error and that the pictures had never been
 in The Netherlands prior thereto. In view of this, The Netherlands government, which
 seems to entertain no doubt regarding the validity of Rathenau's claim, gave him con-
 ditional custody and possession of the pictures, pursuant to an agreement. We are
 informed that Rathenau, who is now in possession of the pictures, wishes to give them
 to the Metropolitan Museum of Art.
2. We are asked for an opinion as to (a) whether
 Article 6 of MG Law No. 59 is applicable to this case; (b) whether Sedlmayer's act,
 in disposing of the pictures, amounts to an embezzlement; (c) whether Rathenau's
 title to the property is clear and can be confirmed.
3. Article 6 of MG Law No. 59 excludes certain bail-
 ments and fiduciary agreements from the operation of Parts III to VII of the law and,
 in effect, removes such matters from the scope of the law. In the absence of more
 complete information regarding the agreement between Rathenau and Sedlmayer, we cannot
 determine whether this agreement constituted a bailment or fiduciary relationship
 between the parties within the meaning of Article 6 of MG Law No. 59. If this ques-
 tion should arise in connection with any claim filed pursuant to that law, it could
 of course, be decided by the Restitution Chamber (see Article 67 of the cited law).
4. This Division cannot, on the limited facts stated
 in Item No. 1 regarding the agreement between Rathenau and Sedlmayer, give an opinion
 as to whether Sedlmayer's act in disposing of the pictures constituted an embezzlement.
 For the same reason, we cannot pass on the question of whether Rathenau's title to
 the pictures is "clear". Moreover, we call attention to the fact that an opinion of
 this Division on this point could not have the effect of "confirming" Rathenau's
 title to this property. The decision of a court would be necessary to accomplish this
 result.
5. The following comments are offered to suggest
 what Military Government should do in order to protect its own interests and those of
 other possible claimants to this property. The possibility exists that internal and
 external restitution claims may be filed for this property. All internal restitution
 claims (under MG Law No. 59) must be filed by 31 December 1948 (see Article 56, Part
 IX, MG Law No. 59). We believe that The Netherlands government should be so advised
 and requested not to make an unconditional release of the pictures to Rathenau until
 it is advised by Military Government sometime after that date that no claims against
 this property have been filed under MG Law No. 59. If such claims are made, the
 United States could, pursuant to the receipt executed by The Netherlands government
 when it received the pictures (see MGR 18-550), require The Netherlands government

120738

RG 260
 Entry Records of the Property Division
 File General Records of the Director W 2 50
 Box 11

DECLASSIFIED
 Authority 775057
 By TJ NARA Date 12/30/99

COPY

Request for Legal Opinion (Rathenau)

to restore them. In addition, we recommend that The Netherlands government be asked to request Mr. Rathenau to submit to Military Government, prior to 31 December 1948, a statement, supported by appropriate documentary evidence, of his claim to these pictures. This Division will be happy to examine this statement and advise as to whether it appears to substantiate Mr. Rathenau's claim. If this should prove to be the case and no other claims (on the theory of external restitution or otherwise) have been made for the property by 31 December 1948, Military Government could notify The Netherlands that it has no objection to the unconditional release of these pictures to Mr. Rathenau and that, if such transfer is made, it releases The Netherlands from the obligation to return this property contained in the receipt given in connection with the original transfer to The Netherlands. In thus authorizing the release of this property, Military Government would not adjudicate Mr. Rathenau's title there-
 to but would merely return to a claimant property to which he appeared to have title and with respect to which no other meritorious claims have been made.

FOR THE DIRECTOR:

Tel. 42457
 Rm. 2112, Dir. Bldg.

JAMES E. REATH
 Acting Chief, Legal Advice Br.

DECLASSIFIED
Authority NND 78057
By JW NARA Date 7-21

RG 260
Entry DMBJS
Box 262

RESTITUT.

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
ECONOMICS DIVISION
MUNICH GERMANY APO 407 US ARMY ^{OK} HSL/WW

AG-007-MGBER/B

20 May 1948

SUBJECT: German Owned Painting Sold in Switzerland

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

1. The attached advertisement clipped from the Basler Nachrichten of 29 January 1947 is forwarded herewith.

2. Although this is more than a year old it points to a situation that calls for exploration and remedial action.

3. It is inconceivable that a work of art stolen in one country can attain a legal status by crossing a frontier.

4. This office is particularly interested in this problem because two paintings stolen from the Central Collecting Point have been located with a dealer in Switzerland. This dealer bought the paintings in good faith and at full market price. It is believed that the two paintings entered Switzerland illegally and that some form of action could be taken through the Swiss customs officials.

For the Chief, Restitution Branch:

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

1 Incl:
Newspaper clipping

Telephone: Munich Military 4-389
Munich Civil 30054

M.F.A.+A.-Files

120740

Request for Opinion

Legal MFA&A
Division

24 Jan 49

1. Opinion is desired on a point which has now moved from the realm of the theoretical to that of the practical. One claim is on hand and at least two more are expected in which German political refugees, now citizens of other countries, are petitioning for recovery of expropriated works of art where one or more of the objects claimed is included in the list of works of art of national importance, the export of which is prohibited by German law.

2. It would appear to this Section that, through having forced the emigration of the owners and expropriating their property, the former German State had forfeited any moral right to enforcement of this law in such cases. Enforcement would, in effect, appear to sanction the original expropriation.

3. It is known, however, that the Hessian Kultusministerium intends to invoke the law in an effort to prevent return of such property to its owners. The law itself is in course of re-enactment by the various Laender. It was originally enacted in 1919 and the most recent amendments were made in 1938 and 1942. It is not certain in which of the amended lists the objects in question are contained, although this point would appear to have little bearing on the legal or moral validity of the law itself, more particularly in its bearing on the exceptional cases here in question.

THEODORE A. HEINRICH
Chief, MFA&A Section

Ext 258

120741

DECLASSIFIED
Authority <u>MND 775057</u>
By <u>CA</u>

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Legal Division
APO 742

MEMORANDUM

9 May 1947

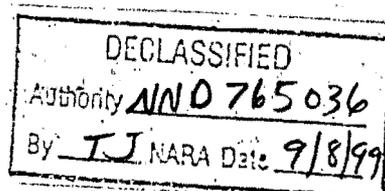
SUBJECT: Works of Art as External Assets of Germany
TO : Economics Division, Restitution Branch

1. Reference is made to your carrier sheet dated 22 April 1947, subject as above. Reference is made also to an opinion addressed to you on 14 February 1946 by the Legal Division, subject: "Works of Art as War Booty" and to our later opinion to you dated 17 March 1947, subject: "Rights of Occupying Powers to Remove Indigenous Archives, Records and Documents".

2. From your carrier sheet it appears that "Caritas", a painting owned by the Staettische Galerie of Frankfurt am Main and on loan to the German Embassy, in London, has been disposed of by the British Government as an external asset of Germany under the provisions of paragraph A, Article 6, Part I of the Final Act of the Paris Conference on Reparation, dated 21 December 1945, and you have requested an opinion as to the status of other such paintings which were thought to be protected from seizure by Article 56 of the Regulations Respecting the Laws and Customs of War on Land, annexed to the Hague Convention (IV) of 1907.

3. In our opinion of 14 February 1946, it was held that works of art, regardless of where seized, in enemy territory, and whether publicly or privately owned, would not be "war booty" or "trophies of war" and that their seizure during the period of hostilities would be in contravention of the provisions of Article 56 of the Regulations.

4. Our opinion of 17 March 1947, while dealing primarily with archives, records, and documents (rather than works of art), holds that Section III of the Hague Convention, "On Military Authority over the Territory of the Hostile State" (of which Article 56 is a part) does not strictly apply to the question of the independent removal of indigenous archives, records, and documents from Germany by one of the Zone Commanders from his Zone, due to the subjugation of Germany resulting from her unconditional surrender (as differentiated from an occupation during the period of hostilities). It holds, however, "that Articles 46 and 47, and particularly Article 56, of the Regulations are expressive of general principles of



RG 260

Economics
Division

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international law which would make a removal of archives from Germany by one of the occupying powers a prima facie violation of international law, placing the burden upon the removing power to establish by clear and convincing reasons that an overriding public interest exists in each case . . . The seizure and removal of . . . archives, works of art, or other property, would not be tolerated in any civilized community except where based upon an expressed declaration of public interest or necessity." Thus, it is our opinion that indigenous works of art may not legally be removed from Germany by one of the occupying powers in absence of public interest or necessity, since such removal is contrary to established principles of international law.

5. An entirely different problem is presented, however, where seizure and confiscation of German external assets, based upon an international agreement requiring reparations to be paid by defeated Germany, is involved. The legal basis for reparations was laid down in the Potsdam Agreement of 2 August 1945, and in the Final Act of the Paris Conference on Reparation of 21 December 1945. Section IV of the Potsdam Agreement provides that "in accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached: . . . 3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the Western Zones and from appropriate German external assets." Nothing we have said in the two cited opinions was intended to, or does, challenge in any way the legality of the seizure and confiscation of German external assets where such seizure and confiscation is pursuant to, and is carried out strictly in accordance with, international agreements requiring the vanquished nation to make reparations for losses sustained by the victors. Such seizures must, under paragraph 19 of the Potsdam agreement, leave enough resources "to enable the German people to subsist without external assistance."

6. The seizure and confiscation of the subject painting is not prohibited by the Potsdam Agreement, and we have only to determine whether such seizure and sale by the British Government conforms to the Final Act of the Paris Conference on Reparation. That Act specifies the percentage of shares of Category A and Category B assets to which each claimant nation is entitled. The United Kingdom was awarded 28% of Category A items (into which the painting would fall) and there is no suggestion that the confiscation and sale of the painting has contributed to or resulted in any overdraft of the percentage of reparations so allotted to the British Government. In any case such disproportions are subject to adjustment between the parties to the agreement and do not invalidate confiscations which may contribute thereto (Part I, article 1, paragraphs D and E).

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Division
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By TJ NARA Date 9/8/99

120743

7. Part I, Article 6, paragraph A of the Final Act of the Paris Conference on Reparation provides that each signatory Government shall "hold or dispose of German enemy assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its reparation share such assets . . ." There is no definition of "German external assets" in the Act, and in the absence of any limitation we are constrained to conclude that the expression covers all property, including personal property of German municipalities and public museums. We conclude that the seizure and sale of the painting by the British Government was legal.

8. Since we are asked to state our opinion generally on this subject, we further advise that seizure and sale of German works of art outside of Germany by powers entitled to dispose of German external assets under the Final Act of the Paris Conference on Reparation is legal under Part I, Article 6, paragraph A thereof, the provisions of Article 56 of the Regulations annexed to Hague Convention IV of 1907 notwithstanding.

Telephone 45043

/s/ John M. Raymond
Col. GSC
Associate Director

170

120744

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By <u>TJ</u> NARA Date <u>9/8/99</u>

RG 260
Economics Division
Box 115

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Wickham + Sheln

A. Buckner

Are you positive there is not
a move to hide your deal?
Do not let it go out if
you think any such thing
is possible. EML

RG 260
Entry OMGUS-Ardelia
File Hall
Collection
Box 268

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Authority NND 775057
By LV NARA Date 9/29/99

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120745

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
APO 170
Monuments, Fine Arts and Archives Section
Central Collecting Point Munich

13 December 1946

C e r t i f i c a t e

TO : WHOM IT MAY CONCERN

This is to certify that I have no objections to the changing of the name and title of the Wach & Schliessgesellschaft to Münchener Wachbereitschaft, Gesellschaft mit beschränkter Haftung, provided that above mentioned action does not interfere with Bavarian or Military Government Laws.

EDWING C. RAE
Chief, Monuments, Fine Arts
and Archives Section
Director, Central
Collecting Point Munich

120746

RG 260
Entry OMGUS- Ardelia
File Hall
Collection
Box 268

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Authority NND 775057
By LV NARA Date 2/29/99

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*File Miscellaneous**MFA&A*

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
 Economics Division
 Restitution Branch
 APO 742
 Berlin, Germany

ED 007 (RES/MFAA)

31 December 1947

SUBJECT: Intended Sale and Smuggling of Paintings from
 Germany

TO : Restitution Branch
 Economics Division
 Office of Military Government for
 Hesse
 APO 633, U. S. Army

Attn: MFA&A Section,
 for Mr. Bernard E. Taper

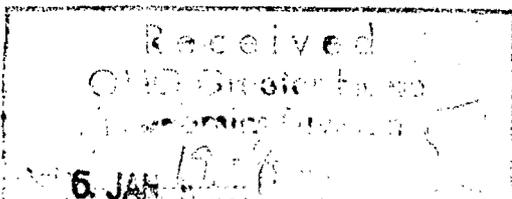
Forwarded herewith for your information is copy of
 Civil Censorship Intercept.

FOR THE CHIEF, RESTITUTION BRANCH:

1 Incl: a/s

Telephone BERLIN 42984

Richard E. Howard
 RICHARD E. HOWARD
 Chief, MFA&A Section



120747

260 390 45 018 7 Box 04

POST

RESTRICTED

COPY/er

CIVIL CENSORSHIP GROUP AUSTRIA (US)
APO U. S. Army, Salzburg Station

Date of Comment 4 November 1947

Number S/P/12505

From: OESTERREICHER
Blumenstr. 37
Munich
Germany

TO: SOMMER, Engelbert, Mr.
Ringstr. 22
Starnberg am Starnbergersee
Germany

Date of Communication	Date of Postmark	Registry No.	Type of Communication	Previous Records	Sender: Receiver
17.10.	19.10.47		German Mail		

Language: German Disposition: Passed Station Allocation: 7753 MG Det. CCG Allocation: CENS (GERMANY)
Reviewed by: JL Prop. Contr. and Restitution Sect.

DAC	AC	Allocator	Transl.	ADO	File Sect.	Typing Sect	Mail Sect
3.11.	3.11.	3.11.	3.11.	4.11.		4.11.	
1000 Sa.	1000 Ty	1100 P.	1245 Dr.	Fa. EOF		1100 V.	

INTENDED SALE AND SMUGGLE OF VALUABLE PAINTINGS FROM GERMANY

"Dear Mr. Sommer, I am here since the 4th and inform you that I am in touch with Villach and I think it'll come off soon. Regarding the paintings I got in touch with various persons who are buying for Americans. A Baron MENCERSEN will most likely be represented by some other man because he is an Austrian and can't come over. This man will give his and my name as reference. Please inform me immediately about what is now available. I enclose the reply, and ask you to give me your opinion immediately through the channels in B., so that I can pass it on. I shall establish further connections in Vienna. Please state exactly the motif of the pictures, size, price, and expert's appraisal. I think that these details will have arrived by the time I get to Vienna. I shall stay here until the end of the month, then I shall go to Vienna XVIII, Gustav Tschermackstrasse 24, c/o MAINFRUG. I hope you will get this letter soon, and I ask you to send me news via the Berchtesgaden address...."

"Dear Herma, I received your letter of 10th, inst. today. I discussed everything with my husband who has good connections with art dealers. Judging by your remarks the main difficulty seems to be that works of art are involved which are known internationally and, for this reason, can be sold only to international art dealers. Purchasers on this market are very wealthy, but also very strict and particular regarding proof of ownership. In other words: in selling these paintings it has to be established beyond any doubt that the present owner (seller) obtained those objects legally, and that there are no regulations prohibiting their transfer or sale. Since the paintings are in Germany, there might be great difficulties. The problem cannot be solved by smuggling some of the paintings

120748

260 390 45 18 7 Box 84

211-81

over the border. You can count on it that in the circles in question it is well known who the owner of a famous VAN DYCK or RUBENS was ..."

Examiner's Note: Reference is made to c/s S/P/ 12457. Letter was mailed in Austria although Munich is given as sender's address.

Original German:

Beabsichtigter Verkauf (Schmuggel) von wertvollen Bildern aus Deutschland

"Lieber Herr Sommer. Ich bin seit 4ten hier und gebe Ihnen Nachricht, mit Villach bin ich in Verbindung, denke es klappt dieser Tage. Sonst habe ich mit verschiedenen Personen wegen der B. Fuehlung genommen, hauptsaechlich die fuer Am einkaufen. Es wird sich ein Baron Mengersen, wahrscheinlich durch einen anderen Herrn vertreten lassen, da dieser Oesterreicher ist und nicht einreisen kann, dieser wird sich auf diesen und meinen Namen berufen. Ich bitte mir umgehend mitzuteilen was momentan zu haben ist, ich lege Ihnen die Antwort bei, bitte mir auch sofort ueber den Weg in B. Ihre Ansicht mitzuteilen, damit ich das weitergeben kann. In Wien werde ich ja noch mehr Verbindungen anknuepfen. Bitte bei den Bildern genau Motiv, Groessen Preis, Expertive, angeben. Ich denke bis ich in Wien bin, dann wird das alles schon einlaufen, ich bleibe bis Ende dieses Monats hier und dann gehe ich nach Wien XVIII, Gustav Tschermakstrasse 24 bei Mainprug. Ich hoffe, dass dieser Brief sehr bald in Ihren Haenden ist und ich bitte mir sofort ueber die Adresse in Berchtesgaden Nachricht zukommen zu lassen."

"Liebe Herma. Ich habe alles mit meinem Mann durchgesprochen, der eine gute Verbindung zum int. Kunsthandel hat. Nach den vorlaeufigen Angaben, die Du in Deinem Briefe machst, scheint die Hauptschwierigkeit darin zu liegen, dass es sich um Kunstwerte handelt, die international bekannt sind und daher nur wieder an den internationalen Kunsthandel verkauft werden koennen. Dieser Markt ist zwar zahlungskraeftig, stellt aber punkto Provenienznachweis sehr strenge Forderungen. Mit anderen Worten: beim Verkauf solcher Bilder muss einwandfrei feststehen, dass der jetzige Besitzer (Verkaeufner) diese Objekte rechtmassig erworben hat und keine Bestimmungen der Verbringung oder dem Verkauf entgegenstehen. Da die Bilder in Deutschland sind, scheint das eine grosse Schwierigkeit zu beinhalten. Mit dem "Herueberschmuggeln" einzelner Bilder allein ist das Problem nicht geloest. - Du kannst Dir denken, dass es in massgebenden Kreisen genau bekannt ist, wer der Besitzer eines bekannten van DYCK oder RUBENS war."

RESTRICTED

120749

200 390 45 10 7 Box 89

1000000

DECLASSIFIED	
Authority	775057
By	T J NARA Date 12/30/99

RG	260
Entry	Records of the Property Division
File	General Records of the DIRECTOR 44 2.50
Box	9

COPY

Request for Legal Opinion (Rathenau)

2 C/AFPA LD 25 May 1. Reference is made to Item No. 1 of this Carrier
Section 1948 Sheet requesting an opinion regarding title to two
Rest.Br. paintings. The pictures are of considerable value
PD and were owned by a Mr. Rathenau, who delivered them
to a lawyer named Sedlmayer, apparently pursuant to

an agreement, before fleeing Germany. It is asserted that Sedlmayer violated this agreement by selling the pictures to Dienststelle Muehlmann for Hitler's Lina Museum. Through mistakes the pictures were restituted to The Netherlands government over a year ago, as a result of erroneous OSS reports. The Netherlands government displayed the pictures in the United States. Rathenau, then (and now) in New York, saw the pictures and asked for possession. At about this time The Netherlands government learned that the restitution was made in error and that the pictures had never been in The Netherlands prior thereto. In view of this, The Netherlands government, which seems to entertain no doubt regarding the validity of Rathenau's claim, gave him conditional custody and possession of the pictures, pursuant to an agreement. We are informed that Rathenau, who is now in possession of the pictures, wishes to give them to the Metropolitan Museum of Art.

2. We are asked for an opinion as to (a) whether Article 6 of MG Law No. 59 is applicable to this case; (b) whether Sedlmayer's act, in disposing of the pictures, amounts to an embezzlement; (c) whether Rathenau's title to the property is clear and can be confirmed.

3. Article 6 of MG Law No. 59 excludes certain bailments and fiduciary agreements from the operation of Parts III to VII of the law and, in effect, removes such matters from the scope of the law. In the absence of more complete information regarding the agreement between Rathenau and Sedlmayer, we cannot determine whether this agreement constituted a bailment or fiduciary relationship between the parties within the meaning of Article 6 of MG Law No. 59. If this question should arise in connection with any claim filed pursuant to that law, it could of course, be decided by the Restitution Chamber (see Article 67 of the cited law).

4. This Division cannot, on the limited facts stated in Item No. 1 regarding the agreement between Rathenau and Sedlmayer, give an opinion as to whether Sedlmayer's act in disposing of the pictures constituted an embezzlement. For the same reason, we cannot pass on the question of whether Rathenau's title to the pictures is "clear". Moreover, we call attention to the fact that an opinion of this Division on this point could not have the effect of "confirming" Rathenau's title to this property. The decision of a court would be necessary to accomplish this result.

5. The following comments are offered to suggest what Military Government should do in order to protect its own interests and those of other possible claimants to this property. The possibility exists that internal and external restitution claims may be filed for this property. All internal restitution claims (under MG Law No. 59) must be filed by 31 December 1948 (see Article 56, Part IX, MG Law No. 59). We believe that The Netherlands government should be so advised and requested not to make an unconditional release of the pictures to Rathenau until it is advised by Military Government sometime after that date that no claims against this property have been filed under MG Law No. 59. If such claims are made, the United States could, pursuant to the receipt executed by The Netherlands government when it received the pictures (see MGR 18-550), require The Netherlands government

120750

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Authority	775057
By	TJ NARA Date 12/30/99

RG	260
Entry	Records of the Property Division
File	General Records of the DIRECTOR W 2 150
Box	9

COPY

Request for Legal Opinion (Rathenau)

to restore them. In addition, we recommend that The Netherlands government be asked to request Mr. Rathenau to submit to Military Government, prior to 31 December 1948, a statement, supported by appropriate documentary evidence, of his claim to these pictures. This Division will be happy to examine this statement and advise as to whether it appears to substantiate Mr. Rathenau's claim. If this should prove to be the case and no other claims (on the theory of external restitution or otherwise) have been made for the property by 31 December 1948, Military Government could notify The Netherlands that it has no objection to the unconditional release of these pictures to Mr. Rathenau and that, if such transfer is made, it releases The Netherlands from the obligation to return this property contained in the receipt given in connection with the original transfer to The Netherlands. In thus authorizing the release of this property, Military Government would not adjudicate Mr. Rathenau's title there- to but would merely return to a claimant property to which he appeared to have title and with respect to which no other meritorious claims have been made.

FOR THE DIRECTOR:

Tel. 42457
Rm. 2112, Dir. Bldg.

JAMES E. HEATH
Acting Chief, Legal Advice Br.

DECLASSIFIED
Authority <u>775057</u>
By <u>TJ</u> NARA Date <u>12/30/99</u>

RG 260
 Entry Records of the Property Division
 File General Records of the DIRECTOR JV 2 50
 Box 9

~~Mr. Cassidy~~ File
Legal Opinions Law 59

Effect on Claimant of Failure to Report Under Article 73, MG Law No. 59

2 FD LD 1 Mar
 1949

1. Item 1 of the carrier sheet dated 24 November 1948 asks the opinion of Legal Division regarding the rights of a potential claimant under MG Law No. 59 who has been prevented from filing his claim in due time as a result of the negligence or fraud on the part of the restitutor in failing to file a report as required by Article 73 of the Law.

2. Para 1 of Article 56, MG Law No. 59, requires that a petition for restitution be submitted to the Central Filing Agency on or before 31 December 1948. The law gives the time within which the petition must be filed and it is thus a statute of creation, not a statute of limitation. (See 34 Am. Jur., Limitation of Actions, para 7.) The right of petition created by the law is not merely unenforceable after 31 December 1948 but ceases to exist in the petitioner (see Article 11, MG Law No. 59). Thus a potential claimant who has been prevented from entering a timely claim no longer has the right to petition for restitution.

3. Article 67 of the Restitution Law (MG Law No. 59) states that (subject to certain modifications not applicable here) the procedure to be followed in actions under that law shall be governed by the rules governing procedure in the field of German non-contentious litigation (Freiwillige Gerichtsbarkeit). In our opinion this Article is only applicable to proceedings in the Restitution Chamber, and, consequently, the procedure mentioned is not available to a petitioner under the Restitution Law until his claim has been filed. For this reason a potential claimant who did not file his claim by 31 December 1948 would be unable to avail himself of the provisions for restitution in integrum which would normally be open to him under this procedure (see Gesetz ueber die Angelegenheiten der Freiwilligen Gerichtsbarkeit, as amended; and Code of Civil Procedure (ZPO), Section 233 (1)).

4. Nor would it be possible for a potential claimant to succeed in a tort action for damages against a restitutor who failed to file the report required by Article 73 of MG Law No. 59 as a result of negligence or fraudulent intent. A tort action of this nature could normally be brought under Sections 823 (2) and, possibly, under Section 826, German Civil Code (BGB). However, the tort actions under consideration could not be enforced either by restitution authorities or by ordinary courts. Article 57 (1st sentence) of MG Law No. 59 provides explicitly that claims "which come under this Law" can be prosecuted before restitution authorities only if they were filed within the period of limitation. In view of the fact that the period of limitation has not been complied with in the situation described by you, the restitution authorities lack jurisdiction over these claims. Nor could such tort actions be enforced by German ordinary courts. Article 57 (second sentence) of MG Law No. 59 provides that claims based on tort "which do not come under the provision of this Law" may be prosecuted in the ordinary courts. Since these claims come under the provisions of MG Law No. 59, even though they contain additional elements, prosecution in the ordinary courts would not be permissible.

5. This conclusion is not inconsistent with Article 71 of MG Law No. 59. Article 71 provides for a certain procedure in the event that claims as described in Articles 1 - 48 are asserted by a person entitled to restitution. Even in the event that Article 71 applies not only to restitution cases pending before ordinary courts at the time when MG Law No. 59 goes into effect, but also to cases prosecuted afterwards, it appears that the procedure set forth in Article 71 is applicable only if a claim has been filed within the time limit prescribed in Article 56, which is not the case in the situation described by you.

FOR THE DIRECTOR:

Telephone 43707

JAMES E. HEATH
 Chief, Legal Advice Branch

Mr. Cassidy

120752

DECLASSIFIED	
Authority	775057
By	TJ NARA Date 12/30/99

RG	260
Entry	Records of the PROPERTY DIVISION
File	General Records of the DIRECTOR 44 2 50
Box	9

COPY

Conflict between CC Directive No. 50 and Military Government Law No. 59

2 PD ID 22 April 1948 1. The several questions raised in Item 1 of this carrier sheet are answered as follows:

2. Article VIII of Control Council Directive No. 50 provides, in effect, that property owned by the Nazi organizations listed in Control Council Proclamation No. 2 and Control Council Law No. 2 shall be restituted according to the general restitution procedures adopted in each Area of Occupation. With respect to internal restitution, such procedures were established for Bavaria, Bremen, Hesse and Wuerttemberg-Baden by Military Government Law No. 59. Therefore, all property within the purview of Article VIII of Control Council Directive No. 50 will be restituted so far as internal restitution is concerned, under the provisions of Military Government Law No. 59. See also Military Government Law No. 58.

3. Reports on such property should be filed pursuant to Article 73 of Military Government Law No. 59 and in accordance with Regulation No. 2 under that Law. Where property is presently under Military Government Control, any information required for the administration of Military Government Law No. 59 should be submitted by the agencies having the property under control.

FOR THE DIRECTOR:

Tel. 42351
Rm. 2123 Dir Bldg.

JAMES E. HEATH
Acting Chief, Legal Advice Branch

120753

DECLASSIFIED
Authority 775057
By TJ NARA Date 12/30/99

RG 260
Entry Records of the Property Division
File General Records of the DIRECTOR 44-2-150
Box 9

Law 59

Form HICOG-8
(15 Sept 49)

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY

OFFICE MEMORANDUM

To: F.J. Miller - Rm. 510A

Date: 13 December 1949

From: C. E. Marshall

Subject:

45. Under the restitution program, is any plan in force to alleviate hardship where Jewish property was bought in good faith, particularly in the case of small farmers and businessmen.

*comment attached
F. Miller 12/13*

8013 8845

OMGUS 9-2832 P Sept 49 100 M

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REPRODUCED AT THE NATIONAL ARCHIVES

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Authority	775057
By	TJ NARA Date 12/30/99

RG	260
Entry	Records of the PROPERTY DIVISION
File	General Records of the DIRECTOR 44 2 50
Box	9

F. Miller
8013
8845

December 13, 1949

QUESTION NO. 45:

Under the Restitution Program, is any plan in force to alleviate hardship where Jewish property was bought in good faith, particularly in the case of small farmers and businessmen?

COMMENT:

One of the basic principles characterizing the Restitution Law and expressed in the first article of the Law, states that "property shall be restored to its former owner or to his successor in interest in accordance with the provisions of this Law even though the interests of other persons who had no knowledge of the wrongful taking must be subordinated. Provisions of law for the protection of purchasers in good faith, which would defeat restitution, shall be disregarded except where this Law provides otherwise."

There are, however, provisions contained in the Law for the mitigation of responsibility of persons who are either innocent, or whose acquisition of the property is not attributable to an aggravated or malicious confiscation. For example, a holder or former holder of confiscated property may be excused from liability if he is unable to return the property, or if it has deteriorated, providing he can demonstrate that he has exercised due diligence in his care of the property, and if he is not chargeable with knowledge of the confiscation. Moreover, he may have an accounting for certain funds which he has expended or for a portion of the profits, and may also deduct payment for taxes and other necessary expenses incurred in preserving the property.

The Restitution Law further provides that certain types of property will not be subject to restitution, such as tangible personal property which the present owner or his predecessor in interest acquired in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property. This provision does not include religious objects or property which has been acquired from private ownership, if it is of unusual artistic, scientific or sentimental personal value, or was acquired at an auction or private sale in an establishment engaged considerably in disposing of confiscated property. Money is subject to restitution only if the person acquiring it knew or should have known at the time and under the circumstances that it had been obtained by way of confiscation.

Under German law in force during the Nazi Regime, all Jewish persons were required to adopt a first name which would readily identify such persons as Jews. Consequently, the sale of any real property

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By	<u>TJ</u> NARA Date <u>12/30/99</u>

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File	<u>General Records of the DIRECTOR 44-150</u>
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- 2 -

owned by them would reflect, in the Land Title Register, the identity of the Jewish owner at a glance, and would put the next purchaser on notice. Consequently, many purchasers of Jewish real estate, by an ordinary search of title, should have been in a position to know that the seller was Jewish, and under then-prevailing discriminatory policy and legislation concerning Jews, may be presumed to have known the source of the property.

The Restitution Law presumes that any transfer or relinquishment of property made by a person who belonged to the persecuted classes now recognized was a transfer under duress. The Law does provide, however, that such presumption may be rebutted by showing that the transferor was paid a fair purchase price (that is, the amount of money which a willing buyer would pay and a willing seller would take, taking into consideration such factors as good will etc.), and providing that the seller had a free right of disposal of the proceeds, and if the transaction was such that would have taken place even in the absence of National Socialism.

There is no plan in force which is designed particularly to alleviate the situation of small farmers and businessmen who may be affected by the Law. The provisions above referred to are provisions from the Restitution Law, which is presently in course of interpretation and decision by the German courts. Final decision or application of the principles outlined here must still be made by these courts and by the Special Court of Appeals for Restitution, an American-staffed final appeals body under Law 59.

120756

RETURN OF LOOTED OBJECTS OF ART TO COUNTRIES OF ORIGIN

Memorandum by the State Department Member of the
State-War-Navy Coordinating Committee *

The introduction of looted objects of art into this country is contrary to the general policy of the United States and to the commitments of the United States under the Hague Convention of 1907 and in case of objects of a value of \$5,000 or more is a contravention of Federal law. It is incumbent on this Government, therefore, to exert every reasonable effort to right such wrongs as may be brought to light.

The following program is proposed to that end.

1. The Department of State should send to all museums, libraries, university departments of fine arts, art and antique dealers and auction houses and booksellers a circular of the following content.

a. The responsibility and the desire of this Government to return to their countries of origin those cultural objects which have been wrongfully taken and brought to the United States during and after the war:

b. A request that recipients of the circular be vigilant to note objects in that category, when feasible to invite deposit of such objects pending settlement, and to notify the Department of State immediately of any obtainable information concerning such objects.

2. The Department of State should address letters to all known holders of such objects who have been unwilling to give them up to the circularized groups formally requesting the surrender of the objects in question.

3. In the case of objects having a value of \$5,000 or more the Department of State should request the Department of Justice to bring suit under the National Stolen Property Act in case a request is not satisfactorily answered.

4. When the ownership of surrendered objects can be easily determined and such objects are known to belong in countries having diplomatic representation in the United States, the Department of State should make arrangements to have the objects in question suitably packed and delivered to the indicated embassy or legation in Washington and receive an authenticated receipt therefor. If there is some question as to ownership or the local mission does not wish to accept responsibility for return of the property, such property shall be returned to the United States Military Government from whose jurisdiction it was removed so that restitution may be made through the usual channels.

5. When

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5. When surrendered objects are determined to belong in Germany or Austria or Japan or Korea the State Department should make arrangements for suitably packing and delivery to the War Department for transport to United States Military Government authorities in the country of origin. Should conditions obtaining in a given occupied country make it unwise immediately to return a surrendered object, the State Department should ask the National Gallery of Art to assume temporary custody.

6. The expenses of this program should be borne in the following manner:

a. If the person surrendering a given object acquired it while serving in the Army or under Army jurisdiction, the War Department should defray the necessary costs of return.

b. If the person surrendering a given object acquired it while serving in the Navy or Marine Corps or Coast Guard or under Navy or Marine Corps or Coast Guard jurisdiction, the Navy Department should defray the necessary costs of return.

c. Should it be impossible to determine the manner in which a looted cultural object has been brought into the United States the Department of State should meet the costs.

* Approved by the State-War-Navy Coordinating Committee, Jan. 28, 1947.
Printed in Department of State Bulletin, Vol. XVI, No. 399, Feb. 23, 1947.

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By <u>AST</u> NARA Date <u>7/7/77</u>

(*)

DRAFT OUTLINE

THE RETURN OF WORKS OF ART ILLEGALLY IMPORTED INTO USA
FROM OCCUPIED OR LIBERATED COUNTRIES

It is agreed that objects of art, etc., which are known to have been looted from war areas, or objects for which no clear title can be claimed, are to be returned to the country from which shipment was made. It is recommended that the return of property belonging to public institutions be regarded of first importance.

Apprehension of loot in Customs.

The now rescinded Customs Regulation T.D. 51072 provided that works of art should only be imported under license, issued on submission of proof of bona-fide ownership. This regulation is now supplanted by an agreement with Great Britain and France (drafted in Paris) that lists of looted objects are to be furnished by claimant countries to U.S. Customs, who shall check imports against such a list.

(This goes along with Article 3 in the 1939 Draft Convention for the repatriation of national collections of art and history. Such an international agreement as the "Draft International Convention for the Protection of National Collections of Art and History", should be regarded as a probable extension of whatever methods are formulated now for the return of cultural property. We

needed such

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By <u>HT</u> NARA Date <u>7/7/77</u>

needed such a law in the past and we shall need it even more in the future.)

Apprehension of loot in the USA, by museums and dealers.

Up to now this has been accomplished by the museums and dealers notifying the Roberts Commission, (see accompanying notice).

A STATEMENT SHOULD BE SENT OUT TO THE SAME LIST OF MUSEUMS, ART AND ANTIQUE DEALERS, AND AUCTION HOUSES ASKING THAT THE SAME INFORMATION REGARDING OBJECTS OF DOUBTFUL OWNERSHIP BE SENT TO THE STATE DEPARTMENT.

Surrender of objects.

The surrender of objects may be voluntary, if not, what can be done to obtain the objects?

a. Members of the armed forces. Who can demand objects from members of the armed forces?

b. Civilians. Property would generally be held in custody by customs for importations of dealers and civilians.

c. Third Parties. How can such property be obtained after it has changed hands?

Custody of objects prior to return.

a. Museums or the U.S. Government to take custody?

Museums can

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By <u>Pat</u> NARA Date <u>2/7/77</u>

Museums can be asked to hold the objects pending final disposition, as long as no expense is involved for them. They are doing this now.

A Central Collecting Center might be arranged at the National Gallery of Art or at some Government agency for the return of the objects.

b. See b. above.

Return of objects.

a. Return to enemy countries. The objects shall be returned to enemy countries through the U.S. Military Governments: COMCUS in Germany or SCAP in Japan, (to the Monuments and Fine Arts officers at the Central Collecting Center for art).

b. Return to Allied and neutral countries. The objects shall be returned through diplomatic channels, either to the foreign embassy in Washington or to the American Embassy in the country concerned.

Cost of returning the objects.

a. Objects found in the possession of the members of armed forces. Is the U.S. Government responsible for the return of objects removed by members of the armed forces? Interpretation of Article 3 in the 1907 Hague Convention repeated in para. 345 of the Rules of Land Warfare?

b. objects

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By <u>AT</u> NARA Date <u>7/7/77</u>

b. Objects found in possession of civilians.
Who pays for return of objects turned back in
customs?

Under article 3 in the above mentioned 1939
Draft Convention the cost of repatriating surrender objects
was to be borne by the claimant country.

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By <u>PT</u> NARA Date <u>7/7/77</u>

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Authority NND 943011

By SR NARA Date 11-9-99

RG 218

Entry 2 - GEOGRAPHIC FILE

File CCS 383-23-GERMANY

Box 72

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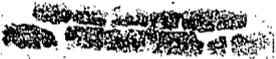
J.C.S. 1517/2

13 November 1945

Pages 23 - 32 incl.



COPY NO. 70



JOINT CHIEFS OF STAFF

SUMMARY OF SEPTEMBER 1945 REPORT OF THE

MILITARY GOVERNOR, U.S. ZONE, GERMANY

Reference: J.C.S. 1517 Series



Note by the Secretaries

The enclosed summary of the September 1945 report of the Military Governor, U.S. zone, Germany, prepared by the Joint Civil Affairs Committee is circulated for information.

A. J. McFARLAND,

C. J. MOORE,

Joint Secretariat.



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Authority NND943011
By SR NARA Date 11-9-99

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Entry 2 - GEOGRAPHIC
FILEFile CS 383 (2) - GERMANYBox 72 13-72-44 U.S. 10ENCLOSURESUMMARY OF SEPTEMBER 1945 REPORT OF THE MILITARY
GOVERNOR, U.S. ZONE, GERMANY

C122642

1. THE ALLIED CONTROL AUTHORITY

As a result of the organizational ground-work completed during the month of August, the machinery of the Allied Control Authority functioned with increasing momentum and smoothness during September, insofar as procedure was concerned. The percentage of problems which received final disposition in the Control Council has been rather small, in some cases disappointingly so, because of the necessity of obtaining unanimous agreement. One of the difficulties encountered during September was the unwillingness of the French authorities to agree to the establishment of the central German administrative machinery provided for by the Potsdam agreement as necessary to the treatment of Germany as a single economic unit. Because of the French position, no real progress was made toward the creation of the five central German agencies proposed.

2. GERMAN GOVERNMENTAL ORGANIZATION

A new step in the organization of German administration in the U.S. zone was taken when an order was issued on 21 September combining the provinces of Hessen and Hessen-Nassau in a single Land* to be called Gross-Hessen. A second development of far-reaching importance during September was the approval of a plan for coordinating the activities of the three German Laender* governments in the U.S. zone in common administrative matters. A plan has been approved for terminating the functional or specialist responsibilities of military government in progressive stages and in levels below the Regierungsbezirk** by 15 December 1945. It is however planned to retain close supervision of the governments of the Laender, and special military government teams will be retained for investigative and reporting duties to verify reports of higher German officials and insure compliance with our directives.

* German political subdivision for which the term "state" is the nearest English equivalent. Plural is Laender or Laender.

** German political unit made up of a number of Kreise or counties.

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Authority 110943011By SR NARA Date 11-9-99

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Entry 2 - GEOGRAPHIC FILE

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Property Control

As of 30 September, 2,221 properties falling under prescribed specifications were under control in the U.S. zone. This figure is somewhat higher than anticipated in the August report.

16. REPARATIONS AND RESTITUTION

The Potsdam Protocol established the general policy for reparations and September was the first month that pronounced progress was made. Twenty-nine major industrial plants in the Western Districts were declared non-essential to the maintenance of a minimum German economy; of these 13 are in the U.S. zone and are now being dismantled and packed preparatory to shipment. Art objects in the U.S. zone were held in a total of 736 repositories at the end of September.

17. COMMUNICATIONS AND POSTS

Satisfactory progress was made during September in re-establishing the communications and postal network in spite of the dismissal of telephone and postal employees under the denazification program. Over 45 percent of the pre-war local telephone exchanges are now in operation, serving some 42,000 telephones in the U.S. zone. Practically full mail service within the zone was inaugurated, including post cards, letters, both ordinary and registered, commercial papers and small parcel post packages in some areas.

18. DISPLACED PERSONS

Up to the end of September 2,500,000 displaced persons had been repatriated from the U.S. zone, representing almost half of the total number of repatriations from Germany. Some 535,000 displaced persons remained in the zone awaiting repatriation. The largest number of those yet to be repatriated were the Poles and Hungarians. The former were divided in their political feelings and only 50 to 80 percent of them have so far expressed a willingness to return to Poland.

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Authority *WD 98863*
By *CA* NARA Date *8/27/10*

RG *131*
Entry *Accession 131-64E 96*
File *Alien Prop. Cust.*
Box *295*



NATIONAL GALLERY OF ART
WASHINGTON 25, D. C.

SMITHSONIAN INSTITUTION

May 5, 1948

RECEIVED
MAY 6 9 30 AM '48
OFFICE OF THE
ASST. SOLICITOR GENERAL

Dear Mr. Harris:

I am enclosing a copy of a revised form of Agreement Governing Loan of Berlin Paintings. You will note that the clarifying amendments you suggested for paragraphs five, nine, and fifteen have been made. Likewise the sentences in paragraph 7 were rearranged as you recommended. There are other textual changes, but none of radical nature.

*file
MH*

If any changes occur to you as desirable in the present form, I should like to receive notice of them. Your cooperation in this matter has been appreciated and I value the approval you expressed of the document as a whole.

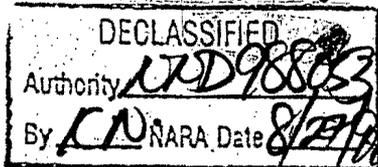
Yours very truly,

Everett Smith
[Signature]

Mr. Abraham Harris
Office of Solicitor General
Room 5125
Department of Justice
Washington 25, D. C.

X Enclosure

9-21-016
DEPARTMENT OF JUSTICE
AUG 24 1948
DIVISION OF RECORDS
ASST. SOLICITOR GENL.



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File	Alien Prop. Cust.
Box	295

Agreement Governing Loan of Paintings
from Berlin Museums

1. Paintings to be loaned. All paintings to be loaned shall be from the collection of 202 works of art brought from Germany to the United States in 1945. The participating museums scheduled for loans prior to September 1, 1948, as shown below, will receive approximately 150 paintings, the identity of which is substantially as shown in the attached list marked Exhibit A. The participating museums scheduled for loans subsequent to September 1, 1948, as shown below, will receive approximately 100 of the paintings shown in Exhibit A. It is understood and agreed, however, that the number of paintings to be loaned at any time is subject to revision by the Department of the Army.

2. Dates of the loan. Subject to adjustment by the committee composed of Dr. George H. Edgell, of the Museum of Fine Arts, Boston, Mr. Daniel Catton Rich, of the Art Institute of Chicago, and Mr. Horace Jayne, of the Metropolitan Museum of Art, New York, with the approval of the National Gallery of Art, the loan schedule will be as follows:

Metropolitan Museum of Art, New York, New York
May 17 through June 12, 1948

Philadelphia Museum of Art, Philadelphia, Pennsylvania
June 17 through July 6, 1948

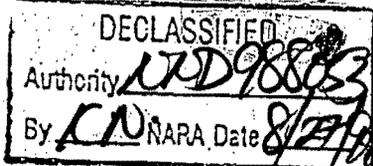
Art Institute of Chicago, Chicago, Illinois
July 12 through August 1, 1948

Museum of Fine Arts, Boston, Massachusetts
August 7 through August 27, 1948

Detroit Institute of Arts, Detroit, Michigan
September 3 through September 23, 1948

Cleveland Museum of Art, Cleveland, Ohio
September 30 through October 20, 1948

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Entry	Accession 131-64E 96
File	Alien Prop. Cust.
Box	295

- 2 -

Minneapolis Institute of Arts, Minneapolis, Minnesota
October 26 through November 15, 1948

M. H. De Young Memorial Museum, San Francisco, California
November 29 through December 19, 1948

Los Angeles County Museum of History, Science and Art,
Los Angeles, California
December 29 through January 18, 1949

City Art Museum of St. Louis, St. Louis, Missouri
January 25 through February 14, 1949

Carnegie Institute, Pittsburgh, Pennsylvania
February 19 through March 11, 1949

Toledo Museum of Art, Toledo, Ohio
March 15 through March 31, 1949

The museums just listed shall be known as the participating museums.

3. Direct Expenses of the loan. (a) Transportation from the place of previous exhibition to the museum next exhibiting shall be at the expense of the latter institution. Transportation from the museum last exhibiting to the shipment point to be designated shall be charged against all the participating museums in equal ratios.

(b) Each participating museum shall bear its own unpacking and installation costs.

(c) Packing for shipment to the museum next exhibiting or to the final shipment point designated shall be at the expense of the museum having custody of the paintings. The extra packing required for overseas shipment will be at the expense of the Department of the Army.

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Authority	ND 98803
By	LN NARA Date 8/27/00

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- 3 -

4. Overhead expenses. Each participating museum will be responsible for an equal, ratable share of the following expenses:

(a) The transportation expense (including transportation to and from this country) of the two German technicians who will be assigned to accompany the paintings from place to place, plus a per diem subsistence payment to each person assigned of approximately fifteen dollars (\$15) after taxes. The German technicians will be made available by the Department of the Army upon receipt of the funds necessary to defray the expense of their transportation to this country.

(b) The transportation expense of Mr. J. C. Kirby of the Walters Art Gallery, Baltimore, Maryland, plus a subsistence payment of fifteen dollars (\$15) per day when necessarily occupied in traveling and in supervising the loading, unloading, local transportation, packing, unpacking, advising upon records of condition, and other assigned duties.

5. Deposit. A deposit of Two Thousand Dollars (\$2,000) by each museum shall be made with the Treasurer of the National Gallery of Art to cover the expenses mentioned in paragraph 4, one half of which, or One Thousand Dollars (\$1,000), is due immediately and is hereby requested. The remaining One Thousand Dollars (\$1,000) shall be paid upon demand made by the Treasurer of the National Gallery of Art. Any funds remaining unused after the exhibition tour is finished and all expenses ratably charged against the deposits will be

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Authority	ND 98803
By	LN NARA Date 8/27/10

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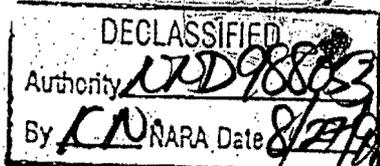
- 4 -

returned to the depositors. If further funds are needed, each participating museum will be obligated to pay its equal, ratable, share upon demand made by the Treasurer of the National Gallery of Art. In the event that an exhibition for any reason does not take place at one or more of the participating museums, the National Gallery of Art shall refund the deposit of such museums and make an assessment of the amount needed for the expenses stated in paragraph 4 against the exhibiting museums in equal ratio, which assessment each exhibiting museum hereby agrees to pay.

6. Insurance. As suggested by the Senate Armed Forces Committee, with the concurrence of the Department of the Army, no participating museum will be required to carry insurance on the paintings borrowed by it either while the paintings are in transit or on the premises of the institution.

7. Extent of financial responsibility for loss or damage.
 If loss of or damage to any painting occurs from any cause without negligence on the part of the museum, its trustees, officers or employees, then the liability of the museum to make good such damage or loss will be limited to the receipts realized by the museum as a result of the exhibition of the paintings. *Except as just stated, no*
 participating museum and no trustee, officer or employee thereof shall be liable for any damage to or loss of any painting unless the loss or damage is occasioned by its or their negligence. If damage or loss occurs due to negligence on the part of any museum, its trustees, officers or employees, the museum will be fully liable.

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RG	131
Entry	Accession 131-64E 96
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Box	295

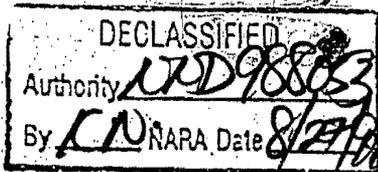
- 5 -

8. Transportation. The means and methods of transportation agreed upon by the institutions concerned shall be subject to the approval of, and shall meet the standards imposed by, the National Gallery of Art and the Department of the Army. Accordingly, notice of the means of transportation proposed to be used shall be given to the National Gallery of Art in ample time to permit other arrangements to be made should the contemplated means of transportation be considered unsuitable by the National Gallery of Art and the Department of the Army. All participating museums will be notified of the standards mentioned as soon as possible.

9. Admission to exhibitions. Reasonable admission fees, to be determined for itself by each participating museum, shall be charged by each museum if it is practicable for it to do so. In the event admission fees are for any reason impracticable at any museum, the institution shall encourage a silver offering for the benefit of German children as hereinafter specified. Under existing law admission fees are subject to Federal admissions tax at the rate of one cent for each five cents, or major fraction thereof, of admission charge. Voluntary silver offerings are not subject to such tax.

10. Accounting for receipts. A proper record of receipts realized from fees and contributions shall be kept. At the conclusion of the exhibition at each museum, the museum shall submit a statement accounting for the receipts to the National Gallery of Art (Attention of the Treasurer).

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11. Disposition of receipts. Each museum shall remit the receipts realized from the exhibition of the loaned paintings to the National Gallery of Art (Attention of the Treasurer) in any reasonable manner and at such times as it sees fit provided that upon the closing of the exhibition at the museum prompt remittance shall be made. The funds will be placed in a separate account on the books of the National Gallery of Art and disbursed by the Treasurer, upon the approval of a majority of a committee consisting of Dr. Edgell, Mr. Rich and Mr. Jayne, to Commander-in-Chief, Europe, or his successor for the benefit of German children.

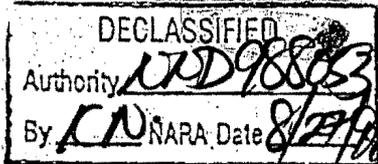
12. Receipts for paintings. As the loaned paintings are received, a ~~duplicate~~ ^{in duplicate} receipt therefor shall be given to the institution from which received, which shall thereupon send one of the duplicates to the National Gallery of Art.

13. Treatment of the collection. (a) The paintings loaned shall remain in the condition in which they are received. They shall not be cleaned, varnished, repaired, retouched, unframed or altered in any way whatever except with written permission of the National Gallery of Art.

(b) Damage or loss, whether in transit or on the borrower's premises and regardless of responsibility shall be reported immediately to the National Gallery of Art.

(c) The paintings shall not be subjected to technical examination of any type without the written permission of the National Gallery of Art. Provided the paintings are not

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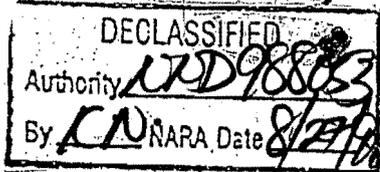
unframed, borrowers may reproduce the paintings by photograph or otherwise for any appropriate purpose in accordance with accepted museum practice.

14. Recall. The collection of paintings loaned or any portion thereof shall be subject to immediate recall by the National Gallery of Art in the event that the Department of the Army so demands.

15. Security. Adequate measures shall be taken by the borrowing institutions for the security of the paintings, consistent with the value and importance of the collection. It is recommended that the paintings be kept under surveillance at all times and that as a general rule there be one guard for each 20 paintings during exhibition hours. The Department of the Army undertakes to make military guards available for the security of the paintings while in transit and to supplement the protective services of the museum where they are exhibited. Accordingly, the borrowing institution shall coordinate its protective measures with the appropriate military headquarters to be designated.

16. Immunity of National Gallery of Art from liability and expense. It is understood and agreed that any action taken by the National Gallery of Art for the purpose of carrying out arrangements for the loans and exhibition tour of the paintings in question is taken as agent for the Department of the Army and will involve no individual or collective liability on the part of the Gallery, or its trustees, officers, or employees.

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The National Gallery of Art is not a participating museum and shall not be obligated to share in or contribute to the expenses of the exhibition tour in any manner.

17. Continuance of Committees. The committee consisting of Dr. Edgell, Mr. Rich and Mr. Jayne, above mentioned, shall continue in existence during the exhibition tour for the purpose of advising the National Gallery of Art upon administrative policies and details. The full committee of art museum directors, consisting of the museum representatives named below, shall likewise continue in existence for advisory purposes.

David E. Finley, Chairman, Director, National Gallery of Art, Washington, D. C.

G. H. Edgell, Director, Museum of Fine Arts, Boston, Massachusetts

Daniel Catton Rich, Director, Art Institute of Chicago, Chicago, Illinois

H. F. Jayne, Vice Director, Metropolitan Museum of Art, New York, New York

Fiske Kimball, Director, Philadelphia Museum of Art, Philadelphia, Pennsylvania

William M. Milliken, Director, Cleveland Museum of Art, Cleveland, Ohio

Edgar P. Richardson, Director, Detroit Institute of Arts, Detroit, Michigan

Russell A. Plimpton, Director, Minneapolis Institute of Arts, Minneapolis, Minnesota

Walter Heil, Director, M. H. De Young Memorial Museum, San Francisco, California

James H. Breasted, Jr., Director, Los Angeles County Museum of History, Science and Art, Los Angeles, California

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By

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Date

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Entry

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5/4/48

Told Smith of
National Gallery
re comments on
A.H. 5, 7, 9, 15 Told
him that comments
on 7+15 are
important

A/H

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Authority	WD 98803
By	LN NARA Date 8/27/78

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Introduced

Agreement Governing Loan of Paintings
from Berlin Museums

1. Paintings to be loaned. All paintings to be loaned shall be from the collection of 202 works of art brought from Germany to the United States in 1945. The participating museums scheduled for loans prior to September 1, 1948, as shown below, will receive approximately 150 paintings, the identity of which is substantially as shown in the attached list marked Exhibit A. The participating museums scheduled for loans subsequent to September 1, 1948, as shown below, will receive approximately 100 of the paintings shown in Exhibit A. It is understood and agreed, however, that the number of paintings to be loaned at any time is subject to revision by the Department of the Army.

2. Dates of the loan. Subject to adjustment by the committee composed of Dr. George H. Edgell, of the Museum of Fine Arts, Boston, Mr. Daniel Catton Rich, of the Art Institute of Chicago, and Mr. Horace Jayne, of the Metropolitan Museum of Art, New York, with the approval of the National Gallery of Art, the loan schedule will be as follows:

Metropolitan Museum of Art, New York, New York
May 18 to June 13, 1948

Philadelphia Museum of Art, Philadelphia, Pennsylvania
June 18 to July 8, 1948

Art Institute of Chicago, Chicago, Illinois
July 14 to August 4, 1948

Museum of Fine Arts, Boston, Massachusetts
August 10 to August 31, 1948

Cleveland Museum of Art, Cleveland, Ohio
September 7 to September 28, 1948

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Detroit Institute of Arts, Detroit, Michigan
October 5 to October 26, 1948

Minneapolis Institute of Art, Minneapolis, Minnesota
November 1 to November 22, 1948

M. H. De Young Memorial Museum, San Francisco, California
December 6 to December 27, 1948

Los Angeles County Museum, Los Angeles, California
January 6 to January 27, 1949

St. Louis Art Museum, St. Louis, Missouri
February 3 to February 24, 1949

Carnegie Institute, Pittsburgh, Pennsylvania
March 1 to March 22, 1949

Toledo Museum of Art, Toledo, Ohio

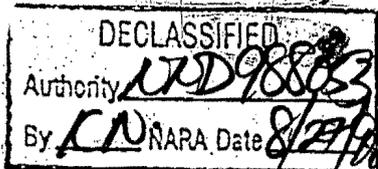
3. Direct Expenses of the loan. (a) Transportation from the place of previous exhibition to the museum next exhibiting shall be at the expense of the latter institution. Transportation from the museum last exhibiting to the shipment point to be designated shall be charged against all the participating museums in equal ratios.

(b) Each participating museum shall bear its own unpacking and installation costs.

(c) Packing for shipment to the museum next exhibiting or to the final shipment point designated shall be at the expense of the museum having custody of the paintings. The extra packing required for overseas shipment will be at the expense of the Department of the Army.

4. Overhead expenses. Each participating museum will be

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responsible for an equal, ratable share of the following expenses:

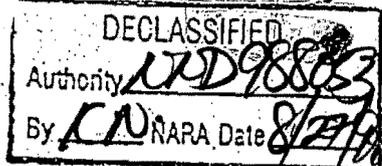
(a) The transportation expense (including transportation to and from this country) of the two German technicians who will be assigned to accompany the paintings from place to place, plus a per diem subsistence payment to each person assigned of approximately fifteen dollars (\$15) after taxes. The German technicians will be made available by the Department of the Army upon receipt of the funds necessary to defray the expense of their transportation to this country.

(b) The transportation expense of Mr. J. C. Kirby of the Walters Art Gallery, Baltimore, Maryland, plus a subsistence payment of fifteen dollars (\$15) per day when necessarily occupied in traveling and in supervising the loading, unloading, local transportation, packing, unpacking, advising upon records of condition, and other assigned duties.

5. Deposit. A deposit of Two Thousand Dollars (\$2,000) by each museum shall be made with the Treasurer of the National Gallery of Art to cover the expenses mentioned in paragraph 4, one half of which, or One Thousand Dollars (\$1,000), is due immediately and is hereby requested. The remaining One Thousand Dollars (\$1,000) shall be paid upon demand made by the Treasurer of the National Gallery of Art. Any unused funds will be returned after the exhibition tour is finished. If further funds are needed, they will be called for.

6. Insurance. As suggested by the Senate Armed Forces Committee, with the concurrence of the Department of the Army, no participating museum will be required to carry insurance on the paintings borrowed by it either while the paintings are in

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transit or on the premises of the institution.

7. Extent of financial responsibility for loss or damage.

✓ No participating museum and no trustee, officer or employee thereof shall be liable for any damage to or loss of any painting unless the loss or damage is occasioned by its or their negligence. If damage or loss occurs due to negligence on the part of any museum, its trustees, officers or employees, the museum will be fully liable. If loss or damage occurs from any cause without negligence on the part of the museum, its trustees, officers or employees, ✓ then the liability of the museum to make good such damage or loss will be limited to the receipts realized by the museum as a result of the exhibition of the paintings.

8. Transportation. The means and methods of transportation agreed upon by the institutions concerned shall be subject to the approval of, and shall meet the standards imposed by, the National Gallery of Art and the Department of the Army. Accordingly, notice of the means of transportation proposed to be used shall be given to the National Gallery of Art in ample time to permit other arrangements to be made should the contemplated means of transportation be considered unsuitable by the National Gallery of Art and the Department of the Army. All participating museums will be notified of the standards mentioned as soon as possible.

9. Admission to exhibitions. Reasonable admission fees, to be determined for itself by each participating museum, shall be charged by each museum if it is practicable for it to do so. In the event admission fees are for any reason impracticable at any museum, the institution shall encourage a silver offering

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for the charity hereinafter specified. Under existing law admission fees are subject to Federal admissions tax at the rate of one cent for each five cents, or major fraction thereof, of admission charge. Voluntary contributions are not subject to such tax.

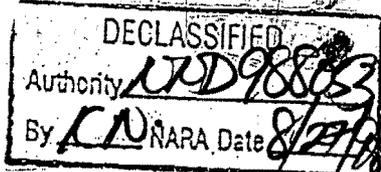
10. Accounting for receipts. A proper record of receipts realized from fees and contributions shall be kept. At the conclusion of the exhibition at each museum, the museum shall submit a statement accounting for the receipts to the National Gallery of Art (Attention of the Treasurer).

11. Disposition of receipts. Each museum shall remit the receipts realized from the exhibition of the loaned paintings to the National Gallery of Art (Attention of the Treasurer) in any reasonable manner and at such times as it sees fit provided that upon the closing of the exhibition at the museum prompt remittance shall be made. The funds will be placed in a separate account on the books of the National Gallery of Art and disbursed by the Treasurer, upon the approval of a majority of a committee consisting of Dr. Edgell, Mr. Rich and Mr. Jayne, to Commander-in-Chief, Europe, for the benefit of German children.

12. Receipts for paintings. As the loaned paintings are received, a duplicate receipt therefor shall be given to the institution from which received, which shall thereupon send one of the duplicates to the National Gallery of Art.

13. Treatment of the collection. (a) The paintings loaned shall remain in the condition in which they are received. They shall not be cleaned, varnished, repaired, retouched, unframed

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or altered in any way whatever except with written permission of the National Gallery of Art.

(b) Damage or loss, whether in transit or on the borrower's premises and regardless of responsibility shall be reported immediately to the National Gallery of Art.

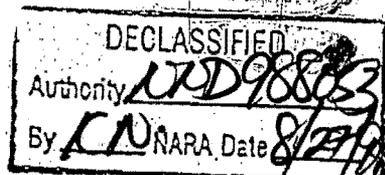
(c) The paintings shall not be subjected to technical examination of any type without the written permission of the National Gallery of Art. Borrowers may reproduce the paintings by photograph or otherwise for any appropriate purpose in accordance with accepted museum practice.

14. Recall. The collection of paintings loaned or any portion thereof shall be subject to immediate recall by the National Gallery of Art in the event that the Department of the Army so demands.

15. Security. ^{Adequate} ~~The~~ measures ^{shall be} taken by the borrowing institutions for the security of the paintings, ~~shall be adequate for their safety and~~ consistent with the value and importance of the collection. The Department of the Army undertakes to make military guards available for the security of the paintings while in transit and to supplement the protective services of the museum where they are exhibited. Accordingly, the borrowing institution shall coordinate its protective measures with the appropriate military headquarters to be designated.

16. Immunity from liability of National Gallery of Art. It is understood and agreed that any action taken by the National Gallery of Art for the purpose of carrying out arrangements for

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the loans and exhibition tour of the paintings in question is taken as agent for the Department of the Army and will involve no individual or collective liability on the part of the Gallery, or its trustees, officers, or employees.

17. Continuance of Committees. The committee consisting of Dr. Edgell, Mr. Rich and Mr. Jayne, above mentioned, shall continue in existence during the exhibition tour for the purpose of advising the National Gallery of Art upon administrative policies and details. The full committee of art museum directors, consisting of the museum representatives named below, shall likewise continue in existence for advisory purposes.

David E. Finley, Chairman, Director, National Gallery of Art, Washington, D. C.

G. H. Edgell, Director, Museum of Fine Arts, Boston, Massachusetts

Daniel Catton Rich, Director, Art Institute of Chicago, Chicago, Illinois

H. F. Jayne, Vice Director, Metropolitan Museum of Art, New York, New York

Fiske Kimball, Director, Philadelphia Museum of Art, Philadelphia, Pennsylvania

William M. Milliken, Director, Cleveland Museum of Art, Cleveland, Ohio

Edgar P. Richardson, Director, Detroit Institute of Arts, Detroit, Michigan

Russell A. Plimpton, Director, Minneapolis Institute of Arts, Minneapolis, Minnesota

Walter T. Heil, Director, M. H. De Young Memorial Museum, San Francisco, California

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Box 295

James H. Breasted, Director, Los Angeles County Museum of History, Science and Art, Los Angeles, California

Perry Rathbone, Director, St. Louis City Art Museum, St. Louis, Missouri

Homer Saint-Gaudens, Director, Department of Fine Arts, Carnegie Institute, Pittsburgh, Pennsylvania

Blake-More Godwin, Director, Toledo Museum of Art, Toledo, Ohio

The foregoing agreement is entered into this _____ day of May 1948.

Trustees of the National Gallery of Art

By _____ Secretary

Borrower:

By _____ Title:

007

Collection of Insects in Horn in Lower Austria,
Smithsonian Institution, Washington, 27 Feb 46.

AG 007. (27 Feb 46)

1st W/Ind.

AG

Office of Military Government for Germany (U.S.), APO 742, U.S. Army,
20 March 1946

TO: Commanding General, United States Forces Austria, APO 777, U.S. Army.

Forwarded as a matter pertaining to your command.

FOR THE COMMANDING GENERAL:

1 Incl:
Ltr, Smithsonian Institution,
27 Feb 46

W. D. VAN BUSKIRK
Major ACD
Asst Adjutant General

Telephone BERLIN 43678



Comback copy to Econ. Div., Restitution Br.

Handwritten signature/initials

151
148

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RG 260	DECLASSIFIED
Entry ECONOMIC	Authority NND 765 036
File	By 73 NARA Date 8/31/99
Box 46	REPRODUCED AT THE NATIONAL ARCHIVES

Letter from Smithsonian Institution

1 AG Misc RES 18
Br ED Mar
46

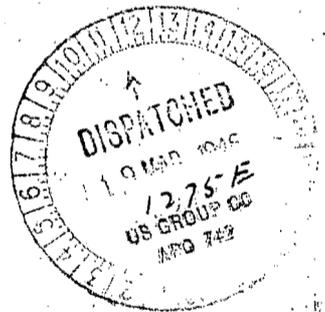
It is requested that the attached
correspondence be forwarded to the Commanding
General, USFA.

FOR THE CHIEF OF BRANCH:

ROBERT L.L. McCORMICK
Lieutenant USNR
Executive Officer

1 Incl:
Incl 1 - Ltr fr
Smithsonian
Institution

Telephone BERLIN 43678
Room 1052, Econ. Bldg.



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Entry ECONOMIC	Authority NND 765036
File	BY 7J NARA Date 8/31/99
Box 46	REPRODUCED AT THE NATIONAL ARCHIVES

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Authority <u>110765038</u>	Entry <u>Int'l Law</u>
By <u>VR</u> NARA Date <u>83</u>	Box <u>227</u>

List of the paintings stored at Jagdschloss Grunewald

(Charlottenburg)

No	File No	Artist	Object
1	I 508	Vernet	Parade on the Marsfield
2	I 854	G.van Honthorst	A Prince of Orania
3	I 898	F.W.Weidemann	Picture of the King Friedrich Wilhelm I.
4	I 913	J.L. Davis	Napoleon passing the St. Bernhard
5	I 961	unknown	Portrait of the Princess Amalie von Brandenburg
6	I 1005	Antoine Pesne	Portrait of the Queen Sophie Dorothea
7	I 1020	Pesne-workshop	Friederike Luise of Prussia and Prince Karl of Ansbach
8	I 1021	Pesne-workshop	Sophie of Prussia and Friedrich Wilhelm of Brandenburg-Schwedt
9	I 1038	unknown	Portrait of the Duchess Elisabeth Sophie of Saxonia-Meiningen
10	I 1104	G.Honthorst	Princess of Orania (wood)(spoiled)
11	I 1147	unknown	Portrait of the Duche Ferdinand Albert of Braunschweig
12	I 1352	F.W.Weidemann	Portrait of an academician (small hole on the left shoulder)
13	I 1635	L.de Silvestre	Portrait of the King August III. of Poland (small hole in the background)
14	I 1636	unknown	Portrait of the King Ludwig XIV. (hole in the background)
15	I 1856	unknown	Portrait of the Prince of Hardenberg
16	I 2214	A.Pesne	Portrait of the Duche Eberhard Ludwig of Württemberg
17	I 2263	Rubens-workshop	Allegorie for the time (wood)slightly scratched

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No	File No	Artist	Object
18	I 2361	A. Terwesten	The death of Adonis
19	I 2386	Rubens-workshop	Antique sacre (wood)
20	I 2566	G.v. Honthorst	Portrait of the Duchess Sophie Albertine of Anhalt-Dessau
21	I 2617	A. Pesne	Portrait of the gardener Dahuron
22	I 2624	G.v. Honthorst	Portrait of the prince Friedrich V. of the Pfalz (wood)
23	I 2625	Rigaud ?	Portrait of an academician
24	I 2628	v. Dyke-school	Portrait of a sculpturer
25	I 2654	F.W. Weidemann	Portrait of an actor (small hole in the background)
26	I 2669	A. Graff	Iffland as Pygmalion
27	I 2777	A. Pesne	Portrait of the King Stanislaus Leszczynski (small hole and color splinted in the background)
28	I 3827	A. Pesne	Portrait of the singer "La Trompentina" (small hole)
29	I 3837	A. Pesne	Portrait of the dancer Reggiani (2 small holes)
30	I 3840	Ch. Coypel	Jason and Medea (several rifts)
31	I 3847	Ricci ?	Elopement of the Europe (holes)
32	I 3848	Ricci	Hercules and Omphale (small hole in the background)
33	I 5307	Boulogne	Birth of the Venus (rifts and color splinted)
34	I 6118	F.W. Weidemann	Portrait of the composer Corelli

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No	File No	Artist	Object
35	I 6122	F.W.Weidemann	Portrait of the composer Pasquini
36	I 6137	G.v.Honthorst	Portrait of a Prince of Orania
37	I 7330	Barthel Pesne	Portrait of the Baron von Sonsfeld
38	I 7346	A. Pesne	Portrait of the Markgrafen Friedrich Wilhelm of Schwedt
39	I 9497	Franz Krüger	Portrait of Friedrich Wilhelm III.
40	I 10017	P.Brill	Italian landscape (wood)
41	I 10642	F.W.Weidemann	Portrait of the Queen Sophie Charlotte of Prussia (holes in the background)
42	I 10779	F.G.Weitsch	Friedrich Wilhelm III. and Queen Luise in the park in Charlottenburg
43	I 11845	after de Baen	Portrait of the Prince Friedrich Heinrich of Orania (wood)
44	12274	Weenix	Portrait of the Duchess Elisabeth Charlotte of Orléans / (leasegift of the State Museums)
45	II 727	Tracham p. Schiavo-	Christ awakes the daughter of Jairi
46	II 730	netti F. Bartolozzi	The exalted soul
47	II 735	R.K. Porter p. M. Place sc.	Loyal Associated and Volunteer Corps of the City of Westminster (Colored copper plaid engraving)
48	II 736	R.K. Porter p. M. Place sc.	Loyal Associated Ward and Volunteer Corps of the City of London (Colored copperplaid engraving)
49	II 752	R. Westall inv. Cheesman sc.	Beatrice (colored copper plate engraving)
50	II 754	R. " "	Parditta (colored copper plate engraving)
51	II 756	N. Poussin p Raph. Morghen sc	Dancing Nymphs

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No	File No	Artist	Object
52	II 757	Gauffier Bartolozzi sc.	Cottagers at the Bottom of Mount Vesuvius
53	II 760	N.Poussin p. R.Morghen sc.	Holy Family (colored copper plate engrav.)
54	II 762	Drawn by Weir F. Jukes sc.	View of Porto Ferrajo (colored copper plate engraving)
55	II 763	Drawn by Weir J.Jukes sc.	View of the West of Porto Ferrajo (colored copper plate engraving)
56	II 765	Drawn by Weir J.Jukes sc.	View of the Eastside of the bay of Porto Ferrajo
57	II 776	Kaufmann	The mother of the Gracchen (colored copper plate engraving)
58	II 777	Unknown	Scene of Shakespeare (colored copper plate engraving)
59	II 779	"	The lyrical Muse
60	II 781	"	Scene of Shakespeare (colored copper plate engraving)
61	II 783	"	" " " "
62	II 785	"	The Muse of Tragedy (colored copper plate engraving)
63	II 787	"	The witches of shakespeare's Macbeth (colored copper plate engraving)
64	II 789	"	Holy Family (col.copper plate engraving)
65	II 790	"	Sinking of a ship(col.copper plate engr.)
66	II 829	Sicardi p. Mécou sc.	Oh che sciagura (" " " ")
67	II 830	R.Westall p. Ward sc.	Catherine of Arragon (colored copper plate engraving)
68	II 831	Sicardi p. Mécou sc.	Oh che piacere (colored copper plate engraving)
69	II 840	Unknown	Austrian Cavallery
70	II 842	"	Austrian Infantry

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No	File No	Artist	Object
71	II 920	Zeller	View of Vienna(colored copper plate engraving)
72	II 5862	H. Thobson p. W. Say sc.	Crossing the Brook
73	II 7543	Unknown	The Death of King Lear (pastell)
74	IX 2814	M. van Schriek	Thistle with snakes and lizards
75	I 2858	F.W. Weidemann	Portrait of the Queen Sophie Charlotte
76	I 2925	E. Gebauer	Portrait of the General field marshall Earl of Wartenburg
77	I 2926	"	Portrait of the General of Tauentzien
78	I 2927	"	Portrait of the General Scharnhorst (2 small breaks)
79	I 2929	"	Portrait of the General of Gneisenau
80	I 2930	"	Portrait of the General of Bülow
81	I 2932	"	Portrait of the General Field Marshall Kleist of Nollendorf
82	I 3050	H. Rigaud	Portrait of Ludwig XV.(?) (holes in the face and hair)
83	I 3289	Vaillant	Portrait of the Queen Sophie Charlotte ?
84	I 32 92	A. Pesne	Unknown Lady (holes in the background)
85	I 3295	A. Pesne	Portrait of the Lady of Blaspiel (hole in the right arm)
86	I 3300	A. Pesne	Portrait of a Princess of Prussia (tall rifts)
87	I 3301	Vromans	Cornbushes
88	I 3336	Schoonjans	Portrait of a Russian Bishop (badly damaged, frame broken)
89	I 3338	Unknown	The daughter of the Russian Ambassador Princess Wittgenstein
90	I 3356	Romandon	Maria with the Christ Child

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No	File No	Artist	Object
91	I 3372	van Roye	A Red Tulep
92	I 3379	"	A Red filled Tulep
93	I 3381	Schoonjans	Friedrich Wilhelm I. as David (holes in the suit)
94	I 3410	Romandon	Portrait of a man
95	I 3413	Unknown	Princess of Luise of Hesse-Kassel
96	I 3416	Weidemann?	Portrait of the Duche of Marlborough
97	I 3417	Auerbach	Portrait of the Prince Eugen
98	I 3420	A. Pesne	Portrait of the Prince Christian Ludwig of Schwedt (Hole in the background)
99	I 3422	A. Pesne	Portrait of the Prince Albrecht Fried- rich of Schwedt
100	I 3424	A. Pesne	Portrait of Friedrich, older brother of Friedrich II (hole in the background)
101	I 3825	Cazes	Sentense of the Paris

Missing Paintings

II 792	Unknown	A Girl at the beach (colored copper plate engraving) Perhaps burned in the Berlin Castle
II 791	"	Girl winding flowers around a name (colored copper plate engraving)

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List of the paintings stored at Jagdschloss Grunewald

No	File No	Artist	Object	Material	Size	Remarks
1	I 470	Cornelius van Poelenburgh	Nymphes and Satyres	wood	42 x 55	4 parts broken
2	I 558	Susette Henry	State Minister Anillon	emery	87 x 70	
3	I 664	Ferd. Bol	Painting of a young man	emery	94 x 72	
4	I 771	Fried. Bury	Painting of Friederico Wilhelmine, queen of the Netherlands	emery	108 x 81	small holes
5	I 972	P.P. Rubens (dat. 1619)	Portrait of Julius Caesar	wood	69 x 52	
6	I 973	Gorn. von	Portrait of emperor Augustus	emery	68 x 54	
7	I 974	Gerhard Seghers	Portrait of emparor Tiberius	emery	92 x 76	
8	I 975	Werner van Valckert (dat. 1621)	Portrait of emperor Caligula	emery	69 x 54	<i>emery</i> torn at the frame
9	I 976	Hendrik Terbrugghen (dat. 1620)	Portrait of emperor Claudius	wood	69 x 53	frame partly splinted
10	I 977	Abraham Janssens (dat. 1618)	Portrait of emperor Nero	emery	69 x 52	
11	I 978	Paulus Moreelse (1618)	Portrait of emperor Galba	emery	69 x 53	
12	I 979	Abraham Bloemaert (supposed)	Portrait of emperor Otho	emery	68 x 53	
13	I 980	Hendrik Goltzius	Portrait of emperor Vitellius	emery	69 x 53	
14	I 981	M.J. van Mierenvelt (dat. 1625)	Portrait of emperor Vespasian	emery	68 x 52	
15	I 982	Dirk van Buren	Portrait of emperor Titus	emery	69 x 52	
16	I 983	Abraham Bloemaert (supposed)	Portrait of emperor Domitian	emery	69 x 53	
17	I 1058	Wybrand Simonsz de Geert	Portrait of the Prince of Orania	emery	155,5 x 99,5	slightly spoiled

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No	File No	Artist	Object	Material	Size	Remarks
18	I 1085	German (1610)	Portrait of the princess Anna of Bran- denburg	emery	188 x 99	
19	I 1086	German (1610)	Prince Johann Sigismund	emery	102 x 85	
20	I 1182	L. Cranach (dat. 1530)	Jael knocks a nail thru the head of Bissera	wood	80 x 56	
21	I 1338	German (1650)	Portrait of the Duke of Austria Leopold Wilhelm	emery	148 x 121	
22	I 1424	Adriaen van Ostade	Fighting peasants	wood	24 x 26	
23	I 1471	art of Barth. Bruyn	Portrait of a man	wood	30,5 x 22	
24	I 1557	art of Flo- ris	Head (study)	wood	50 x 42	
25	I 1572	Wilhelm Kool	View of a beach	wood	33 x 27	
26	I 1656	unknown	William I. of England	emery	86 x 69	slightly damaged
27	I 1660	Martin Schulz 1631	Portrait of Gustav Adolf	emery	103 x 77	
28	I 1686	Joachim Mar- tin-Palbe (dat. 1761)	Self-Portrait	emery	146 x 111	
29	I 1770	Anton Graff	Portrait of Christopf Kauf- mann	emery	71 x 56	
30	I 1810	German (1650) (Grisaille)	Esther and Ahasverus	wood	26 x 33	
31	I 1866	Ludwig Sch Schmidt	Portrait of Duke Karl of Lucca	emery	119 x 90	badly damag- ed, emery torn <i>lumen</i>
32	I 1881	G.J.L.	Portrait of a boy	wood	70 x 51	
33	I 1885	Martin van Velkenborch	The fire of Troja	wood	30 x 39	
34	I 1894	School of van Dyck	Crucifixion	wood	50 x 36	
35	I 1911	Frans Floris (supposed)	Cleopatra	wood	82 x 66	
36	I 1926	L. Cranach	Resting Nymph	wood	58 x 87	scratched
37	I 1961	art of Dirk Bouts	Madonna with child	wood	56 x 42,5	
38	I 1970	Cornelius van Haarlem	Jupiter	wood	47 x 32	
39	I 1976	Job Adriaensz Berckheyde	painting of a guild	wood	41 x 49	slightly scratched
40	I 1998	School of Cranach	Adam and Eva	wood	76 x 55	

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No	File No	Artist	Object	Material	Size	Remarks
41	I 2022	Netherland (15th cent)	Adoration of the kings	wood	99 x 85	small holes
42	I 2029	Netherland (16th cent)	Christ before Pilatus	wood	102 x 65	
43	I 2057	School of Bruegge	Madonna with child	wood	93 x 74	gown of the Madonna slightly scratched
44	I 2064	Jan van der Straet	Allegory for the birth of Ugo Buoncompa- gni, grand-son of the pope Gregor XIII	wood	77 x 104	
45	I 2076	Hans Hoff- Mann (supp- osed)	St Hierony- mus	wood	94 x 75	
46	I 2085	Leonard Bra-	Esther and Ahas- verus	wood	56 x 85	
47	II 2107	Martin Schulz	Portrait of the Prince Erdmann August of Bran- denburg-Bayreuth	wood	62 x 54	
48	I 2257	Hammelton	Killed ducks	emery	72 x 56	
49	I 2332	Roelant Sa- very	Wild life painting	emery	30 x 41	
50	I 2336	Isaac de Jou- deville	Portrait of an old man	wood	67 x 45	
51	I 2338	Jan van Noort	Happy company	emery	75 x 61	
52	I 2349	Paulus Le- sire	Battle of Turkey	emery	189 x 148	
53	I 2379	Gerhard van Honthorst	Cimon and Pera	wood	59 x 75	
54	I 23 79	Gillis van Coninxloo	Landscape	emery	90 x 140	
55	I 2398	Thomas Wille- boirts	Jason and Medea	emery	222 x 270	
56	I 2487	M. Bloemaert (dat. 1666)	Fox within a landscape	wood	40 x 45	
57	I 2517	German (1630)	Portrait of Prince Erdmann August of Bran- denburg-Bayreuth	emery	64 x 50	
58	I 2548	Jan Brueghel	Death of the Orpheus	Copper	45 x 65	
59	I 2551	Jan Mienze Molenaer	Drinking peasants	wood	37 x 50	
60	I 2573	Jan Lievens	Mars and Venus	emery	149 x 136	
61	I 2615	Netherland (17th cent)	Portrait of an old man	wood	60 x 48	
62	I 2618	Anton Graff	Portrait of the philosopher Engel	emery	71 x 61	

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No	File No	Artist	Object	Material	Size	Remarks
63	I 2626	art of Sir Peter Lely	Portrait of a lady	emery	107 x 86	
64	I 2629	Hubert, after A.L.C. Pagnest (1817)	Portrait of Baron von Nanteuil	emery	136 x 105	<i>limen</i> emery partly torn
65	I 2693	Frans Francken	Mythological Battle	copper	52 x 76	slightly spoiled
66	I 2696	Paul Brill	Landscape with river	emery	65 x 98	
67	I 2809	Hendrik de Fromantiou (dat. 1666)	Partridge	emery	65 x 50	
68	I 3054	Antoine Pesne	Portrait of a man with a beard	emery	85 x 71	
69	I 3062	Antoine Pesne	Portrait of an artist	emery	102 x 79	
70	I 3073	Gerard de Lairese	Allegory: The Republic Holland	emery	163 x 116	
71	I 3158	M. Merian	Portrait of Otto v. Schwerin	emery	102 x 80	
72	I 3172	German (1620)	Portrait of emperor Rudolf II. and Mathias of Habsburg	emery	42 x 62	
73	I 3267	School of Rembrandt	Boy with books	emery	101 x 81	badly damaged, partly spoiled
74	I 3374	Netherland	Allegoric figure	emery	94 x 81,5	
75	I 3421	art of Erasmus Quellinus	Elopement of the Europe	emery	122 x 187	
76	I 3745	Pieter Hermansz Verelst (supposed)	Portrait of a lady with an orange	emery	207 x 117	
77	I 3758	Calau	Landscape with wood Nymphes		47 x 59	
78	I 3833	Abraham Bloemaert	Amaryllis dancing with nymphes	emery	110 x 141	
79	I 3849	Jacob Jordaens (Workshop)	"The youngsters sing as the old did"	emery	119 x 185	slightly damaged
80	I 3998	Gerrit Adriaensz Berckheyde	View of the Maurits-house	wood	32 x 42	
81	I 4425	Vincent Malo	Applo with dancing nymphes	wood	59 x 80	partly broken
82	I 5112	E.H. van der Neer	Lady with maid and dog	emery	34 x 27	

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No	File No	Artist	Object	Material	Size	Remarks
83	I 5124	Unknown	Festive parade with Pope Ele-mens VIII Aldo-brandini	emery	110 x 170	badly damag-ed, several rifts
84	I 5150	David Ry-ckeert	Tabacco-party of Duke Leo-pold	wood	59 x 80	
85	I 5171	D. Maas (dat. 1687)	Horse-market	emery	65 x 91	frame slight-ly damaged
86	I 5172	Thomas Wille-boirts	Venus at the corpse of Adonis	emery	234 x 206	emery damag-ed
87	I 5186	Pieter Her-mansz Vere-let	Portrait of an old man	wood	74 x 59	partly splint-ed
88	I 5190	Netherland (17th cent)	Portrait of an old woman	wood	73 x 59	
89	I 5191	Dingemann van der Hagen (dat. 1652)	Soldiers playing cards	emery	132 x 166	several small holes
90	I 5194	Jacob Jor-daens	Susanna and the two old	emery	227 x 160	
91	I 5196	Willem Cor-nelius Duy-ster	Pair of mu-sicians	wood	43 x 30	
92	I 5278	David v.d. Plaes	Portrait of a queen (Katharina of England)	copper	38 x 29	
93	I 5295	Dirk van der Lisse	Amaryllis as blind cow	emery	117 x 142	<i>Linnen</i> emery partly damaged
94	I 5342	Caspar Net-scher	Portrait of king William III. of England	emery	78 x 63	frame and emery damag-ed <i>Linnen</i>
95	I 5401	Augustin Terwesten	Truth-teller	emery	118 x 118	
96	I 5468	Jan Gerrits van Branch-orst	The make up of Cleopatra	emery	160 x 135	
97	I 5470	Frans Mun-saert	Venus and Amorettes	emery	155 x 139	small holes and rifts
98	I 5472	Cornelius van Haarlem	Lovegarden	wood	91 x 131	
99	I 5522	Ludovious Finson (supposed)	Angelica and Medoro	emery	143 x 190	dirty
100	I 5586	German (1600)	Falconer	emery	109 x 84	
101	I 5554	Unknown	Lucretia	wood	69,5 x 55	slightly spoiled
102	I 5930	Klaes Pie-tersz Ber-chem	Landscape with stage	emery	180 x 202	

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No	File No	Artist	Object	Material	Size	Remarks
403	I-5957	Wilhelm Fornite	Spentini	emery	90 x 60	
104	I 6050	Martin Schulz (dat. 1631)	Portrait of Gustav Adolf	emery	101 x 75	
105	I 6146	Frans Floris	Allegoric figure	emery	60 x 46	damaged, a piece has been out out
106	I 6167	G. Honthorst	Portrait of a young lady	wood	74 x 60	
107	I 6171	Germany (1750)	Portrait of Dr de la Matria	emery	78 x 62	slightly damaged
108	I 6243	Unknown (18th cent)	Henry with american animals	emery	234 x 191	
109	I 6283	A.S.	Adam and Eve	wood	51 x 42	badly damag- ed and bro- ken
110	I 6299	Abraham Bloemaert	Apollo and Marsyay	emery	193 x 266	
111	I 6302	Moses van Uyttenbroeck	Bathing scene (the peasants of Lysian)	emery	127 x 96	
112	I 6503	German (1600)	Portrait of a young man	emery	176 x 78	several rifts in the emery
113	I 6506	German (1600)	Portrait of a man	emery	192 x 108	<i>lumen</i>
114	I 6724	Wilhelm Barth	Schloss Gru- newald	emery	106 x 143	
115	I 6822	F. Pourbis	Portrait of a man	wood	41 x 33	
116	I 6849	Andreas Scheits (supposed)	Lady hunting falcons	emery	100 x 150	
117	I 7087	Netherland School 1670	View of a beach	wood	37 x 58	
118	I 7138	Abr. Corne- liz Begeyn	King Friedrich I. hunting	emery	214 x 306	
119	I 7140	Unknown (18th cent)	One duck	emery	73 x 60	
120	I 7141	Eduard Gra- wert	Marshall Wran- gel on horse- back	emery	49 x 64	
121	I 7143	Jacobis van der Bilt	Dead snipe	emery	60 x 39	
122	I 7144	Karl Steff- eck	Prince Karl of Prussia as a hunter	emery	81 x 94	
123	I 7145	Hammelton	Dead partridge	emery	33 x 40	
124	I 7147	J.G. Merck (dat. 1705)	Hunting dog of Prince Friedrich Wilhelm I.	emery	128 x 157	
125	I 7149	J.G. Merck copy	Head of a stag	emery	61 x 47	

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No	File No	Artist	Object	Material	Size	Remarks
125	I 7150	German	Black hare caught 1753	emery	54 x 117	
127	I 7151 - 7157	Unknown (1730)	7 paintings of hunting festivals	emery	between 85 x 97 & 133 x 168	
128	I 7158	Unknown (18th cent)	A dog	emery	121 x 148	
129	I 7159	Unknown (18th cent)	Stag shot 1727	emery	127 x 147	
130	I 7160	J.G.Merck	Wolf, shot by Prince Friedrich Wilhelm at Lindow	emery	167 x 210	
131	I 7161	Unknown	Double-headed fawn, found in 1727 near Insterburg	emery	70 x 104	
132	I 7162	Unknown	Pheasant and duck	emery	76 x 104	
133	I 7163	J.G.Merck (supposed)	Wild Boar, shot by king Friedrich Wilhelm I.	emery	178 x 211	
134	I 7166	Unknown (18th cent)	Fox	emery	117 x 143	
135	I 7167	J.G.Merck (supposed)	Wild Boar, 1720 shot by Friedrich Wilhelm I.	emery	176 x 211	
136	I 7168	J.G.Merck (supposed)	Head of a boar	emery	68 x 81	
137	I 7169	Unknown (18th cent)	White marten shot 1730	emery	71 x 78	
138	I 7170	Unknown (18th cent)	Antelope	emery	133 x 170	
139	I 7173	Unknown (18th cent)	Stag followed by two dogs	emery	92 x 130	
140	I 7174	Merck	Dog of king Friedrich Wilhelm I.	emery	127 x 157	
141	I 7175	Unknown (18th cent)	Dog with a caught hare	emery	107 x 133	
142	7176 I	Michael Carrée	Beaten deer	emery		
143	I 7178	Frans de Hammelton	Hunting Still Life	emery	150 x 126	
144	I 7179	P.L. Popert	Dog with marten	emery	104 x 134	
145	I 7180	Unknown (18th cent)	Falcon in a henery	emery	109 x 157	
146	I 7181	Unknown (18th cent)	Dog choking a goose	emery	123 x 159	
147	I 7344	German (1670)	Allegory: homage of the Pommeranians before the "Grosse Kurfürst"	emery	272 x 290	

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No	File No	Artist	Object	Material	Size	Remarks
148	I 7600	Theodor Rombouts	Card Players	emery	165 x 206	
149	I 7678	Frans van Floris	Portrait of a lady	wood	28 x 21	
150	I 7699	Pieter Codde	Soldiers in an inn	wood	31 x 41	
151	I 7705	Klaes Molenaer	Peasants in an inn	wood	15 x 14	
152	I 7714	Netherland (1670)	Venus and Amorettes	wood	29 x 43	
153	I 7737	David Ryckaert	Peasants' festival	emery	65 x 89	
154	I 8083	German (1700)	Treason of Petrus	wood	19 x 23	
155	I 8388	C.J. Arnold & H. Schnee	The arrival of king emperor Wilhelm I. in Grunewald	emery	94 x 138	
156	I 8684	Johann Gottl. Glume	Portrait of a gentleman	emery	82 x 66	
157	I 9193	W.v. Schadow (Part of a copy by Voigt)	Portrait of Prianne of Prussia	emery	64 x 51	
158	I 9368	Master of the lost son	Scenes of the Tobias-legend	wood	85,5 x 119	
159	I 9469	Lucas Cranach / Copy by Verwiebe, 1890	Portrait of the Prince Joachim of Brandenburg	wood	71 x 55	
160	I 9557	Wilhelm Ternite 1830	Portrait of the composer Spontini	emery	70 x 60	(See I 5957 ?)
161	I 9596	German (1600)	Portrait of Princess Anna Sophie of Anhalt	emery	55 x 49	
162	I 9656	Heinrich Christoph Kolbe (dat. 1821)	Portrait of Dukess Marie Friedericke of Anhalt	emery	77 x 63	
163	I 9679	Wilhelm von Kuegelgen	Portrait of Dukess Friedericke of Anhalt-Bernburg	emery	38 x 30	
164	I 9694	Theodor Hildebrandt Copy by von Stalke	Portrait of Duke Prince Georg of Prussia	emery	62 x 62	
165	I 9725	Peter Schwingen (1840)	Portrait of Princess Friedericke Luise of Prussia	emery	59 x 59	(round)

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No	File No	Artist	Object	Material	Size	Remarks
166	I 10006	Jacob Och- tervelt	The testament	emery	75 x 85	small rifts
167	I 10013	Workshop of Adam Elsheimer	Scoffing of the Ceres	wood	29 x 22	
168	I 10014	Adam Will- aerts	Landscape of a beach	wood	50 x 160	
169	I 10019	Jan Brueghel	Landscape with Nymphes	copper	38 x 53	
170	I 10023	Dirk van Delen	Painting of-	emery	38 x 53	
171	I 10026	Workshop of van Dyck	Infant in	emery	99 x 75	
172+	I 10030	Giov. Bett. Weenix	Eremita with the shepards	emery	100 x 141	
173	I 10034	Abr. Corn.	Campagna-Land- scape	emery	35 x 31	slightly spoiled
174	I 10039	J. van der Ulft	View of a troop at the beach of Scheweningen	wood	39 x 68	
175	I 10051	Marseus van Schrieck	Still life with animals	emery	98 x 73	
176	I 10063	Casper Netscher	Price of Bran- denburg	emery	46 x 39	damaged
177	I 10076	Bart. Bruy	Portrait of a lady	wood	32 x 24	
178	I 10090	Joh. Kopels- ky	Self-Portrait	emery	91 x 73	
179	I 10608	Joh. Gottl. Glume	Portrait of the gold-smith Jordan	emery	146 x 150	
180	I 10640	Frans Krueger	Portrait of Geheimrat Illiaire	emery	93 x 78	small hole between the eyes
181	I 10641	Daniel Martenz- Mytens	Portrait of the family of the "Grösse Kurfürst"	emery	144 x 164	badly damag- ed out out of the frame
182	I 10773	Frans Krue- ger	Portrait of the Hofrat Bussler	emery	27 x 20	damaged
183	I 10819	German (1700)	Portrait of king Fried- rich I.	emery	222 x 161	dirty and spoiled
184	I 10861	Hampe	View of the Jagdschloss Grunewald	emery	68 x 97,5	
185	I 12396	Unknown (1700)	Stag	emery	35 x 27	
186	I 142030	Georg Koch	Wilhelm II. as hunter in Grunewald	sephia	29 x 45	
187	I 42031	Unknown (1800)	Castle	aquarell	41 x 51	

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No	File No	Artist	Object	Material	Size	Remarks
188	I 42032	Unknown (1800)	Sketch of the first floor of the Jagdschloss Grunewald	aquarell	48 x 52	
189	II 2011	Boelisch engraved by H. Finke	View of the Jagdschloss Grunewald	Engraving		
190	II 3484	Vinckel	Academy of Amsterdam	copper plate engraving	35 x 39	
191	II 7846	Wind after Ridinger	Chamoises	copper plate engraving	63,5 x 47,5	
192	II 9164	after Ridinger	Bear hunting	black print	55 x 76	
193	II 9165	after Ridinger	Hunting of a stag	black print	55 x 76	
194	II 9166		Hare hunting in spring	black print	50 x 38	
195	II 9167		Stag hunting in summer	black print	50 x 38	
196	II 9168		Bear hunting in winter	black print	50 x 38	
197	II 9169		Heron hunting in autumn	black print	50 x 38	
198	II 11946	Schmid after Forst, 1820	Castle Gru- newald	copper plate engraving (colored) 7	22 x 30	
199	II 11954	J.F. Henning 1820	Castle Grune- wald	etching	28,5 x 39	
200	II 9713		Wilhelm I. & Bismarck hunting	photo, co- lored	29 x 33	

Missing Paintings

1	I 2171	L. Cranach	Lucretia	wood	54 x 38	
2	I 1823	art of Hen- ri Met de Bles	Orpheus among the animals	wood	26 x 66	
3	I 1880	Jan Gozaert	Adam and Eve	wood	77 x 63	
4	I 1988	Aret van Ravensteyn	Dianah and Calisto	emery	86 x 69	
5	I 2027	Northern Germany (1480)	Tortures of Christ	wood	50 x 50	
6	I 2171 I 2603	see missing M. Grards (supposed)	paintings No 1. Vanitas	wood	133 x 54	
7	I 2689	Joh. Lin- gelbach	Camp scene	emery	35 x 30	
8	I 3202	Jan Steen	Smoking ladies	emery	29 x 24	

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No	File No	Artist	Object	Material	Size	Remarks
9	I 5133	Netscher (dat. 1638)	Vertumnus and Pomona	emery	53 x 45	
10	I 5531	Netherland 1560	Carrying of the cross	wood	114 x 90	
11	I 6321	Gerard von Honthorst	Diana and Nymphs hunt- ing	emery	190 x 132	
12	I 9563	German 1608	Portrait of Duke Joachim Ernst of Dessau	emery	60 x 50	
13	I 9591	German 1608	Portrait of Princess Anna Magdalena of Anhalt Dessau	emery	60 x 50	
14	I 10064	Wilhelm van Mieris	Lady with parrot	wood	43 x 33	
15	I 10028	Purbus (dat. 1614 _a)	Portrait of king Ludwig XIII as a child	emery	51 x 43	
16	II 2001	Biels after Loeschin	Animals	lithography	52 x 42	

Destroyed paintings

1	I 2008	Marten Jacobsz von Hems- kerk 1532	Juta and Thama	emery	138 x 163	
2	I 5420	Mathias Stomann	Adoration of the shepherds	emery	122 x 148	
3	II 11950	1810	View of the Jagdschloss Grunewald	lithography	12 x 19,5	

120803

TREATY ON THE PROTECTION OF ARTISTIC AND SCIENTIFIC INSTITUTIONS
AND HISTORIC MONUMENTS

(Roerich Pact)

Signed At Washington, April 15, 1935

The High Contracting Parties, animated by the purpose of giving conventional form to the postulates of the Resolution approved on December 16, 1933, by all the States represented at the Seventh International Conference of American States, held at Montevideo, which recommended to the Governments of America which have not yet done so that they sign the "Roerich Pact", initiated by the Roerich Museum in the United States, and which has as its object the universal adoption of a flag, already designed and generally known, in order thereby to preserve in any time of danger all nationally and privately owned immovable monuments which form the cultural treasure of peoples, have resolved to conclude a treaty with that end in view, and to the effect that the treasures of culture be respected and protected in time of war and in peace, have agreed upon the following articles:

Article I. The historic monuments, museums, scientific, artistic, educational and cultural institutions shall be considered as neutral and as such respected and protected by belligerents.

The same respect and protection shall be due to the personnel of the institutions mentioned above.

The same respect and protection shall be accorded to the historical monuments, museums, scientific, artistic, educational and cultural institutions in time of peace as well as in war.

Article II. The neutrality of, and protection and respect due to, the monuments and institutions mentioned in the preceding article, shall be recognized in the entire expanse of territories subject to the sovereignty of each of the signatory and acceding States without any discrimination as to the State allegiance of said monuments and institutions. The respective Governments agree to adopt the measures of internal legislation necessary to insure said protection and respect....

Ratifications: Brazil, Chile, Colombia, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, United States, Venezuela.

Note: The following countries signed the Treaty but have not ratified it: Argentine Republic, Bolivia, Costa Rica, Ecuador, Haiti, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay.

Statutes at Large, volume 49, pt. 2, page 3267;
U.S. Treaty Series, No. 899.

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RULES OF LAND WARFARE

U.S. War Department, Basic Field Manual, Rules of Land Warfare,
(prepared under direction of the Judge Advocate General),
1940:

Par. 5:

Force of Rules . . . Technically each of the written rules is binding only between powers that have ratified or adhered to and have not thereafter denounced (withdrawn from), the treaty or convention by which the rule is prescribed, and is binding only to the extent permitted by the reservations, if any, that have accompanied such ratification or adherence on either side. However, the written rules herein quoted in bold-faced type are all prescribed by treaties or conventions each of which has been ratified without reservation, and not thus far denounced, by the United States and many other nations. They are in large part but formal and specific applications of general principles of the unwritten rules. While solemnly obligatory as between the signatory powers, they may be said also to represent the consensus of modern international public opinion as to how belligerents and neutrals should conduct themselves in the particulars indicated . . .

Par. 318.

Property of municipalities, etc. - The property of municipalities, that of institutions dedicated to religion, charity, and education, the arts and sciences, even when State property, shall be treated as private property.

All seizures of, destruction, or wilful damage done to institutions of this character, historic monuments, works of art, science is forbidden and should be made the subject of legal proceedings. (H.R.*, art. 56)

Par. 321.

Two classes of movable property. - All movable property belonging to the State directly susceptible of military use may be taken possession of as booty and utilized for the benefit of the invader's government. Other movable property, not directly susceptible of military use, must be respected and cannot be appropriated.

Par. 322.

Property of unknown ownership treated as public property. - Where the ownership of property is unknown - that is, where there is any doubt as to whether it is public or private, as frequently happens - it should be treated as public property until ownership is definitely settled.

*H.R. - Hague Regulations, Annex to Hague Convention, NO. IV of October 18, 1907.

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Private Property

Par. 323.

Must be respected - Private property * * * must be respected. (H.R., art. 46, par. 1).

Par. 326.

Confiscation. - Private property cannot be confiscated. (H.R., art. 46, par. 2).

(With reference to violations by Japan)

Par. 329.

Pillage. - Pillage is formally forbidden. (H.R., art. 47).

Par. 330.

Seizure and devastation of private property. - Private property can be seized only by way of military necessity for the support or other benefit of the army or of the occupant . . .

Par. 345.

Liability of offending belligerent. - A belligerent party which violates the provisions of the said regulations (H.R.) shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces. (H.R., art. 3).

Par. 346.

Remedies of injured belligerent. - In the event of clearly established violation of the laws of war, the injured party may legally resort to such remedial action as may be deemed appropriate and necessary within the following classes, to wit:

- a. Publication of the facts, with a view of influencing public opinion against the offending belligerent.
- b. Protest and demand for punishment of individual offenders.
- c. Punishment of captured individual offenders.
- d. Reprisals.

Par. 347.

Offenses by armed forces. - The principal offenses of this class are: . . . bombardment of . . . privileged buildings; improper use of privileged buildings for military purposes; . . . pillage and purposeless destruction . . .

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Treaty of Versailles, June 28th, 1919

Articles 245, 246, 247.

The Treaty of Peace between the Allied and Associated Powers and Germany... (London, 1919), p.243.

"Part VIII

"REPARATIONS

"Section II. Special Provisions.

Article 245. Within six months after the coming into force of the present Treaty the German Government must restore to the French Government the trophies, archives, historical souvenirs or works of art carried away from France by the German authorities in the course of the war of 1870-1871 and during this last war, in accordance with a list which will be communicated to it by the French Government; particularly the French flags taken in the course of the war of 1870-1871 and all the political papers taken by the German authorities on October 10, 1870, at the chateau of Cerçay, near Brunoy (seine-et-Oise) belonging at the time to Mr. Rouher, formerly Minister of State.

Article 246. Within six months from the coming into force of the present Treaty, Germany will restore to His Majesty the King of the Hedjaz the original Koran of the Caliph Othman, which was removed from Medina by the Turkish authorities and is stated to have been presented to the ex-Emperor William II.

Within the same period Germany will hand over to His Britannic Majesty's Government the skull of the Sultan Mkwawa which was removed from the Protectorate of German East Africa and taken to Germany.

The delivery of the articles above referred to will be effected in such place and in such conditions as may be laid down by the Governments to which they are to be restored.

Article 247. Germany undertakes to furnish to the University of Louvain, within three months after a request made by it and transmitted through the intervention of the Reparation Commission, manuscripts, incunabula, printed books, maps and objects of collection corresponding in number and value to those destroyed in the burning by Germany of the Library of Louvain. All details regarding such replacement will be determined by the Reparation Commission.

Germany undertakes to deliver to Belgium, through the Reparation Commission, within six months of the coming into force of the present Treaty, in order to enable Belgium to reconstitute two great artistic works:

(1) The leaves of the triptych of the Mystic Lamb painted by the Van Eyck brothers, formerly in the Church of St. Bavo at Ghent, now in the Berlin Museum;

(2) The leaves of the triptych of the Last Supper, painted by Dierick Bouts, formerly in the Church of St. Peter at Louvain, two of which are now in the Berlin Museum and two in the Old Pinakothek at Munich. "

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Comments on Part VIII, Section II, Special Provisions, Articles 245, 246, 247 of the Treaty of Versailles.

- (1) Sterling E. Edmunds, International Law and the Treaty of Peace being a comparative analysis of the Covenant and Treaty of Versailles of June 28, 1919, with the articles of the settlement and applicable principles of the law of nations. (Washington, GPO, 1919.) p. 42.

"Section II. Special Provisions. The Law. This recalls the enforced restitution of works of art seized by Napoleon I in Italy upon the entrance into France of the grand allies in 1815. It is unquestionably settled law that property of this character is inviolable. . . ."

- (2) International Museums Office, La protection des monuments et oeuvres d'art en temps de guerre, Part II. International Protection, Chapter by Charles de Visscher, "Historic Monuments and Works of Art in time of War and in the Treaties of Peace," pp. 151-153. (translation from French).

"III. The unity of works and collections of art and reconstitution of artistic and historic patrimony in the recent Treaties. . . ."

"Article 247 of the Treaty of Versailles and the reconstitution of the work of art. . . . Among the most significant dispositions one must cite that of Article 247 of the Versailles Treaty. . . . The restitution here imposed upon Germany was not the recovery of works of art taken under duress or annexed by a treaty. The paintings designated in Article 247 had passed to Germany through a sequence of transactions which were perfectly regular. . . . Their return to Belgium therefore was by no means set forth as a restitution or a recovery in the proper sense of the term. In principle, it was justified by the right of Belgium to compensation for the works of art destroyed by the German armies in the course of the war; that is indicated at once by the place which Article 247 occupies in the Treaty and the responsibility of the Reparations Commission in the return of works of art (Treaty, Part VIII: Reparations, Section II, Special Provisions, Article 245-247). With regard to the choice of the claimed works, it is maintained, as the text expressly states, in the idea of reconstituting in full unity two great works of art.

"As one phase of reparations imposed upon Germany, the recovery of works of art envisioned in Article 247 was evidently to be without recompense. Later, however, Germany laid claim to receiving credit for the amount of their value, a valuation which they fixed at 11,500,000 gold marks and which they contended should be deducted from the annual payment which they had to pay to the chief of the reparations. This claim was unanimously repudiated by the Reparations Commission. The value of the panels returned by Germany were therefore not taken into account and one would not be able to refer in this regard to an effective "redemption" by Belgium.

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Treaty of Saint Germain, Sept. 10, 1919.

Articles 191 - 196, Annexes I - IV.

The Treaty of Peace between the Allied and Associated Powers and Austria, together with other Treaties, Agreements, etc., signed at Saint-Germain-en-Laye, September 10, 1919... (London, H. M. Stationery Office, 1921), pp.78 - 81.

"Part VIII. Reparations.

"Section II. Special Provisions.

"Article 191.

"In carrying out the provisions of Article 184 Austria undertakes to surrender to each of the Allied and Associated Powers respectively all records, documents, objects of antiquity and of art, and all scientific and bibliographical material taken away from the invaded territories, whether they belong to the State or to provincial, communal, charitable or ecclesiastical administrations or other public or private institutions.

"Article 192.

"Austria shall in the same manner restore objects of the same nature as those referred to in the preceding Article which may have been taken away since June 1, 1914, from the ceded territories, with the exception of objects bought from private owners.

"The Reparation Commission will apply to the objects the provisions of Article 208, Part IX (Financial Clauses), of the present Treaty, if these are appropriate.

"Article 193.

"Austria will give up to each of the Allied and Associated Governments respectively all the records, documents and historical material possessed by public institutions which may have a direct bearing on the history of the ceded territories and which have been removed during the last ten years. This last mentioned period, as far as concerns Italy, shall be extended to the date of the proclamation of the Kingdom (1861).

"The new States arising out of the former Austro-Hungarian Monarchy and the States which receive part of the territory of that Monarchy undertake on their part to hand over to Austria the records, documents, and material dating from a period not exceeding twenty years which have a direct bearing on the history or administration of the territory of Austria and which may be found in the territories transferred.

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(Treaty of Saint Germain, Sept. 10, 1919.)

"Article 194."

"Austria acknowledges that she remains bound, as regards Italy to execute the obligations referred to in Article 15 of the Treaty of Zurich of November 10, 1859, in Article 18 of the Treaty of Vienna of October 3, 1866, and in the Convention of Florence of July 14, 1868, concluded between Italy and Austria-Hungary, in so far as the Articles referred to have not in fact been executed in their entirety, and in so far as the documents and objects in question are situated in the territory of Austria or her allies.

"Article 195.

"Within a period of twelve months from the coming into force of the present Treaty a Committee of three jurists appointed by the Reparation Commission shall examine the conditions under which the objects or manuscripts in possession of Austria, enumerated in Annex I hereto, were carried off by the House of Hapsburg, and by other Houses which have reigned in Italy. If it is found that the said objects or manuscripts were carried off in violation of the rights of the Italian provinces the Reparation Commission, on the report of the Committee referred to, shall order their restitution. Italy and Austria agree to accept the decisions of the Commission.

"Belgium, Poland and Czecho-Slovakia may also submit claims for restitution, to be examined by the same Committee of three jurists, relating to the objects and documents enumerated in Annexes II, III, and IV hereto. Belgium, Poland, Czecho-Slovakia and Austria undertake to accept the decisions taken by the Reparation Commission as the result of the report of the said Committee.

"Article 196.

"With regard to all objects of artistic, archaeological, scientific or historic character forming part of collections which formerly belonged to the Government of the Crown of the Austro-Hungarian Monarchy and are not otherwise provided for in the present Treaty, Austria undertakes:

(a) to negotiate, when required, with the States concerned for an amicable arrangement whereby any portion thereof or any objects belonging thereto which ought to form part of the intellectual patrimony of the ceded districts may be returned to their districts of origin on terms of reciprocity, and

(b) for twenty years, unless a special arrangement is previously arrived at, not to alienate or disperse any of the said collections or to dispose of any of the above objects, but at all times to ensure their safety and good condition and to make them available, together with their inventories, catalogues, and administrative documents relating to said collections, at all reasonable times to students who are nationals of any of the Allied and Associated Powers.

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(Treaty of Saint Germain, Sept. 10, 1919.)

Annex I.

Tuscany.

"The Crown jewels (such part as remains after their dispersion); the private jewels of the Princess Electress of Medici; the medals which form part of the Medici heirlooms and other precious objects - all being domainal property according to the contractual agreements and testamentary dispositions - removed to Vienna during the eighteenth century.

"Furniture and silver plate belonging to the House of Medici and the "jewel of Aspasios" in payment of debts owed by the House of Austria to the Crown of Tuscany.

"The ancient instruments of astronomy and physics belonging to the Academy of Cimento removed by the House of Lorraine and sent as a present to the cousins of the Imperial House of Vienna.

Modena.

"A 'Virgin' by Andrea del Sarto and four drawings by Correggio belonging to the Pinacothek of Modena and removed in 1859 by Duke Francis V.

"The three following MSS. belonging to the Library of Modena: Biblia Vulgata (Cod. Lat. 422-23), Breviarium Romanum (Cod. Lat. 424), and Officium Beatae Virginis (Cod. Lat. 262) carried off by Duke Francis V in 1859.

"The bronzes carried off under the same circumstances in 1859.

"Certain objects (among others two pictures by Salvator Rosa and a portrait by Dosso Dossi) claimed by the Duke of Modena in 1868 as a condition of the execution of the Convention of June 20, 1868, and other objects given up in 1872 in the same circumstances.

Palermo.

"Objects made in Palermo in the twelfth century for the Norman Kings and employed in the coronation of the Emperors, which were carried off from Palermo and are now in Vienna.

Naples.

"Ninety-eight MSS. carried off from the Library of S. Giovanni a Carbonara and other libraries at Naples in 1718 under the orders of Austria and sent to Vienna.

"Various documents carried off at different times from the State Archives of Milan, Mantua, Venice, Modena, and Florence.

Annex II.

"I. The triptych of S. Ildephonse, by Rubens, from the Abbey of Saint-Jacques sur Cowdenberg at Brussels, bought in 1777 and removed to Vienna.

"II. Objects and documents removed for safety from Belgium to Austria in 1794:

- (a) Arms, armour and other objects from the old Arsenal of Brussels.

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(Treaty of Saint Germain, Sept. 10, 1919.)

- "(b) The Treasure of the Golden Fleece 'Toison d'or' preserved in previous times in the 'Chapelle de la Cour' at Brussels.
- "(c) Coinage, stamps, medals and counters by Theodore van Berckel which were an essential feature in the archives of the 'Chambre des Comptes' at Brussels.
- "(d) The original manuscript copies of the 'carte chorographique' of the Austrian Low Countries drawn up by Lieut.- General Comte Jas de Ferraris between 1770 and 1777, and the documents relating thereto.

Annex III.

"Object removed from the territory forming part of Poland subsequent to the first partition in 1772;

"The gold cup of King Ladislas IV, No. 1, 114 of the Court Museum at Vienna.

Annex IV.

"1. Documents, historical memoirs, manuscripts, maps, etc. claimed by the present State of Czecho-Slovakia, which Thaulow von Rosenthal removed by order of Maria Theresa.

"2. The documents originally belonging to the Royal Aulic Chancellory of Bohemia and the Aulic Chamber of Accounts of Bohemia, and the works of art which formed part of the installation of the Royal Chateau of Prague and other royal castles in Bohemia, which were removed by the Emperors Mathias, Ferdinand II, Charles VI (about 1718, 1723, and 1737) and Francis Joseph I, all of which are now in the archives, imperial castles, museums and other central institutions at Vienna.

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Treaty of Riga, March 18, 1921

Article 11 and Annex No. 3

"The Treaty of Peace between Poland, Russia and the Ukraine, signed at Riga, March 18th, 1921," League of Nations Treaty Series, vol. VI, pp. 139 - 144, 159, 161.

Article 11.

1.

Russia and the Ukraine shall restore to Poland the following objects which were removed from the territory of the Polish Republic to Russia and the Ukraine subsequent to January 1, 1772:

(a) all war trophies (e.g., flags, colours, military insignia of all kinds, cannons, weapons, regimental and other insignia), together with the trophies taken from the Polish nation after 1792, during the struggle for independence which was maintained by Poland against Czarist Russia. The trophies of the Polish-Russo-Ukrainian war of 1918-1921 shall not be restored;

(b) libraries, archaeological collections and archives, collections of works of art, collections of any nature and objects of historical, national, artistic, archaeological, scientific and general educational value.

The collections of objects included under letters (a) and (b) of this paragraph shall be restored irrespective of the conditions under which, and the pretexts upon which they were carried off and irrespective of the authorities responsible for such removal and without regard to the person whether physical or legal to whom they belonged prior to, or subsequent to their removal.

2.

The obligation to make restitution shall not apply to:

(a) objects carried off from the territories situated on the east of the frontiers of Poland, as determined by the present Treaty, in so far as it shall be proved that such objects are a product of White-Ruthenian or Ukrainian civilisation, and that they were subsequently removed to Poland otherwise than as the result of a voluntary transaction or of succession;

(b) objects which passed from the possession of their legal owner into Russian or Ukrainian territory as the result of a voluntary transaction or of succession, or were removed to the territories of Russia and the Ukraine by their legal owner.

3.

If there exists in Poland any collections or objects falling within the class specified in letters (a) and (b) of paragraph 1 of this Article, which have been removed from Russia or the Ukraine during the same period, such collections and objects shall be restored to Russia and the Ukraine under the conditions laid down in paragraph 1 and 2 of the Article.

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(Treaty of Riga, March 18, 1921.)

4.

Russia and the Ukraine shall restore to Poland objects carried off from the territory of the Polish Republic subsequent to January 1, 1772, which relate to the territory of the Polish Republic, such as archives, registers, extracts from archives, deeds, documents, maps, plans, sketches, together with plates, and discs, seals, etc. of all State institutions and self-governing, private and ecclesiastical institutions.

Also, such of the above-mentioned objects, even including those not exclusively connected with the territory of the present Polish Republic, which cannot be divided, shall be restored in their entirety to Poland.

5.

Russia and the Ukraine shall hand over the archives, registers, extracts from archives, deeds documents, maps, plans, and sketches belonging to the legislative institutions and central, provincial, and local organizations of all ministries, services, administrations, autonomous bodies and private and public institutions, which date from the period between January 1, 1772 and November 9, 1918 - the period during which Russia administered the territory of the Polish Republic - in so far as such objects relate to the territory of the present Polish Republic and are actually within the territories of Russia and the Ukraine.

6.

The provisions of paragraph 5 of this Article shall not apply to:

(a) archives, registers, etc. relating to operations subsequent to 1876 which were carried on by the former Czarist authorities against the revolutionary movements in Poland, until such time as a special convention shall be concluded between the two Parties as to the restitution of such objects to Poland;

(b) objects of a secret military nature relating to the period subsequent to 1870.

7.

The two Contracting Parties fully recognize that the value of systematic, scientifically prepared and complete collections, such as form a fundamental part of collections of world-wide scientific importance, ought in no way to be impaired and accordingly agree to the following provisions: should the handing over of a certain object which is to be restored to Poland, under paragraph 1 (b) of this Article, prove likely to impair the completeness of such a collection, such object shall, save where it is closely bound up with the history and culture of Poland, remain on the spot, subject to the approval of both Parties represented on the Mixed Commission referred to in paragraph 15 of the present Article; it shall in that case be exchanged for an object of the same artistic or scientific value.

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(Treaty of Riga, March 18, 1921)

8.

The two Contracting Parties declare themselves ready to conclude special Conventions concerning the restitution, purchase, or exchange of objects included in the categories defined in paragraph 1 (b) of the Article, if these objects shall have been transferred from the territory of one Party to that of the other as the result of a voluntary transaction, or of succession, in so far as such objects are the product of the scientific, artistic, etc. activities of the Party concerned.

9.

Russia and the Ukraine agree to make restitution to Poland of such of the following objects as belong to the State or to National institutions, autonomous bodies, private or public institutions and in general to all legal and physical persons, and were taken with or without consent into Russia and the Ukraine from the territory of the Polish Republic after August 1, 1914, that is to say in the period from the outbreak of the great war until October 1, 1915;

(a) archives, acts, documents, registers, account books and mercantile books, journals and correspondence, geodesic and land-surveying instruments, photographic plates and negatives, seals, maps, plans, and drawings with corresponding sketches and scales, with the exception of objects referring to military matters of a secret nature which belong to military institutions;

(b) libraries, collections of books, collections of archives and objects of art and their inventories, catalogues, and bibliographical material, antiquities, all collections and objects of historical, national, artistic, or scientific interest, bells and objects belonging to any religious denomination.

(c) scientific and scholastic laboratories, collections of all kinds, scholastic and scientific accessories, instruments and apparatus and all auxiliary and experimental material.

It shall be permissible to make restitution of the individual objects referred to under the heading (c) of this paragraph or to replace them by an equivalent object to be decided upon by agreement between the two Parties represented on the mixed Committee provided for in paragraph 15 of the Article. Objects, however, which date from a period prior to 1870 or which have been offered by the Poles may only be replaced by a suitable equivalent after agreement between the two Parties represented on the afore-mentioned mixed committee.

10.

The two Contracting Parties undertake reciprocally to make restitution in a similar manner of collections and objects specified in paragraph 9 of this article, taken with or without consent from the territory of the other Party after October 1, 1915.

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(Treaty of Riga, March 18, 1921.)

11.

Restitution shall be made of objects specified in paragraph 9 and 10 of this article which are not the property of the State or State institutions upon the request of the Governments, made in accordance with the declarations of the owners, in order that such objects may be restored to the owners.

12.

Restitution shall be made of the objects specified in paragraph 9 and 10 of this article in so far as they are or may be actually in the possession of State institutions or private institutions belonging to the State which makes the restitution. The obligation to prove that the object has been lost or destroyed shall rest with the State making restitution.

If the objects enumerated in paragraph 9 and 10 of this Article are in the possession of third persons, legal or physical, these persons shall be obliged to deliver them up with a view to their restitution. Upon the request of the owner, such of the objects enumerated in paragraph 9 and 10 of this Article, as may be already in his possession, shall also be restored.

13.

The State making restitution shall pay the expenses incurred in connection with the return and the restitution of the objects within the limits of its own territory as far as the frontier.

The return and the restitution of objects shall be made notwithstanding prohibitions or restrictions on export, and such objects shall not be liable to any duty or tax.

14.

Each of the Contracting Parties agrees to return to the other Party property of an educational or artistic value given or bequeathed before November 7, 1917 (New Style) to their own State or to private, scientific and artistic institutions within that State by individuals or public bodies of the other Party in so far as such gifts or bequests have been made in conformity with the laws of the said State.

The two Contracting Parties reserve the right of concluding special Conventions with regard to the afore mentioned gifts and bequests made after November 7, 1917.

15.

For the purpose of putting into force the provisions of this Article, a special mixed paritary Commission shall be established within the period of six months at the latest of the ratifications of this Treaty and shall sit in Moscow; this Commission shall be composed of three representatives of each Party and such experts as may be required.

In the exercise of its duties the Commission shall conform to the instructions contained in Annex No. 3 of this Treaty.

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(Treaty of Riga, March 18, 1921.)

Annex No. 3 to the Treaty of Peace.

Instructions for the Application of Article 11 of the Treaty of Peace.

(1) The Special Mixed Commission provided for in paragraph 15 of Article 11 shall be entitled to establish an office at Warsaw for the duties it will have to discharge in Poland.

(2) All applications for the restitution of archives and articles of artistic, literary, or scientific value shall be submitted to the Commission within one year from the date of constitution of the Commission.

The restitution of archives and national treasures shall be effected within two years from the date of the constitution of the Commission. The Commission shall formulate its decision within six months from the date of which the application was presented, and the articles in question shall be handed over within six months from the day on which the decision was arrived at. The expiration of the two time-limits provided for above shall not release the Government from the obligation of restoring such articles, provided that the application for restitution was presented within the specified period.

Should articles subsequently be discovered, the existence of which was not known at the specified time, owing to negligence on the part of the authorities in the execution of the decisions of the Commission, the Government concerned shall be entitled to demand restitution of such articles, even when the time limit has expired.

(3) In order to effect the restitution of such articles to the Government which is entitled to them, the Commission shall ascertain through the competent public authorities the place where these articles are to be found, their number and their condition, making use of all the documents which might be of assistance, such as: receipts, catalogues, inventories, lists, registers, files, etc.

The Commission may, if necessary, send to the various institutions its representatives who, in conjunction with the representatives of the institution, and on the evidence of the documents mentioned above, shall identify these articles and note the place where they are to be found.

Until the restitution has been effected, the articles which are to be restored shall remain at the place where they are deposited, and shall not be transferred elsewhere except in the case of absolute necessity; the Party concerned shall in each case be notified of the transfer.

(4) The restitution of the archives referred to in paragraph 5 of Article 11 of the Treaty of Peace shall be effected according to the following regulations:

The archives, files and documents of the central institutions established in Russia for the districts belonging to the former kingdom of Poland, shall be handed over without exception to Poland, with all the catalogues, inventories, registers, etc., relevant thereto.

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Documents which refer to former administrative districts now part of the Polish State, or to parts of these districts attributed to Poland by the Treaty of Peace, and now deposited among the archives and files belonging to other central, district or local institutions, shall be handed over to Poland. The files and documents which form part of the Central State Archives and which constitute historical collections shall not be handed over; the Party concerned may, however, demand that authentic copies of documents which may be of interest to it shall be supplied at the expense of the State which is in possession of these documents.

In cases where, as a result of the Treaty of Peace, former noble, judicial and ecclesiastical administrative units are separated, their archives shall be divided according to the following principles: the archives shall remain where they are; files referring to sub-divisions or units shall be handed over to the Party to whom this unit belongs; for instance, should a province or an administrative sub-division be divided, the archives of the province or of the sub-division shall remain where they are and only such files shall be extracted as refer to the administrative sub-division, that is to say, the districts, communes, and other administrative units, and shall be handed over to the Party in whose territory the administrative unit concerned is situated.

Individual documents belonging to files or archives, for instance books, manuscripts, or individual bundles of papers, may not be separated or torn in order to divide them.

Such documents as may not be divided shall be handed over to the Party most immediately concerned, and if the other Party is also interested it shall have the right to a certified copy furnished at its own expense. Such books, manuscripts and bundles of papers may only be destroyed or removed when the other Party has been notified.

(5) All articles which have been restored, under Article 11 of the Treaty of Peace, shall be packed and despatched to the frontier stations in accordance with the instructions of the Commission. The restitution to the other Party shall be effected at the place at which the articles are packed and minutes recording the restitution and the receipt shall be drawn in two copies. The Commission shall take the necessary measures to ensure that the articles referred to arrive undamaged at the frontier stations.

At the frontiers the packages shall be inspected; if the packages (seals, etc.) are intact, minutes shall be drawn up recording this fact. If, however, the packages are damaged or if the seals are broken, the contents may be verified. Once the articles to be transported have been deposited at a frontier station, the State which has received them shall be responsible for these articles.

(6) Further details regarding the application of Article 11 of the Treaty of Peace and of the present instructions shall be laid down by the Commission.

120818

RG 260
Entry Ardelia Hall Coll.
Box 250

BY AT NARA DATE 7-22-72
Authority NNN 77507
DECLASSIFIED

~~SECRET~~

ANNEX 'A'

"UNCONDITIONAL SURRENDER OF GERMANY"

ARTICLE 8 The German authorities will prevent the destruction, removal, concealment, transfer or scuttling of, or damage to, all military, naval, air, shipping, port, industrial and other like property and facilities and all records and archives, wherever they may be situated, except as may be directed by the Allied Representatives.

c/
ANNEX 'A'

120819

~~SECRET~~

~~XXXXXXXXXX~~

ANNEX 'B'
GENERAL ORDER NO. 1
MILITARY AND NAVAL

ARTICLE NO. 10: Information and Inspection

- 14a. Without prejudice to any specific obligations contained in provisions of other orders or instruments, the German authorities and any other person in a position to do so will furnish or cause to be furnished all such information and documents of every kind, public and private, as the Allied Representatives require.
- b. There shall be no destruction, removal, concealment, suppression or alteration of any documents, or of any records that may be required by the Allied Representatives. They shall be kept intact in their present locations until further directions are given.
- c. The German authorities will provide the Allied Representatives with access to any building, establishment, property or area for the purpose of safeguarding, inspecting, copying or obtaining any of the documents or information which they require. The German authorities will give all necessary facilities and assistance for this purpose, including the services of archivists and other specialist staff.

GENERAL ORDER NO. 2
POLITICAL

ARTICLE NO. 9: Cultural Agencies

- 19. All educational institutions and cultural agencies will be subject to the general supervision of the Allied Representatives.

GENERAL ORDER NO. 3
ECONOMIC

ARTICLE NO. 4: Restitution, reparation, currencies and relief

- 8a. The German authorities will carry out, for the benefit of the United Nations, such measures of restitution, reinstatement, restoration, reparation, reconstruction, relief and rehabilitation as the Allied Representatives may prescribe. For these

~~CONFIDENTIAL~~

- purposes, the German authorities will effect or procure the surrender or transfer of such property, assets, rights, titles and interests, effect such deliveries and carry out such repair, building, and construction work, whether in Germany or elsewhere, and will provide such transport, plant, equipment and materials of all kinds, labor, personnel and specialist and other services, for use in Germany or elsewhere, as the Allied Representatives may direct.
- b. The German authorities also will comply with all such directions as the Allied Representatives may give relating to property, assets, rights, titles and interests in Germany belonging or having at any time since the 1st January 1935, belonged to any of the United Nations or their nationals. The German authorities will be responsible for safeguarding, maintaining and preventing the dissipation of all such property, assets, rights, titles and interests, and will for this purpose continue to administer the same pending directions from the Allied Representatives.
- c. For the purpose of the preceding paragraph, the German authorities will afford all information and facilities required for tracing any property, assets, rights, titles or interests.

c/

ANNEX 'B'

120821

~~CONFIDENTIAL~~

OFFICE OF MILITARY GOVERNMENT FOR HESSE
WIESBADEN, GERMANY
ECONOMICS DIVISION

TAH/51

MG/FA&A/1/F

AFPO 633
20 Nov 1947

SUBJECT: Monthly Consolidated Field Report
for October 1947

TO : Economics Division
Restitutions Branch
OMG for Germany (US)
APO 742, US Army
Attention: MFA&A Section

PART I

ADMINISTRATION

1. US Military and Civilian Personnel

- a. Officers None
- b. Enlisted None
- c. Civilians

THEODORE A. HEINRICH, CAF/13, Land Chief, MFA&A, and Acting Director,
Wiesbaden Collecting Point
JOSEPH A. HORNE, P/3, Director, Offenbach Archival Depot
MRS JOHN W. SKELTON, Volunteer, working two days per week in Land Office
and Collecting Point

2a. Allied Representatives Attached

MARCELLUS B. KEEZER, Dutch Civilian, Netherlands Art Representative

(NB. The French representative promised for attachment as from
1 September has not yet appeared).

2b. Distinguished visitors (including non-attached Art Representatives)

Mrs GEORGE P. HAYS, OMGUS
Mr JAMES B. NEWMAN, War Department, Washington DC.
Mr THEODORE ROUSSEAU, Jr, Metropolitan Museum, New York
Mr FRANCIS HENRY TAYLOR, Metropolitan Museum, New York
Lt. FRANS BAUDOIN, Belgian Art Representative
Maj. A. I. BOLTANOV, Soviet Art Representative
Lt Col DRUENE, French Military Museum Representative
M. le Marquis DELPECH-LADORIE, French Beaux-Arts, Chief, Rhine Province
M. JOUVIN, Section des Beaux-Arts, Koblenz
Col. ZISSIHOPOULOS, Chief, Greek Mission
Prof Dr P. HALL, Asst. Director, Aeltere Pinakothek, Munich
Dr KURT MARTIN, Director, Kunsthalle Karlsruhe
Altgraf SALI, Director, Fürstenberg'sche Kunstsammlungen, Donaueschingen
Dr HANS VOGEL, Director, Staatl. Kunstsammlungen Kassel

3. German Civilian Personnel employed directly for MFA&A activities

- a. Professional 7
- b. Other 72

4. Requirements and Recommendations

see Part IV

RG 260
Entry 138
BOX

DECLASSIFIED
Authority NND 775257
By TS NARA Date 7/20/99

120822

2. Following the confiscation of a painting (a copy of a del Sarto) which a GI had bought for the equivalent of R 120,000 in an illegal transaction in Frankfurt, the Occupation Chronical of Frankfurt produced in cooperation with Mr Weber and with the approval of this office an excellent article on 24 October entitled "Take masterpieces Lure Many Bargain Hunters". Attention was drawn to Military Government regulations concerning the transfer of cultural objects and several striking examples from recent Frankfurt history were recounted. A slightly abbreviated version of the story was reproduced in the Paris edition of the New York Herald-Tribune for 27 October, and it is understood that an illustrated article on this subject is being prepared by Teek-End.
3. The usual number of extended reviews devoted by western German papers to the Wiesbaden Collecting Point exhibitions are in course of publication in connection with the present 18th century show. Although in this instance they tend in general to follow the normal German habit of identifying that period exclusively with the Rococo, there has so far been only one which explicitly regretted the small representation of German painters; none have complained of a lack of connection between the 18th century and the present, and all appear to have found considerable pleasure in the galleries. The most interesting to reach this office are a feuilleton from the Mainzer Allgemeine Zeitung for 4 October, a piece by Gode Remszhardt from the Frankfurter Rundschau entitled "Erbe und Ehrlichkeit", also published on 4 October, and one from the Wiesbadener Kurier for 13 October signed Dr H called "Spiel und Ernst des Kokoko". An illustrated article in course of preparation for "Teek-End" has not yet appeared.

PART III

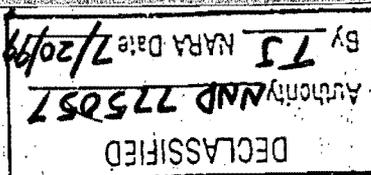
1. Cultural Monuments

- a. Summary notes on current and projected repairs will be found listed in the Landeskonservator's report at Annex A.
- b. Collapse of a portion of the Residenzschloss in Darmstadt caused damage to the part of the building serving the Staatsarchiv as its sole surviving storage magazine when heavy construction material falling from a height of twenty five metres pierced the vault of the magazine and buried archives beneath under five feet of debris. Clearance measures were immediately undertaken and the vault has been repaired. Work on other parts of the building continues to make satisfactory progress and was not interfered with by this minor catastrophe.
- c. The near-paralysis to restoration work in Frankfurt produced by the diversion of nearly all labour and material to Bizonal projects continues with only four discoverable exceptions:
- (1) The Paulskirche, reconstruction of which in time for the centenary observance of the 1848 Convention is a political project strongly pushed by the Magistrat;
 - (2) The Deutschordenskirche, reroofing of which was completed in October, so that work can now be started on the interior;
 - (3) The Goethehaus, supported by private funds and enterprise, where steady progress is noticeable;
 - (4) The Römerberg, where the uppermost story of the tall SW tower was dismantled on order of the City Engineer as a safety hazard.

Security measures at the Cathedral were largely halted on completion of the temporary sheathing of the choir roof as no further materials can be obtained. The transepts remain entirely open to the weather, and the windowless choir is protected only against vertical rainfall. Growing concern is felt for the Ratgeb frescoes in the Carmeliterkirche, where no further work has been done since erection of temporary shelter in 1945: damp-prevention measures through rubble clearance, installation of a drainage system and raising of side screens are urgently required.

- d. Considerable progress is noted on restoration of the Annakirche in Limburg where rubble-clearance is complete, the roof has been replaced, and masonry

RG
260
Entry
Box 138



120823

(3)

OUTGOING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

RESTRICTED

A-50

DEC 24, 1948

2798

A
 ORIGIN: POS
 INFO: USPOLAD,
 O
 EUR
 DC/E
 OFD
 OLI
 CIA
 AAN

FRANKFURT.

Airtel 223, October 23, 1948. Same French position taken by G. Glasser, French Director of Reparations and Restitution in repertoire des biens spoliés en France durant la guerre 1939-1945, Volume 4, "In case works of art of undeniable cultural value should not be recovered, compensation for them would, in accordance with quadripartite agreement, have to be taken from Germany's art treasures." However, as you know, consideration of replacement of objects of great rarity before Allied Control Authority Coordinating Committee was inconclusive.

As recently reported, total 2,755,174 objects and books, including 344,535 separate works of art, have been returned to claimant nations by G.C.A. and France has recovered 582,598 items from American Zone alone. In view large amount of cultural material recovered under restitution program and possibility of future recovery of missing objects under continuing program in the American zone and under program of international cooperation set forth in tripartite agreement of July 8, 1946, justification of replacement has been greatly diminished.

Dept. is opposed to seizure of Germany's art heritage for use as replacement in kind, with possible exception of the collections of Nazi leaders, as Goering and Hitler, as ultimate disposition of these collections should be satisfactory to Allied nations. Dept. in full agreement with you that U.S. position has always opposed consideration or involvement of art in any reparations settlement.

LOVETT ACTING

Sent to: Mission

Repeat to: Missions

Frankfurt

Paris

London

Dept. of
 the Army,
 W.D.

CLASSIFIED

(12/10/48, 12/23/48)

OSX CE LA O

RESTRICTED

120824

DECLASSIFIED
 Authority: MM 968071
 REPRODUCED AT THE NATIONAL ARCHIVES

007

Dispatch of Correspondence

1 CAGS ED 13
Mar 46

It is requested that the attached correspondence be approved, signed and dispatched.

FOR THE DIRECTOR:

1 Incl: Ltr to WARCAD, trmtl
of papers w/incls

JOHN H. ALLEN
Colonel GSC
Chief, Restitution Branch

Telephone 43255
Room 1057, Econ Bldg

The Raczyński Botticelli Tondo

DMC Files - WFA&A Sect, Rest Br



133
135

120825

RG 260
Entry Economic
File
Box 46

DECLASSIFIED
Authority NND 765036
By 7J NARA Date 8/31/99
REPRODUCED AT THE NATIONAL ARCHIVES

[Handwritten signature]

AG 007 (ED)

14 March 1946

SUBJECT: The Raczynski Botticelli Tondo

TO : War Department
Director of Civil Affairs Division
Attention: Military Government Branch
Washington, D. C.

1. Inclosed herewith are two (2) copies of correspondence relating to the Raczynski Botticelli Tondo, "Madonna with Child and Singing Angels", together with translations in duplicate of these papers, which are forwarded for your information.

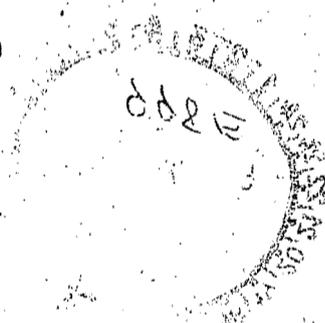
2. It is requested that one copy of each of these papers be forwarded to the trustees of the National Gallery of Art, Washington, D. C., who now hold in custody the subject painting.

FOR THE DEPUTY MILITARY GOVERNOR:

- 3 Incls:
- Incl 1 - Report on Botticelli Tondo by Zimmermann (dup)
- Incl 2 - Ltr, Graf Raczynski 2 Mar 45 (dup)
- Incl 3 - Translations of Incls 1 and 2 (dup)

F. W. MARSHALL
Lieutenant Colonel, AGD
Adjutant General

Telephone BERLIN 43255



DMC Files - Capt Regan, MFA's Sect, Rest Br

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125

120826

RG 260	DECLASSIFIED
Entry ECONOMIC	Authority NND 765036
File	By 7/5 NARA Date 8/31/99
Box 46	REPRODUCED AT THE NATIONAL ARCHIVES

DECLASSIFIED

Authority NND 765028By SR NARA Date 12-1-99RG 84Entry 2056File 800 W AUSTRIAN OFFICIALSBox 20*Log. File*MEMORANDUM

August 12, 1948

Subject: Conversation with Dr. Erich STROHMER

Dr. Strohmer, head of the Plastics and Handicrafts Section of the Kunsthistorisches Museum, called today to advise me that arrangements were being made with Mr. ROUSSEAU of the Metropolitan Museum of Art in New York, to exhibit in the United States Austrian pictures and other works of art now on exhibition in Stockholm.

Dr. Strohmer said that Mr. Rousseau had succeeded in arranging for an American naval vessel to bring the collection from Stockholm to the United States.

He said further that a request was going to be made via the Austrian Ministry of Education to Chancellor FIGL, to ask Chancellor Figl to inquire of General KEYES whether Dr. Ernst BUSCHBECK, Kunsthistorisches Museum, could be given free passage on a U.S. Army plane to the United States, to make advance arrangements for the exhibition.

The exhibition, if plans materialize, is to be shown for two and a half months each at the Metropolitan Museum in New York, the National Gallery in Washington, the Art Institute in Chicago, and the M. H. de Young Memorial Museum in San Francisco.

JODenby:eeb. *YDS*

800 Conversations

120827

DECLASSIFIED

Authority NND 978025
By TB NARA Date 10/00

RG

56

Entry 69A4707

File GERMANY - INTERROGATIONS
TESTIMONY - EMIL PUHL

Box 81

120828

Lucille

Q. Who else has a copy?

A. The Ministry of Finance, Agriculture, Interior, Reichsbank, Seehandlung. The best reports came from France. Similar came from all countries.

Q. The important foreign exchange reports of occupied countries was sent to the Ministry of Economics and copies went to other organizations including the Reichsbank and Ministry of Finance. What individual in the Ministry of Economics was in charge of foreign exchange records?

A. The State Secretary. But I suppose he did not read it and he gave it first to what they call Landesfinanzamt. This Landesfinanzamt had orders that if they found interesting points in these reports to send them to those offices who were charged with the special questions. The reports are in the library in Berlin.

Q. What was the top alien property custodian office in Germany?

A. Auffangstelle (?).

Q. What type of property was it responsible for?

A. Only property of foreigners. They tried to sell the participations as soon as they could.

Q. Is this also property which was seized by the Gauleiter?

A. Yes.

Q. Who were the men responsible for controlling foreign exchange in each of the occupied countries?

A. Our representative in Belgium was Dr. Hofrichter and in the last few months of the war it was Yosten who was formerly assistant to Dr. Schäfer in Paris. The organization was similar to the one in France. There was no Gauleiter. The man for the alien property was Schnetzke. In Denmark the administration was very liberal. Foreign exchange business was done by the Denmark National Bank. Our representative there was a man called Zattler. Later on it was a Gauleiter. Our representative in Norway was the same man, the Gauleiter was Terbowen who had from the beginning a special organization for finance and foreign exchange administration involving a department for finance and foreign exchange questions. The name of our representative in Czechoslovakia was Dr. Müller. In Czechoslovakia the National Bank was so organized that it fitted into the organization of the Reichsbank. They had the same system of transfer, same foreign exchange control system. In Czechoslovakia was set up from the very beginning the Protector. The first Protector was Dr. Neurath, later on his successor was Heydrich. The Protection government had put up a military government and all foreign exchange business and financial control business was done by one department of this government. In Poland our representative was Dr. Paersch. He was not only the representative with the Polish central Bank, but was financial advisor of the governor called Franck. The military government of Poland was in Krakau.

Q. Did the OKW have any more authority in Poland than in any other countries?

120829

A. No, I don't think so. For long years during the war there was only a few soldiers in Poland. The head of the German administration was in Riga, but in Riga we had no special representative because the Russians had liquidated the central banks during their first occupation. We had our organization called Reichskreditkassen to look for the financial and foreign exchange business. In Slovakia a new central bank had been founded and the representative of the German Reichsbank was the first official of the Reichsbank Vienna called Buzzi in Pressburg. The Gauleiter in Riga was Lohse. The chief of the central bank was Dr. Wenig. There was no special German government Hungary was an independent state and during the war we had no representative in Budapest and the German government was represented by an ambassador. The last months of the war there was an official of the Reichsbank sent to the bank of Hungary called Scheffler. No representative was in the National Bank of Rumania but the manager of the Reichskreditkassen in Budapest was Böttcher as liaison agent. The relations between the Reichsbank and the National Bank of Bulgaria were kept up by the Reichskreditkassen. Yugoslavia - where from the beginning of the war with this country a special German government was set up headed by the Gauleiter Neuhausen and in the national bank is (was not given name). The Reichsbank had a special representative in the National Bank of Belgrad. He had to report to the government in Berlin. There was a similar situation as in other occupied countries. The Gauleiter government in Belgrad sent special reports about financial and economic situation to Berlin. These reports were distributed to institutions mostly interested in these questions. In Albania we had a representative with the National Bank only for a few weeks called Einsiedel. In Greece there was a German military government with their respective departments. The Reichsbank kept a representative at the bank of Greece called Dr. Hahne. He had to look for financial questions in the bank of Greece and to put the gold we sent to Greece at the disposal of the government, who nominated Dr. Neubacher to make the necessary transactions. Germany sent gold to Greece to try to stop inflation. Italy was an independent state with its own government. In the last part of the war the Italian government went to the north. A special official of the Reichsbank was sent down in charge of the financial business. It was Dr. Bernhuber, he stood in close connection with the bank of Italy in Milan. The German amassador Dr. Rahn played in the last months of the war the part of Gauleiter for northern Italy. It had its own administration. There was a special organization for the production of armaments in northern Italy called Ruk which tried to become more or less independent from the control in Berlin. Austria in the beginning of the war was part of Germany and our system of foreign exchange control was the same. Our central bank system was introduced into Austria too. The Reichsbank in Berlin would know most about the currency and coin turned over from occupied countries to the Reichsbank, the people in our cash department who kept the books, the head of the department was Peplau, second man called Seiffert.

Q. Would the Gauleiter in each occupied country report to anyone else on foreign exchange matters other than the Ministry of Economics?

A. No. He reported direct to Berlin.

Ended interrogation at 12:15 p.m.

DECLASSIFIED

Authority NND 968071
By JW NARA Date 12-2RG 59
Entry Lot 62D-4
File ✓
Box 29

STANDARD FORM NO. 64

~~SECRET~~*Office Memorandum* • UNITED STATES GOVERNMENT

TO : CU - Dr. Hovde

FROM : ES - S. J. Rubin *S. J. Rubin*

SUBJECT: Looted art program (Safehaven)

DATE March 20, 1945

The Department is in the process of setting up, in cooperation with the British, a system whereby works of art suspected of being enemy-looted or enemy-tainted may be investigated and identified while held at the proposed port of exit from Western Europe, with the specific purposes in mind of preventing the Axis powers from benefitting from their loot and of blocking their assets.

Briefly, the system is expected to work approximately as follows: British consular officials have been instructed by MEW to make a photograph of each art object for which they cannot absolutely guarantee a blameless pedigree--one print for the reporting missions, one for MEW, and one for the Department of State to give to the Roberts Commission. The Roberts Commission has agreed to cooperate with the Department on this project. It will examine the photographs to determine Axis taint, or the possibility of loot, and will report its findings to the Department. These will then be conveyed to the American Embassy in London and by it to MEW. The Macmillan Committee is doing the same kind of work for Britain that the Roberts Commission will do for the United States, and it is hoped that between the two organizations suspect material can be spotted.

It is expected, therefore, that there will be a steady--and perhaps heavy--flow of Foreign Service despatches from the London Embassy under the Economic Warfare (Safehaven) Series label. ES, as the Division in charge of the Safehaven program, will receive such despatches first and will be responsible for seeing that the Roberts Commission receives copies and the photographs enclosed. ES will also originate outgoing instructions on these matters.

This Division is now working out the routing within the Department and is interested in knowing whether CU wishes to receive despatches and clear outgoing instructions as a routine matter, or whether CU has no such interest.

ES: v. Dennis

120831

DECLASSIFIED
 Authority NND 968071
 By JW NARA Date 12-2

RG 59
 Entry Lot 62D-4
 File ✓
 Box 29

DEPARTMENT OF STATE
 DIVISION OF CULTURAL RELATIONS

March 22, 1945.

I telephoned Mr. Rosenson, ext. 2691 State, regarding SAFEHAVEN. He referred me to Mr. Rubin, ext. 713 State, as being the original SAFEHAVEN man. Mr. Rubin is out of town and I was referred to Lieutenant Karasik of Mr. Rubin's office.

Lt. Karasik told me that SAFEHAVEN is a State Department project. The name was originally the code word used to facilitate telegraphic communications for their work. The work embodies: control of all enemy external assets; flight of enemy capital; restitution and reparation of loot.

The original SAFEHAVEN routing was FMA (Financial and Monetary Affairs) and WT (World Trade Intelligence). At the present time SAFEHAVEN is being enlarged and a memorandum is now being sent to Dr. Hovde and other interested Divisions of the Department. WT and the SAFEHAVEN section of FMA have merged and are now known as ES (Economic Security Control).

Lt. Karasik said that SAFEHAVEN maintained close contact with the Roberts Commission, FEA, and Treasury. He said that either he or Miss Dennis of his office would be glad to come over and explain details.

EMC
 CU:EMcQuatters:mt

120832

DECLASSIFIED
 Authority NND 978025
 By KEN NARA Date 9/30/79

RG 56
 Entry 69A4707
 File CERAM: LOSTED
PROPERTY
 Box 82

German: Losted Property

PARAPHRASE OF TELEGRAM RECEIVED

FROM: American Embassy, Rome
 TO: Secretary of State, Washington
 DATED: February 19, 1946
 NUMBER: 894

CONFIDENTIAL

Summary of a note which the Italian Foreign Office has received from the Embassy is given below:

It is reported by Centro Sperimentale di Cinematografia (Experimental Center for Cinematography) at Rome that a collection of several hundred films which it was requisitioned in November 1943 by the Germans and transferred to Germany (many of them are of great artistic value). A German officer, Lt. Van Daalen, encharged with the requisition, packing, and shipment of the films, has declared that the material was addressed to Dr. Quass Reichsfilmarchiv Berlin W 15 Tirpitzufer, who acknowledged receipt of them. Further, Van Daalen has said that he did not know the subsequent fate of the films due to war developments and Germany's defeat. With a view to obtaining (a) information, if possible, with regard to the films in question and (b) their eventual recovery, the Italian Ministry of Foreign Affairs asks for the assistance of the American Embassy at Rome. SUMMARY ENDS.

I am advising the Foreign Office in reply to the foregoing note that its request is being called to the attention of the proper American officials. For communication to it, I would like to have any information which may be developed in connection with the matter under discussion. This message has been repeated as No. 7 to Berlin.

KIRK

cc: 2/27/46 Glasser, Miss Montgomery (3), Schmidt (4), Willis, Kamarck, Pollack.

120833

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Economics Division
Restitution Branch
APO 742

8 April 1947

The Secretary
Metropolitan Museum of Art
New York, N.Y.

Dear Sir:

The recent order of the Allied Control Authority which dissolved the former Prussian State presents the problem of the reorganization of the former Prussian State Museums. Some of the responsible museum officials have expressed an interest in American museums and their organization. Would it be possible for you to forward a copy of your charter, constitution and by-laws to this office and we will give this information to the officials who are trying to restore this vast museum complex.

May I thank you in advance for your kind attention to this request.

Very truly yours,

RICHARD F. HOWARD
Chief, MPA&A Section

DWC FILES - MR. LEONARD - Rest Br, MPA&A Sect

29

DECLASSIFIED
Authority AND 765036
By TJ NARA Date 9/8/99

RG 260
Economics
Division
Box 115

120834

REPRODUCED AT THE NATIONAL ARCHIVES

DECLASSIFIED
 Authority NND 775042
 By MM/SARA Date 8-3-99

RG 260
 Entry OMGUS/AFB
 Box 129

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLE CONTROL

OUTGOING MESSAGE

~~CONFIDENTIAL~~
ROUTINE

TO : AGWAR FOR WARCAD
 INFO : ACC HUNGARY FOR WEEMS
 FROM : OMGUS SIGNED CLAY
 REF NO : CC-7851 T00: 290852Z JAN 47/ws

Formal claim has been made by Hungarian Restitution Mission for return of Hungarian coronation jewelry including crown of Saint Stephen now in US custody at art collecting point Munich. In view of earlier doubt as to wishes of Hungarian Govt in this connection please advise as to War Dept wishes. Office of Political Affairs this headquarters is requesting advise from US minister to Hungary.

ORIGINATOR : ECON AUTH: JOHN H. ALLEN
 INFORMATION : O/SS
 POL AFF

CC-7851

29 Jan 47

HB/ws

~~CONFIDENTIAL~~

Copy No. *21*

Exempt from paraphrase. Handle in compliance with AR 380-5.

120835

DECLASSIFIED
Authority NND 775057
By SL NARA Date 7-27-99

RG 260
Entry Hall Coll.
Box 271

Munich
OFFICE OF FEDERAL GOVERNMENT FOR BAVARIA
Monuments, Fine Arts and Archives Section
APO 170

Jill Keller

AG-007-FCBR/B

18 December 1948
date

SUBJECT : Movement of Cultural Property

TO : when it may concern

1. Movement of cultural objects is authorized as stated below :

OBJECTS : Basic: Rest. No 4578, Declaration 01173, Taken 20/8/46

4 oil-paintings belonging to Gustav-Adolf collection

- 1) Landscape by Sturmacht, size 40 x 25 cm
- 2) Landscape by Ullrich, size 40 x 25 cm
- 3) Sturmacht by A. Lindemann, size 40 x 25 cm
- 4) Landscape by Sturmacht, size 55 x 40 cm.

property of Antonie Lindemann, Berlin, present location at Sturmacht, Filiale Munich

FORWARD TO: THE AUSA

FROM : Commandant Filiale Munich

TO : Berlin Collecting Point

Person authorized to effect the move : Mr. R.J. STONE, Reference: REQUESTOR, GFF Munich

2. Custodians will require full identification and will be held strictly accountable to see that objects other than those stated are not removed.

Stamp :
OFFICE OF FEDERAL GOVERNMENT FOR BAVARIA
FINE ARTS
DISTRIBUTION

[Signature]
ED. IN C. RAE
Chief, Monuments, Fine Arts and Archives Section

DECLASSIFIED
Authority NND 775042
By BAW NARA Date 7/28

RG 260
Entry (D+2504)
Box 129

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES



INCOMING MESSAGE



TOO 221800Z

RESTRICTED

RECD 251423B AUG 1947
46/25

ECON

R E S T R I C T E D

R O U T I N E

FROM : AGWAR FROM CIV AFF DIV
TO : EUCOM
RELAYED TO : OMGUS FOR ACTION (251400Z)
REF NO : W-84825 CITE: WDSCA-PG

Desired soonest re present status sacred crown
of Hungary reported under US Mil Govt custody in Bavaria.
Due to Catholic inquiries desire crown be not returned to
Hungary pending further instructions as to disposition.
Cardinal Spellman alleges crown acquired from Hungarian
refugee. Please confirm.

ACTION : ECON
INFORMATION : FIN
LEGAL
POL AFF
IA&C
INTELL

ACTION COPY

Not to be used & removed by A.C. Records Branch only

AGC IN 68362

RESTRICTED

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By JW NARA Date 9-29

Coll. - France

ROTHSCHILD COLLECTIONS

Paris

Letters of 1941 between Fowles of Duveen's, NYC and A. C. de FREY, Switzerland report that the collections have been confiscated, will not be sold at auction but will probably be put in different (German) museums. (1)

Property of Edmond, Alexandrine and James Armand de Rothschild, stored in five strong-rooms in the Banque de France and Credit Lyonnais, Paris were turned over to Einsatzstab Rosenberg at Goering's orders. An additional Rothschild Collection discovered in a bombproof nderground room the the Hotel Rothschild, Ave de Longschamp (consisting of French and Dutch paintings of 18th and 19th century) was reported to Einsatzstab Rosenberg but report adds that German Admiralty authorities would probably wish "to acquire some of the best pieces of furniture and pictures by payment from its entertainment grant." (2)

Josef ANGERER^(qv) boasted that he brought ROTHSCCHILD Palace Collection of books, furniture and art from Paris to Germany for Goering. (3)

Bernard PAYR (qv) and Dr. ZEICHEL (qv) reported to have removed books, paintings, tapestries and other objects from the Chateau de La Ferriere, (Seine et Marne) property of Edouard de R., represented by his son, Capt. Guy de R. (4)

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