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OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
APO 407
Monuments, Fine Arts, and Archives Section
Central Collecting Point

Date 15 November 1948

SUBJECT: Shipment to Italy

TO : Dr. Siviero, Italian Representative at the CCP

The enclosed list shows the items which have been located in the Central Collecting Point and will be ready for shipment on Tuesday. The items which are circled in blue ink have not been located and it is requested that you furnish this office further distinction and information, so that we may complete the search for these items as soon as possible.

Stefan P. Mursing

STEFAN P. MURSING
Chief, Monuments, Fine
Arts and Archives Section
Restitution Branch

1 Incl: List of restitutable
items

(Tel: 200)

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~~SECRET~~
Hm

Schedule A

LIST OF ITALIAN WORKS OF ART SOLD UNLAWFULLY TO GERMANY

A. RUBENS, P.F. - Equestrian Portrait of the Doris Family

- B. 1. CAVALLINO, Bernardo - St. Cecilia
- 2. DA VINCI, Leonardo - Leda and the Swan
- 3. ~~PIERRO DELLA FRANCESCA (or FRA CAROVALLI) Madonna with Child~~
- 4. ~~BERNINI - Statue "Veritas"~~
- 5. RICCI, Sebastiano - 9 allegorical compositions ?
- 6. Italian-German School - Resurrection of Lazarus

C. ATROZZI, Bernardo

- 1. St. Catherine
- 2. St. Cecilia

D. MAGNASCO - Landscape with Caravan

E. 34 cases of Works of Art exported by the Economical Section of the German Embassy at Rome:

- 1. DELLA ROBBIA - St. Lucy - figure in clay
- 2. CANALETTO - 2 Landscapes
- 3. PANNINI - 2 church interiors
- 4. VENETIAN MASTER - Venus - 16th century
- 5. VENETIAN MASTER - Leda - 16th century
- 6. VERONESE SCHOOL - Venus and Mercury
- 7. VERONESE SCHOOL - Venus and Satyr
- 8. RUBENS SCHOOL - Judith
- 9. RICCI, Sebastiano - Diana and Callistus
- 10. ROMANO, Antonio - Adoration of the Kings
- 11. SACCHIACCA - Portrait of a woman
- 12. VENETIAN MASTER - Portrait of a woman - 16th century
- 13. SPANISH MASTER - Portrait of a woman - 17th century
- 14. FLORENTINE MASTER - Portrait of a man - 16th century
- 15. ITALIAN Chest - 16th century
- 16. ITALIAN Table - 16th century
- 17. ITALIAN Table - 16th century
- 18. ITALIAN Bench - 16th century
- 19. ITALIAN Wardrobe - 16th century
- 20. ITALIAN Table - 16th century
- 21. ITALIAN Table - 16th century
- 22. ITALIAN - Marble Relief - Madonna and Child - 19th cent.

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LIST OF ITALIAN WORKS OF ART SOLD UNLAWFULLY TO GERMANY (Cont'd)

- X 25. FRENCH MASTER - Two women - 16th century
- X 26. TH. ROMBOURS - Mythological Scene
- X 27. CARACCI - Portrait of a woman
- X 28. ITALIAN MASTER - Madonna and Child - 15th century
- X ITALIAN PAINTER - Venus and Jove - 17th century
- X FLEMISH PAINTER - Adam and Eve - 16th century

F. "DISCABOLUS" - copy of Myron (from Lancelotti collection)

G. MEMLING - Portrait of a Man (from Corsini collection)

tripolo
tripolo

*Due Tripolo !!
Due Tavole di
tripolo !!*

MZ.

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It is the policy of the United States to protect the cultural heritage of all nations, and to restore to a country any works of art and cultural materials which appear to have been removed from that country inequitably. This will include objects removed because of extraordinary exceptions to established laws, even though not falling under normal restitution procedures.

In line with that policy it is announced today that the famous Vipiteno Altar, and the Portrait of a Man by Memling from the Corsini Collection are being immediately returned to Italy.

The Vipiteno Altar, sometimes called the Sterzing Altar, because of the change of name of the small Alpine village for which it was constructed, is a carved and painted 15th century altarpiece, of eight scenes from the life of Christ, which Mussolini forced the villagers to sell for 12,000,000 lire, so he might present it as a gift to Hermann Goering on his birthday on 12 January 1942. The Memling from the Corsini Collection, ^{was} purchased in 1941 by Hitler's agent Prince Phillip of Hesse, over the objection of the Minister of National Education of Italy. His objection was overruled by Count Ciano, and the painting was not only exported, but no export fees were paid.

Another object, which it is expected will fall in the category includes the antique Venus of Leptis Magna presented to Goering by Balbo, the ~~Lancelotti Discobolus sold to Germany upon Mussolini's order in 1938,~~ and a whole group of paintings, sculptures and terra cotta objects from the Ventura collection, Florence.

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Also it is possible that other countries, especially Austria,
may benefit from the announcement of this policy.

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USPOLAD,

Dec. 24, 1948
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BERLIN.

1) Re despatch No. 458 from American Consul General, Munich, November 2, 1948, subject: "Extraordinary restitution of art objects to Italy," in which was noted the report that "Spruchkammer proceedings for the denazification of Hitler and Goering have been completed. Under the denazification law, property of Class I Nazis is turned over to the German who suffered under the Nazi regime." Dept. informed (A-723, September 22, 1948 from USPOLAD to Dept. paragraph 2) "Disposition by the Minister President is to be in accordance with Control Council and Military Government laws and Directives."

Dept. regards sale of remaining objects in the art collections of Class I Nazis for the support and relief of political persecutees or the sale of any cultural property under governmental authority in the American Zone of Germany as contrary to the established policy for the protection of Europe's art treasures and inconsistent with the Directive to Commander-in-Chief, July 11, 1947, paragraph 25, relative to "Monuments, Fine Arts and Archives."

That the U. S. Govt. should never directly or indirectly aid in the sale and dispersal of art from Europe in an opinion known to be fully shared and vigorously upheld by the Political Adviser and COMJUS. The sale of widely publicized collections of Hitler and Goering is regarded by the Dept. as both economically and politically inadvisable. It would become a controversial issue and entail an adverse reaction on the part of European Allies who are demanding some degree of replacement in kind for unrecovered losses. The Nazi collections comprise the only art holdings of German ownership which might be used without criticism for token compensation under such a policy. And disposition of this property should be satisfactory to the European Allies.

It is recommended that the cultural property of the Class I Nazis continue to be held apart by German authorities pending the final post-war settlement of cultural property. It is also recommended that under any ultimate alternative disposition (as recommended in A-185 (?), March 8, 1941) the property should remain in public ownership and not be sold.

2) It should be noted that proposals for the sale of works of art for purposes of relief are being increasingly advanced. The proposed sale of the Hitler and Goering collections is but one phase of a larger problem. In regard to an earlier proposal to sell church art to U. S. bidders for food, Dept. fully concurred with the Political Adviser's opinion that "Sale of art of this kind is economically, ethically, and politically unwise," (enclosure to Despatch No 16697, (?) June 21, 1947). Dept. is further aware of grave apprehensions on the part of German art authorities and museum personnel that German museums will be forced to sell their collections for relief and reconstruction (????, MFA&A Monthly Report for October 1947, p. 8, Annex C).

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International art dealers have not only sought to enter the American Zone of Germany to buy works of art but have proposed a scheme for the wholesale liquidation of Germany's cultural possessions; French dealers are attempting to gain access to the collecting points on the ostensible grounds of aiding in the identification of unidentified art (Dept. to USPOLAD, a-7, November 4, 1948). Furthermore certain American museum (?) officials are openly advocating the sale of objects from Nazi and German public collections. In the New Yorker, August 18, 1948, Mr. Theodore xxxxxxxx, Jr. Director of Paintings in the Metropolitan Museum of Art is reported to have said, "America has a chance to get some wonderful things here during the next few years. German museums are wrecked and will have to sell... I think it's absurd to let the Germans have the paintings the Nazi bigwigs get; often through forced sales, from all over Europe. Some of them ought to come here, and I don't mean especially to the Metropolitan, which is fairly well off for paintings, but to museums in the West which aren't."

Dept. of Army. (?) In view of the widespread agitation in the U.S. and Europe, it is believed desirable that public statement be made reaffirming the JCS policy and assuring that the provisions of former German law prohibiting the sale of art and cultural objects in the public domain will be observed by both German and Allied authorities and personnel. Would a formal communication to OMCUS (?) along these lines be advisable?

LOVETT (ACTING)

COPY TO: USPOLAD, Frankfurt

NOTE: Beginning just prior to para. 2 of this airgram, the paper from which this copy was made was very poor, particularly on the numbers of the airgrams, although their dates, I believe, are correct. ms

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February 18, 1949

No. III (or III)

To the Office of the

United States Political Adviser on German Affairs,

Frankfurt.

The Secretary of State acknowledges the receipt of a despatch No. 458, dated November 2, 1948, from the American Consul General, Munich, on the subject, "Extraordinary restitution of art objects to Italy," two copies of which were sent to Frankfurt. The airgram No. A-886, dated November 23, 1948, with the information that one piece of sculpture and seventeen paintings had been returned to Italy was also received. A report in the New York Herald Tribune, November 19, 1948, stated that Mr. Herbert S. Leonard, Monuments, Fine Arts and Archives officer at the Munich Central Collecting Point, had resigned in protest to the restitution of these objects of art to Italy.

The restitution of such works of art (acquired in violation or by way of extraordinary exception to established laws of claimant countries for the protection of cultural objects, where to do so appears to be equitable) was authorized in an Army telegram 99722, dated 16 April 1948, in response to a request from the Office of Military Government for Germany (U.S.), CGL838, dated October 6, 1947.

It was evident from documents in the files of the Roberts Commission and the OSS Art Looting Investigation Unit that the Nazis used methods of dispossession in Italy similar to those practiced first in Germany and later in Nazi-occupied countries; also that Mussolini and Fascist officials confiscated works of art in public ownership (as the Vipiteno altarpiece), for transfer to Nazi leaders, and ordered the exportation of objects, which would have normally been prohibited from export under Italian law as constituting a great cultural loss.

In contrast to this disregard by the Nazi and Fascist leaders of their responsibility to protect even their own national treasures, an international respect for artistic and historic possessions among nations has been increasing in recent years. Just prior to the outbreak of World War II, an international convention was drafted under the League of Nations to facilitate by international mutual assistance the restitution (in time of peace) of objects belonging to a nation's patrimony, illegally transferred from the country (Office International des Musees, Art et Archeologie

Recueil

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Recueil de legislation comparee et de droit international, No. 1, 1939).

The return of inalienable cultural objects to the Italian people is believed to be correctly interpreted in the press release from the Office of Military Government for Germany (U.S.), as consistent with the Military Government policy to respect the cultural heritage of all nations.

The Office of Military Government for Germany (U.S.) is being informed by the Department of the Army that the return of works of art under this policy is limited to objects removed in violation of the law of the claimant country or by way of extraordinary exception to established laws. This would include all objects of former public ownership and national treasures, privately-owned, which would have been prohibited from export, except for extraordinary circumstances, such as the collusion of Nazi and Fascist high officials to evade the normal controls. Full documentation of foregoing should be required of claimant governments in each case.

If measures to counteract adverse publicity in Germany now appear appropriate, it may be desirable to publicize the methods used to evade the Italian Law of 1909 with respect to particular cases, such as the Discobolus acquired for the Munich museum through the direct intervention of Mussolini. The fact that attempted exportation in violation of law would under normal circumstances have resulted in confiscation of the object by Italian Government should be emphasized in the publicity.

The text of the Italian law of June 20, 1909 on antiquities and fine arts, MIO reports and Italian documents on art transactions, a resume of the limited information available in Washington regarding the eighteen works of art returned to Italy November 16, 1948, and a clipping from the New York Herald Tribune for December 6, 1948, (Enclosures 1 - 6) are forwarded herewith for transmission to the Office of Military Government for Germany (U.S.) as being of possible value to the Monuments, Fine Arts, and Archives Section in Munich.

The disposition of the works of art and cultural property in the Nazi collections, which in despatch No. 458, November 2, 1948, are reported to have been turned over to the German Government to be used for the support and relief of political persecutees, under the denazification law, was the subject of a separate airgram, No. A-735, December 24, 1948.

A copy of this instruction is being set to the American Consulate General, Munich.

Enclosures:

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Enclosures:

1. Excerpts from Italian Law on Antiquities and Works of Art - Rome, June 20, 1909.
2. Copy of letter HQ, ALCOM 20909/25/8/MFAAA, 18 September, 1945, Appendix A and Exhibit 1.
3. Report from Europaischer Kulturdienst, III, 6, February 3, 1941, p. 4.
4. Telegram from Minister of National Education to Superintendent of Galleries in Rome, 1 Sept. 1941 and reply, 5 Sept. 1941.
5. Works of Art returned to Italy, November 16, 1948.
6. Clipping from New York Herald Tribune, December 6, 1948.

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REPUBBLICA ITALIANA
MINISTERO DELLA PUBBLICA ISTRUZIONE

UFFICIO PER IL RECUPERO DELLE OPERE D'ARTE
E DEL MATERIALE BIBLIOGRAFICO E SCIENTIFICO

SECRET

Frankfort, 30 August 1949

N. 6101/prot.
Subject: The Restitution of Works of Art.
To: The Political Adviser of the United States High Commissioner
in Germany.

Dear Sir, may I request your attention to the following subject,
as the representative of the Italian Government's Committee for
the Restitution of Works of Art:

On July 28th 1948 the USPOLAD forwarded a memorandum to
the Italian Government through the Italian Consul in Francfort M.
which pointed out that:

"US Government policy on the subject of the restitution of
objects of cultural interest is based on the proposal to protect
the cultural heritage of all nations and to restore to the nations
who may file such claims, all the cultural objects which have
been bought or procured illegally by the Nazi Government through
their officers and soldiers in violation of the laws protecting
cultural objects, or by unprecedented interpretations of these
laws. These violations include the granting of permits and
special licenses, practices out of common procedure (especially
in the case of personal friendship between members of the Govern-
ment involved and the Nazis), evidence of political pressure and
duress or corruption."

Later, the execution of such restitutions was delayed by
Mr. Herbert S. Leonard, Land MFA Officer CMGB, and the Italian
Committee was told by Mr. Howard, Head of the FA & M Restitution
Branch, and by Mr. Offie, USPOLAD Officer, that on July 19th
1948 instructions had been given for the immediate release and
return to Italy of thirty nine works of art illegally removed
by the Germans.

Mr. Leonard did not carry out this order to restitute the
thirty nine items and did not ask for further documentation as
suggested by OMGUS, concerning another group of forty works of
art, the restitution of which had also been considered. On the
contrary, he referred against this order of restitution to the
Legal Branch and forthwith made public his resignation, declaring
to the "New York Herald Tribune" that he resigned from his office
because he believed this restitution to Italy to be improper.

This statement was reproted and commented on by some German
newspapers, a weekly magazine even daring to call the head of

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the Italian Committee "a pirate, who takes advantages of the present political situation". It is not to be expected that the Italian Press would not take any action on Mr. Leonard's attitude and that of the German art historians at the Munich Collecting Point, who showed an unfriendly attitude on the subject of these restitutions.

Mr. Leonard's post was taken over by Mr. Stephen P. Munsing. While carrying out the return to Italy of works of art, illegally removed by the Germans from Italy, he forwarded to the Head of the Italian Committee a memorandum, dated November 15th 1948, in which he stated that he had not yet located twenty two of the thirty nine items on the list given to him by OMGUS and furthermore not one of the objects apart contained in the thirty four cases slipped past the Italian frontier authorities by the Economic Section of the German Embassy in Rome.

Mr. Munsing was then immediately notified that Nr. 26 of the a/m list (Madonna and Child, Italian XV Painter), was hanging, together with the Rubens, listed as A, on the walls of the Haus der Kunst in Munich among the works of art pertaining to the "Alte Pinakotek".

In addition it had been emphasised that most of the paintings covered by the a/m list - which had been removed in the above mentioned thirty four cases by the German Embassy in Rome - had been located at the Collecting Point and recognised at the time when Mr. Rae was the Director of the C.P., by a Committee whose members consisted of: Prof. G. Castelfranco, Prof. Salvini, and Dr. Halm (officer in charge of the Italian affairs at the C.P. 7) and behind each item a date had been fixed to record their origin and the time of their illegal removal to Germany. Mr. Munsing promised to inquire and locate those works of art immediately.

As regards to 'Madonna and Child,' attributed to Masolino da Panicale, and located at the Haus der Kunst, he agreed and promised that the painting had to be returned together with the Memling and other objects retrieved by himself. At the last moment however, through a suggestion of Mr. Breitenbach, an official of the C. P., the return was delayed on the pretext that the attribution of the said Madonna to Masolino was not stated on the OMGUS list. This expertise was made by an Italian professor in 1940 in an article published by the magazine "La Critica d'Arte", and is not yet commonly known. Therefore the OMGUS list did not mention it.-

On June 14th 1949, the Head of the Italian Committee agreed with H. E. Mr. Dunn, the US Ambassador in Rome, to forward a memorandum for the specific purpose of accelerating the speedy restitution of the a/m items mentioned above. OMGUS answer through the US Ambassador dated, however, that:

1.) US Governments order covering nineteen works of art (the Memling group) had already been executed by OMGUS and no other works of art should be returned to Italy.

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2.) OMCUS complained of Mr. Siviero, Head of the Italian Committee, charging him of sponsoring a campaign against Mr. Leonard in the Italian Press on certain aspects regarding the restitution of the a/m group.

For correct information it must be pointed out that the said press campaign has been greatly softened by a public statement by Mr. Siviero to a group of Italian, and foreign, journalists and representatives in Rome in which he thanked the US Government for all the help given to date which action was well recieved by the US Government. The US Ambassador officially informed OMCUS of this fact and forwarded a friendly comment together with newspaper articles from Mr. Siviero concerning Mr. Leonard and certain Germans of the Collecting Point.

Therefore the Italian Interministerial Committee for the Recovery of Works of Art requests the Political Adviser of the US High Commissioner in Germany to take further action on the restitution of works of art as agreed upon in the memorandum from USPOLAD to the Italian Government of July 28th 1948.

A Photostat of the list of covering the items which OMCUS ordered to be returned and a copy of the documents concerning the works of art (which have not yet been returned) illegally removed from Italy in special trains on personal orders of Hitler and Goring is attached herewith for reference. In addition these documents include twelve items, which were bartered in 1942 by Mr. Ventura, an antique dealer of Florence, with Goring for nine French impressionist paintings stolen by Nazis in France. The Italian Government has returned to the French Government these paintings three years ago, while Italy has not yet had the restitution of the twelve items many of which have been located at the Munich Collecting Point.

/s/

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August 16, 1949

No.

To the Office of the

United States High Commissioner for Germany,

Frankfort.

The Secretary of State has received by reference from the White House the four enclosed letters of protest against the "exceptional return of works of art to Italy" from museum authorities in Germany: (1) from Dr. Hans K. Rothel, a German curator at the Central Collecting Point, Munich, dated November 30, 1948 (enclosure 1); (2) from thirty-six German staff members of the Central Collecting Point, Munich, dated December 1948, with an enclosed copy of the official receipt for the objects returned to Italy (enclosure 2); (3) from Dr. Wiltrud Mersmann, German curator at the Central Collecting Point, Munich (enclosure 3); (4) from Dr. Hans Jantzen, a professor of fine arts at the University of Munich, dated February 24, 1949, with eighty-eight signatures of German authorities (enclosure 4).

The Department of State has set forth its position with regard the restitution of the eighteen objects in question to Italy in a cable to OMCUS, WAMX 83407, dated 29 January 1949 and in the instruction to the United States Political Adviser on German Affairs, Frankfort, dated February 12, 1949, with six enclosures, a copy of which was also forwarded to the American Consulate General, Munich. The United States High Commissioner for Germany should make such reply to the attached letters of protest, as may be deemed appropriate, on the basis of the information contained in this instruction of February 12, 1949, and on the basis of further information obtainable from the Munich Central Collecting Point with respect to the validation of the Italian claims in these particular cases.

The Department of State had anticipated that the restitution of these eighteen objects to Italy would arouse adverse opinion in Germany, and particularly in Munich, when informed by the American Consulate General, Munich, in the despatch No. 458 dated November 2, 1948, that Mr. Herbert S. Leonard, the Monuments, Fine Arts and Archives Officer for the Office of Military Government for Bavaria, had resigned in protest. It may be noted that all four letters of protest originate in Munich.

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It is recommended that the erroneous use of the phrase "extraordinary restitution" be corrected. The restitution of the eighteen works of art to Italy was in no sense an extraordinary exception to American restitution policy as implied in the phrase "extraordinary restitution" or "extraordinary return." The policy was limited to objects "removed in violation of the law of the claimant country or by way of extraordinary exception to established laws." The mistaken transfer of this phrase apply "extraordinary exception" to restitution rather than established national laws was apparently first made by Mr. Herbert S. Leonard when he was the director of the Munich Central Collecting Point. The copy of the Central Collecting Point receipt enclosed with the protest of the eighteen staff members of the Munich Central Collecting Point (enclosure 2) is entitled "Receipt for Exceptional Return of Cultural Objects."

Handwritten notes:
 Handwritten in
 Munich
 19.7.48

It might also be pointed out again to the German museum officials that the policies of the United States Government have scrupulously respected the integrity of German cultural property with that of all nations, as was stated in the release of the OMGUS Public Information Office dated 18 November 1948 (enclosure 5). The German museum officials must be well aware that the varied methods of dispossession practised by Hitler and Goering and their notorious art agents in all invaded territories were first practiced in Germany in violation of established German law for the protection of German national heritage, notably Article 150 of the Weimar constitution and the regulatory laws of German States. On March 23, 1940, Hitler acquired fifteen paintings from the Bavarian State Picture Gallery in Munich for his projected museum at Linz for which he paid 195,000 Reichmarks. The numerous irregular transfers of publicly owned property within Germany have been recognized as such by this Government.

Enclosures:

1. Copies of the four letters of protest with their enclosures.
2. Release of OMGUS Public Information Office.

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OFFICE OF THE U. S. HIGH COMMISSIONER FOR GERMANY
OFFICE OF POLITICAL AFFAIRS

November 23

To: Mr. Gufler

From: EAL

Is this Foreign Relations? Certainly there's no point in Schott's handling it. We ought to know what's going on but direct responsibility I should think would be in Public Affairs.

I note no action has been taken on Dept.'s last despatch of Aug 16, 1949.

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OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY
Office of Political Affairs, Protocol Division

Frankfurt, 23 November 1949

To: Mr. Lightner.
From: Mr. Schott.
Subject: Restitution to Italy of Works of Art

The attached dossier concerns the restitution to Italy of works of art.

Mr. Murphy asked me about a year ago to follow the course of this activity, primarily simply to "keep the lid on". It has been a controversial subject with many intricacies. On the U. S. side I dealt with Mr. Breitenbach and other officers of the Education and Cultural Relations Division at Bad Nauheim, as well as with officials of Restitution and Reparations Branch, Property Division, and on the Italian side with Signor Siviero, the Italian Restitutions Liaison Officer for Fine Arts.

The Italian Consul General in Frankfurt informed me that the Italian Government had relieved Signor Siviero from further duty in connection with this activity because it was found that he could not deal successfully with Americans and because he had entered into press polemics which had proved embarrassing to the Italian Government (Siviero reputedly is a Communist who was deep in the resistance movement).

Mr. Heimrich of Education and Cultural Relations Division told me a few days ago that a meeting on the U. S. side soon would be held to draw up a plan for procedure at a pending conference arranged between Washington and Rome at which it is hoped to compose the entire matter.

The Italian point of view, as presented by Siviero, is contained in the attached folder. As a result, I see nothing further to be done but to await the result of the conference.

For your information, attached is the last press article on this subject.

Enclosure:

As stated.

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
AG CABLE

INCOMING MESSAGE

FROM: DEPT OF THE ARMY FROM CSCAD FROM EBERLE
TO : CINCEUR PERSONAL
REF NO: W-99722

Reurad Oct CC-1838

1. The fol pos has been adopted by Army and State.
2. It is the policy of the US that the cultural heritage of all nations be protected. Where to do so appears to be equitable. You are auth to return to claimant Govts cultural objects acquired by Natl Socialist Govt of Germany, its officers and Mil and civ pers from claimant countries in violation of law of such countries or by way of extraordinary exception to established laws of the claimant countries for the protection of cultural objects.
3. The term "extraordinary exception to the established laws" may be construed to include the granting of an unusual permit, license or exemption under circumstances which indicate that an exception to the general rule was made because of either close personal relationship between officials of the claimant country and officials of the Nazi Govt, political reasons, or improper pressure or corruption.
4. Outstanding example of cases falling within above policy is Vipiteno Altarpiece. Other objects mentioned in urad also would appear to come within this policy. If you agree, suggest immediate action to return be instituted and announcement made before Italian election 18 Apr. State Dept requests it and Amembassy, Rome, be promptly informed of any action through USPOLAD, Berlin for public info purposes.
5. Because of its unusual political and religious significance, St. Stephen's crown is not to be returned under this policy without prior ref to Army and State. If in your opinion other objects have similar special political or religious significance, it is requested that you consult Army and State, with regard to them.

CC-1838, 3 Oct 47, ECON
ACTION: S/G
INFO: C/S
PROP DIV
OFF ECON ADV
POL AFF
OFF FIN ADV
LEGAL
CONT OFF
MR. DEVEREUX

AGC IN 1549

17 Apr 48

Ref No: W-99722

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14)

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

llc
ESL/mw

AG-007-MERFR/E

24 August 1948

SUBJECT: Italian Claims No. s 3220 A and B.

TO : Office of Military Government for Germany (EMG),
Property Division, Restitution Branch, MFA&A Section,
APO 407, U.S. Army (ATTN: Mr. Richard F. Howard)

1. None of the works in these claims is subject to resti-
tution as defined in MGR Title 18 and elsewhere. The claims are
based on the allegations that one group was removed illegally and
the other group was removed clandestinely.

2. Unfortunately a copy of the Italian law for the pro-
tection of works of art of national importance dated 1 June 1939,
No. 1089, is not available in this office. It is known, however,
from a commentary on it published in Le Arti 1938 - 1939, vol.1,
that it does not depart from the law of 1909 in substance. Among
the paintings said to have been removed illegally are many for
which full and proper licenses were given, the export duties paid
and the shipments were of common knowledge to the highest proper
authorities, especially Bottai, the Minister of Education, who
was condemned to death for anti-Fascist activities. Thus it would
appear that the present Italian government is nullifying laws
and procedures which were in force and effect since 1909. The
illegality, if then there were such, would be in the Fascist
application of those laws and procedures and if an illegality
were committed it was of Italian origin. If these sales, then,
were illegal so were all other sales to individuals of other
countries. The question may rightly be asked whether or not the
present Italian government has made claims for similar works which
were exported to other countries and whether or not those claims
have been allowed.

3. Under Italian law all works of art exported have to
have a license. In case the seller has been notified that his work
of art is of national importance it may still be sold for export
provided that a license is granted and that heavier export taxes
are paid. It is rather strange to find that the following paint-
ings are said to have been works of art of national value since
they are, with one exception, of non-Italian authorship and are
of the type that constitutes the vast bulk of the normal commercial
art market.

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- (6) Copy after Guido Reni, "Atlanata"
- (8) School of Fontainebleau, "Bathing Girls"
- (12) Clouet, "Portrait of a Lady"
- (13) Waldmueller, "Isabella Colibrari at the Piano"
- (15) Lemoine, "The Three Ages of Man"
- (16) Vouet, "Madonna and Child"
- (26) French, 18th cent., "Bacchus and Ariadne"
- (37) French, "Venus and Putti in Landscape"
- (38) Amerling, "Mother's Delight"
- (42) Floris, "Adam and Eve"
- (44) Flemish, "Adoration"
- (48) Januarius Zick, "Two Men and a Sick Man"
- (49) Braughel School, "Winter Landscape"
- (50) Floris, "Venus and Cupid"

It is even more curious to find a painting by J.H. Schoenfeld so claimed as he was a German painter of the 17th century and was not a member of the Neapolitan School as is stated in the Italian claim and more tactfully omitted from the English translation.

4. Le Arti I, 1938-1939, p. 492 in commenting on the law of 1939 states as follows:

"L'esportazione é vietata solo nel caso in cui possa derivarne un danno ingente al patrimonio artistico e storico della Nazione".

(The export is only forbidden in such cases where an inense damage to the artistic and historic patrimony can be derived).

5. Giuseppe Bottai, the late Minister of Education, made an important public speech in 1942 in which he said that the following listed works of art were exported to Germany "with the consent of the Government" (for the speech of 9 May 1942 see Attachment I):

(8) School of Fontainebleau, "Bathing Girls". In Bottai's text this is referred to as French School, 16th cent., "Two Women". According to Walter Andreas Hofer (Attachment II), this was packed in one of the thirty-four (34) crates which are claimed under No. 3220 B under No. 5. These crates were given an export license as noted by Bottai. (See par. 6 below).

(11) Padovanino "Female Halfnude". This was also packed in the thirty-four (34) crates.

(12) Clouet, "Portrait of a Lady". Bottai referred to this as Spanish School of the 17th century. Under this title,

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or as by Ceello, it was offered to Hofer who states that later the attribution to Clouet was accepted (Attachment II). This was also packed in the thirty-four (34) crates.

(23) School of Piemont, "adoration of the Child". Bottai identifies this as Piemont 16th century, "Birth of the Child".

(32) Francesco Danese, "Stilllife with Arms". Bottai refers to this as "Trofeo di Armi, 17th century".

(42) Floris, "Adam and Eve". Referred to in the speech of Bottai as: Flemish school, 16th century, "Adam and Eve". This was also packed in the thirty-four (34) crates. Thus it can be shown that among those objects claimed under No. 3220 A as works of art removed clandestinely from Italy six (6) were granted licenses.

6. Under Claim No. 3220 A for those works of art removed clandestinely there seems to be valid reasons for rejecting six (6) of the claims as shown above. There may well be reason to doubt the validity of the other claims.

7. The following paintings are said to have been removed illegally:

(1) Rubens: "Portrait of a Member of the Doria Family on Horseback". This is referred to in the speech of Bottai. The Italian documentation also refers to an earlier application for an export license which was refused, so it would seem, because the evaluation was too low.

(2 a) Bernardo Cavallino: "St. Cecilia".

Referred to in the speech of Bottai. The Italian documentation reveals that the export license was granted according to the Ministerial letter No. 1246 of 19 April 1941 and that the painting was sold for 80,500 Lire and that the tax paid amounted to 10,600 Lire (cf. letter by Aldo di Rinaldis of 11 July 1945).

(2 b) Leonardo da Vinci, "Leda and the Swan".

Referred to in the speech of Bottai. According to the Italian documents the purchase price was 3,000,000 Lire (cf. letter from Aldo di Rinaldis of 3 January 1945). According to the remittance receipt of 6 May 1941 11,364,360 Lire were paid for the Leda and that would seem to include the export tax.

According to A. Mensing, art dealer and auctioneer of Amsterdam, he offered this painting at auction in 1928 but no bidder met the reserve price set by the family and so the painting was returned to Italy under a temporary license which exempted it from other Italian regulations.

(2 c) Piero della Francesca, "Madonna and Child".

Aldo di Rinaldis wrote 3 January 1945 "I am aware that the owners, the Marchionesses Fos di Villamarina, represented in Rome by Duke Andrea Torlonia, have not effectuated the

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sale of the picture". This painting has not been identified in the Central Collecting Point because, in all probability, it never left Italy.

(2 d) Bernini, "Statue of Truth".

Aldo di Rinaldis wrote 3 January 1945 that the purchase of this statue was not accomplished as no agreement could be reached on the price. He further adds that at the time of writing the statue was in the custody of the Borghese Gallery, Rome, and since the city was then occupied by American forces the statue probably never left Italy.

(2 e) Sebastiano Ricci, "Nine Allegorical Scenes".

Bottai refers to this in his speech. This export of these were urged by Pavolini in his letter to the Minister of Education dated 2 October 1941. The export license was granted 26 November 1941 in Ministerial letter No. 9410. The export tax of 68,000 Lire was paid.

(2 f) German-Italian school, "Raising of Lazarus".

According to the letter of Aldo di Rinaldis of 3 January 1945, the painting "at the orders of the Ministry was returned to the Prince of Hesse on payment of the sum of 3,000 Lire".

(3 a b) Bernardo Strozzi, "St. Catherine" and "St. Cecelia".

Referred to in the speech of Bottai. In a letter of 24 March 1941 Carlo Aru informed the Ministry of Education of the intention of the art dealer Pietro Accorsi to sell the two Strozzi paintings to the Prince of Hesse. Four propositions were submitted and of those it would seem that the third was accepted. This provided that the price be raised from 50,000 to 200,000 Lire. On that basis the export license was granted (see speech of Bottai) and the final price of 220,000 Lire was paid together with the export tax which amounted to 31,210 Lire. (Attachment 3).

(4) Magusco, "Large Painting".

Referred to in the speech of Bottai.

(5) 34 cases of works of art.

The Italian documentation (letter by Bottai of 18 November 1941) reveals that the export license was granted and that the taxes were paid by the Italian Ministry for Foreign Affairs. A specific list of the contents of these cases has not been submitted, but Refer has identified twenty art objects included in these crates as being mentioned in Bottai's speech. (cf. Attachment II). It should be further noted that four of the paintings which were packed in these crates and which are claimed as having been removed illegally have already been claimed as having been removed clandestinely.

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(6) The Lancelotti Discobolus

The Italian documentation reveals that the export license was granted by the Ministry and a notice in the New York Herald Tribune of 20 June 1938 proves that the taxes were paid (cf. Attachment 4). In 1937 the Italian Ministry had requested expert advice on the value of the statue with a view to export. According to Prof. L.H. Heydenreich the statue had been offered to the Metropolitan Museum of New York City and Miss Gisela Richter, Curator of Greek and Roman sculpture, added that the money could not be raised and so Hitler acquired it first. The funds for the purchase of this came from the Reich; The Kaiser Friedrich Museum and 5,000 RM were subscribed by the Magistrat, Berlin, an event unique in the annals of the Kaiser Friedrich Museum. This purchase was extensively discussed at the time.

(7) Memling, "Portrait of a Man".

Referred to in the speech of Bottai. This painting had been offered before to Walter Andreas Hofer, Goering's agent, who then had refused to buy it because of the high price.

8. Sufficient evidence has been cited above to prove that this claim should be reexamined. It should be noted that most of the inconsistencies and indications of proof to the contrary are to be found in the documents forwarded with the claims. The words "illegally" and "clandestinely" have been so loosely used and so many errors in fact and assumption have been found that the undersigned is incapable of taking any further action on these two claims without further clarification.

FOR THE LAND DIRECTOR:

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

- 6 Incls:
- Incl 1 - Attachment 1
- Incl 2 - " 2
- Incl 3 - " 3
- Incl 4 - " 4
- Incl 5 - " 5
- Incl 6 - " 6

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15)

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
PROPERTY DIVISION
RESTITUTION BRANCH MFA&A SECTION
MUNICH GERMANY APO 407-A US ARMY DSL/mw

AG-007-MGBPR/B

17 September 1948

SUBJECT: Exceptional Return of Works of Art to Italy

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

1. Reference OMGUS letter, subject as above, dated 10 July 1948, signed Lt. Col. G.H. Garde.

2. The substance of this letter is nearly the same as our letter, subject Italian Claims Nos. s 3220 A and B, dated 24 August 1948.

3. The background of this case is found in the allegation that certain works of art acquired in Italy by Hitler and Göring or their agents were either illegally acquired or exported, or that there were other violations. The basic law in Italy concerning the protection of works of art is that of 1909 and modified only slightly 1 June 1939.

4. A large number of works of art were acquired for α by Hitler and Göring and there was increasing concern among the Italian authorities. Ultimately Giuseppe Bottai, Minister of Education made a speech concerning these matters which was reported in "II Giornale d'Italia" for 9 May 1942. In that speech he admitted that many works of art had been given licenses and had been duly exported. The Italian authorities then tightened certain provisions of the law. Bottai later met his death as an anti-Fascist.

5. Le Arti I, 1938 -9, p. 492 in commenting on the law of 1939 states as follows:

"L'esportazione é veitata solo nel caso in cui possa derivarne un danno ingente al patrimonio artistico e storico della Nazione."

(The export is only forbidden in such cases where an immense damage to the artistic and historic patrimony can be derived).

6. Below are various notes on the works of art as an enclosure to the basic OMGUS letter.

a. Rubens - Equestrian portrait of a member of the Dorio Family. This is referred to in the Bottai speech as having been exported with the knowledge and consent of the government.

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b. Cavallino - St. Cecelia. Referred to in the speech by Bottai. The Italian documentation reveals that the export license was granted according to the Ministerial letter No. 1246 of 19 April 1941 and that the painting was sold for 30.500 Lire and that the tax paid amounted to 10.600 Lire (cf. letter by Aldo di Rinaldis of 11 July 1945).

c. Da Vinci - Leda and the Swan. Referred to in the speech of Bottai. According to the Italian documents the purchase price was 8.000.000 Lire (cf. letter from Aldo di Rinaldis of 3 January 1945). According to the remittance receipt of ~~3 January~~ 1945) 6 May 1941 some 11.364.360 Lire were paid for the Leda and that would seem to include the export tax. According to Mr. A. Menasing, art dealer and auctioneer of Amsterdam, he offered this painting at Auction in 1928 but no bidder met the reserve price set by the family and the painting was returned to Italy under a temporary license which exempted it from other Italian regulations.

d) Bernini - statue of "Veritas". Aldo di Rinaldis wrote 3 January 1945 that the purchase of this statue was not accomplished as no agreement could be reached on the price. He further adds that at the time of writing the statue was in the custody of the Borghese Gallery, Rome, and since the city was then occupied by US forces the statue probably never left Italy. It has not been found in the Central Collecting Point.

e) Ricci - 9 Allegorical compositions. Six of the nine have been found here, two more are here but are in such bad condition that they were never picked up as recognizable paintings, and the ninth composition seems to be missing. Bottai referred to these in his speech. The export of these was urged by Pavolini in his letter of the Minister of Education dated 8 October 1941. The Export license was granted 26 November 1941 in Ministerial Letter No. 9410. The export tax of 60.000 Lire was paid.

f) Strozzi - St. Catherine, St. Cecelia, Referred to in the speech of Bottai. In a letter of 24 March 1941 Carlo Aru informed the Ministry of Education of the intention of the art dealer Pietro Accorsi to sell the two Strozzi paintings to the Prince of Hesse. Four Propositions were submitted and of these it would seem the third was accepted. Thus provided that the price be raised from 50 000 to 200 000 Lire. On that basis the export license was granted (see speech of Bottai) and the final price of 200 000 Lire was paid together with the export tax which amounted to 31.210 Lire.

6. The case of e the 34 cases of works of art exported by the Economics Section of the German Embassy at Rome presents certain difficulties. Italian documentation (letter of Bottai 18 Nov. 1941) reveals that the export license was granted and that taxes were paid by the Italian Ministry for Foreign Affairs. The list of the contents as furnished in the basic letter makes identification difficult if not impossible in some cases. Walter Andreas Hofer has listed elsewhere twenty works of art contained therein as being mentioned in Bottai's speech. It should be noted that four of the paintings claimed here have been claimed elsewhere by the

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Italian Government. Of the works listed in the basic communication only the following have been identified here:

- a. Venetian Master - Leda - 16th century
- b. Veronese school - Venus and Satyr
- c. Rubens school - Judith
- d. Ricci - Diana and Callistus
- e. Spanish master (Coello) - Portrait of a woman
- f. French master (school of Fontainebleau) - Two Women

7. The Lancelotti Discobolus. The Italian documentation reveals that the export license was granted by the Ministry of Education and a notice in the New York Herald Tribune of 20 June 1938 proves that the taxes were paid. In 1937 the Italian Ministry had requested expert advice on the value of the statue with a view to export. According to Prof. L.H. Heydenreich the statue had been offered to the Metropolitan Museum of New York City and Miss Gisela Richter, Curator of Greek and Roman Antiquities, added that the money could not be raised and so Hitler acquired it first. According to Dr. Otto Kummel, the then General Director of the Prussian State Museum, the funds were raised from the Prussian State, the Prussian State Museum, 5,000 RM from the Berlin Magistrat an unique event in itself, and from contributions from school children.

8. Memling - Portrait of a Man. Referred to in the Speech of Bottai. This painting had been offered before to Walter Andreas Hofer, Göring's agent, who had refused to buy it as the price was too high.

9. Conclusion. There are faults inherent within the claims as made by the Italian Government. The most glaring is the claim for the Bernini "Veritas" which shows that as late as 3 January 1945 it was still in the Borghese Gallery, Rome. The list in the basic communication presents a rather sketchy sampling of works of art, which had been acquired by various people and from various dealers. Thus a few works of art acquired from Contini, Grassi and Morandotti are mentioned, but not the others. If one is to be ~~see~~ returned, why not the others? In every case mentioned above the purchase price was paid and in many cases that seems to have been excessive (cf. the Strozzi - St. Catherine, St. Cecilia). In every case the export license was granted. It is therefore difficult to find a legal basis for the return of these works of art which seems to have been acquired ~~get~~ legally.

FOR THE LAND DIRECTOR:

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

Tel. MM-4-389

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Mr. Hennrich 40

REPORT ON CLAIM OF THE ITALIAN GOVERNMENT TO WORKS ACQUIRED BY
HITLER AND GOERING IN ITALY, NOW AT THE COLLECTING POINT, MUNICH

At the request of Dr. Grace and Dr. Burns, and in continuation of a preliminary report on the matter (see section on Restitution in the general report to Military Government on the Visual Arts), I beg to submit a more extended report, based on inquiries in Rome.

On July 30, I had the first of several interviews with Dr. Rodolfo Siviero, of the Office for the Recovery of Works of Art, etc., in the Ministry of Public Instruction. I had previously discussed the matter with the United States Ambassador to Italy, and with Dr. C. R. Morey, Cultural Attaché, who is exceptionally well informed on the subject.

From these interviews, it emerged:

1. That the Italian Government intend to pursue their claim for the return of the majority of the works acquired by Hitler and Goering in Italy, in addition to those already returned to Italy under General Clay's order of July 25, 1948.
2. No claim is proposed to be made:
 - (a) For works acquired in Italy by Hitler and Goering before 1938.
 - (b) For works for which an export license was issued by the Italian authorities in the normal way.
3. The claim for other works is based on the allegation that these works are of national importance, and were removed from Italy under duress. It is stated that:
 - (a) Though in some cases an export license was issued, this was done under pressure from the Italian Government, sometimes after one had been refused in the first instance.
 - (b) That in some cases, works purchased were put directly into the trains, etc., used by Hitler and Goering, and that the Italian authorities had no opportunity of preventing their export; while in some cases, the export was surreptitious, without a license being issued. In some of these cases it is said that licenses had been applied for and refused.
4. By approaches to Washington and to the United States Ambassador to Italy, the Italian Government have taken the matter outside the normal channels concerned with restitution, and made the matter one of German external relations. It seems, therefore, that the United States Government in Germany should, under the Occupation Statute, concern itself with the matter.

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It may be remembered that these claims had previously been deferred by Military Government, on the ground that the works of art claimed were not adequately identified, and evidence was lacking of any duress applied to obtain them. In the course of one of the interviews in Rome, I was able to examine a series of documents relating to each work of art, in support of the Italian claim. Copies of these documents, with photographs to assist in identifying the works of art, are stated to have been sent to the Collecting Point in Munich. These I had not seen while I was in Munich; and in the light of them it seems that at least a majority of the works of art claimed can be identified, and that there is evidence of the types of pressure and irregularities on which the Italian claim rests.

It seems to me therefore that the Italian claim warrants more detailed consideration than it has hitherto perhaps received.

Points for consideration and discussion are:

1. After the return of the works of art following the order of General Clay of July 1948, General Clay informed the Italian Government that he regarded the matter as closed by that transaction. This suggests that the order was intended to apply only to the group of works then handed back, and not to apply to any future claims.
2. Why is 1938 taken as a starting point? In that year, and for some time afterwards, Italy and Germany were active allies. It would seem more reasonable to start from the time when Italy surrendered and took on something of the status of a country occupied by the Germans. During the period when Italy and Germany were allies, the question arises whether the concept of duress is relevant. Whether the duress was connected with the sale of the works or in connection with granting an export license, it was applied by the then legally constituted Italian Government. Even if it were at German instigation, duress does not seem to have been applied by the Germans. Similarly, if at this time works of art were acquired by Germans, and were removed from Italy illegally, there seems to be no precedent for demanding their return anymore than in the case of other smuggled goods; while in the case of works being put on Hitler and Goering trains, the practice was apparently tolerated by the Italian Government. After the Italian surrender and during German occupation, circumstances are different. Seizure or sale under duress, may have come from direct German action, likewise export without Italian knowledge or consent. Even so, consideration is needed of the rights of occupying powers under international law, and of any rights exercised by the Germans which were recognized as legal by the Allies.

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3. In the documents, photographic and otherwise, prepared by the Italian Government, there are inevitably uncertainties and gaps, both as regards identification of the pictures and the circumstances of their leaving Italy. Also, the definition of what constitutes a national treasure and the evidence thereon is often not precise.

The foregoing considerations make it clear that there are facts and principles in dispute, which make impossible any clear-cut general ruling which will suit every case. Moreover, in the course of communications between Military Government and the Italian Government, some heat has developed, which makes dispassionate judgments difficult. Decision on the matter cannot be postponed indefinitely without offense to the Italian Government; and the United States Ambassador to Italy would like to see an early settlement. I recommend therefore:

1. Reference of the matter to a joint Military Government - Italian Committee. Such a Committee might consist of:
 - Two Italian members
 - A Military Government official, from the Monument and Fine Arts section
 - A German authority, familiar with Italy
 - An independent chairman from Military Government, preferably with legal and administrative training.It would be desirable that the Monuments and Fine Arts officer should be one who has not hitherto been deeply involved in the controversy.
2. The Committee should meet in Munich, where the works in dispute are stored.
3. This Committee should be instructed:
 - (a) To limit their discussions to works of art that can be securely identified. Where this cannot be done, a work should be regarded as not subject to claim.
 - (b) To consider the case of each of such works separately, and on its merits.
 - (c) When the circumstances in which the work left Italy are obscure or inconclusive, and the importance of the work is in dispute, to seek for a compromise.

The Italian Government, I was told, would welcome appointment of such a Committee, and would approve its working on the lines suggested. The United States Ambassador also approves.

4 October 1949

W. G. Constable
W. G. Constable

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
PROPERTY DIVISION
RESTITUTION BRANCH
APO 403

PD 007 (RES/MFA A)

Karlsruhe, Germany
22 September 1948

SUBJECT: Exceptional Return of Works of art to Italy

TO : Restitution Branch
Property Division
Office of Military Government for Bavaria
APO 407, U.S. Army
ATTN: Mr. H.S. Leonard - MFA A Section

1. Reference your letters of the 24 th of August and 17 th of September and letter AG 007 (D2) 19 July 1948, subject: "Exceptiona". Return of Works of Art to Italy", signed by the Adjutant General, G.H. Garde.

2. As stated in the AG letter, this is not restitution. It is a policy of the United States determined in Washington and for which we have directives. Your arguments against fulfilling these directives are appreciated as an example of the conscientious defense of principles constantly exhibited by MFA A officers. It is believed however, that these arguments represent a complete misunderstanding, that these argument of the nature and spirit both of the directive itself and of the transactions which it was calculated to correct.

3. Your constant reference to speech in "Il Giornale D'Italia made by the Facist Minister of Education, Bottai, failed to take into account the fact that this speech was made as a result of increasing scandal of the exports made at the demand of Fascist and Nazi official Bottai was defending himself and the administratic of the Fascist Government. The facts that he himself did not agree with the corrupt principles of his superiors, and that eventually he acquired sufficient courage to rebel, does not lessen the fact that in 1942 he was still obeying the orders of Foreign Minister Count Ciano.

4. With respect to the specific objections referred to in you letter of the 24 th August, the objects listed in para 3 are entirely outside the present directive. There is constant evidence, not only in the documentation presented by the Italians, but also in the report of the sub-commission of MFA A Headquarters Allied Commission for Italy, APO 394, dated the 5th of January 1946, that all transactions covering the objects on Schedule A, of the above mentioned AG letter, were accomplished to the accompaniment of tortuous and twisted offers and counter-offers, mostly intended

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to disguise the essential facts that objects of great worth and value were being removed from Italy contrary to the best interests of the country. The mere fact that an object was at one time offered to a museum in the United States, does not signify that a license would have been granted for such export, and it only indicates a fact which is supported by entirely, different evidence, that that museum, with its great wealth, is most anxious to acquire European masterpieces. A recent suggestion by the director of that museum proposes the export of works of art from Germany, taking advantage of the condition of the German museum.

5. Concerning the Bernini "Veritas" there is evidence that it is still in Italy. This Headquarters has been informed that the circumstances are as follows: At the last minute, after the export license had been granted under pressure, it was possible for a devoted custodian to take advantage of the necessities of air-raid protection and to spirit the statue to a location unknown to the Germans, where it was hidden until the war was over. We have been informed that the reason it was included in the documentation was simply to make the lists complete. This is, obviously, a weak reasoning and the Italian representative have been informed that we do not look with favor upon such actions which simply gave everyone more work.

6. For your information an independent examination of the entire file produces the following comments:

a. The evidence shows that all dealings were "extraordinary". There is no open evidence of corruption.

b. The evidence shows that official action had to be taken to cut off the exodus into Germany, which implies that something was wrong with operations under existing circumstances in May 1942.

c. The evidence shows that all items in Schedule A are of cultural importance. Works need not be by Italian masters to qualify as part of the cultural heritage of Italy.

d. I believe international law recognizes the right of a new government to repudiate acts of its predecessor, especially where a revolution is involved. If so, the Italians have a good case under Schedule A.

e. The return is in line with the general spirit of "Restitution; i.e., to return whatever the Germans removed by purchase, duress, collusion or other means, while they were in another country.

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7. This letter is being written because of the understanding of the spirit of your objections to this action, and it is hoped that the points outlined above will give you a more correct interpretation of the entire matter than your letters indicate you have reached. Nevertheless the AG letter of the 19th of July is directive from the Military Governor in implementation of higher directives, and it is requested that you carry out these orders promptly.

FOR THE CHIEF:

RICHARD F HOWARD
deputy chief
for Cultural Restitution

Incl. AG letter (signed)
19 July 48, Schedule

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OEA, Property Division
Attn: Mr. F. J. Miller

Nov. 14, 1949

OEA, Property Division, Mr. Heinrich

Italian Protest on Alleged Failure to Restitute Works of Art with Reference to the Article "Italy Academy Demands Art Nazis Looted" Appearing on Page 2 of Stars and Stripes for November 14, 1949.

The following facts may be stated.

There were three principal categories of works of art removed from Italian soil during the war.

a. Outright loot, deriving both from museum repositories and from private collections in houses occupied by the German forces.

b. Works of art purchased by the German Government in accordance with prevailing law during the period Italy was a full ally of Germany.

c. Gifts from the then Italian State to the German State during the period of the Italo-German Alliance.

All objects belonging in Category a. above, which have been located in the U. S. Zone of Germany, have been returned to Italy. A number of objects in Category b. were returned to Italy on direct order of the State Department, although there appeared no reason to believe that these had not been legitimately acquired by the Germans. These returns were made outside the normal procedures for restitution which do not apply to such objects. At least one object in Category c., namely the Lancelotti Discobolus given to the German State in 1938 was returned to Italy.

The Italian quarrel is centered in the objects in Category b., and their contention is based on a belief that identified objects of this category are available in the Munich Collecting Point but are deliberately withheld from return. So far as I have been able to determine, the contention is without foundation, as the remaining objects on the Italian official list, approved by the State Department, have never been located and identified anywhere in the U. S. Zone. Should they at some time be located, protest against their return to Italy would seem to be justified as their transfer to German ownership was accomplished under normal circumstances during the period of the Italo-German Alliance.

In June of this year a provisional list of missing objects was submitted by the Italian Government, together with a statement pointing out that the list was provisional only and would be followed at a later date by substantiating documentation. The latter has not yet been received. A number of objects appearing in this list of June 1949 had been restituted to Italy as early as June 1947, so there would appear to be considerable confusion in the Italian records themselves. No other objects in that list have been located or identified to date.

Mr. Heinrich's File Copy

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It goes without saying that any looted works of art belonging to Italy which may be found in the U. S. Zone, now or later, will be returned to Italy without question. Should any of the Category b. objects be located, it is felt that the Italian Government should be required to prove duress before restitution could be made.

The German protest referred to in the newspaper article is known to this office. It is felt that the eminent signatories of the Italian memorandum have been misled into taking the present position by persons who have misrepresented the facts. The issue stems from a personal difference of opinion between a former Monument Fine Arts & Archives officer in Munich and the former Chief of the Italian Cultural Restitutions Mission in Germany. The latter has consistently exploited this episode for political purposes and has consistently maintained that important Italian owned works of art were being withheld at the Munich Collecting Point, although he has repeatedly been informed that this is not the case.

Carbon copy to Mr. Schott, Chief, Protocol Division

OEA: T. Heinrich:cm

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HEADQUARTERS ALLIED COMMISSION
APO 394

SUBCOMMISSION FOR MONUMENTS FINE ARTS AND ARCHIVES.

20909/25/MFAA

4/ 5 January 1946

WORKS OF ART EXPORTED TO GERMANY BY FASCISTS

I. Works of art illegally given away by Fascists.

1. Vipiteno painting. Property of the Commue of Vipiteno (Bolzano) given illegally by Mussolini to Goering in January 1941. For details and photographs see Special Report 20909/25/B/MFAA of 18 Sept 45.

2. Dionysus of Sardanapolis. See photograph, Exhibit A. Antique marble statue, of the "Sardanopolis type". the original of which is attributed to Praxiteles. Discovered in 1926 on the Via Appia; exhibited in the Museo Nazionale Romano. Selected by Mussolini as a gift for the house of the Nietzsche Archiv at Weimar, the statue was fully repaired in 1942, on the basis of a similar figure in the Museo Vaticano, and in December 1943 was given to the German authorities for transporting to Germany. No law was ever enacted to authorize the gift. (For notes, see: Paribeni, Not. Scavi, 1928, p.353).

3. Venus of Leptis Magna. See photograph, Exhibit B. Antique marble copy of the Cnidian Venus of Praxiteles, but with feet missing. Discovered in the excavations of Leptis Magna and exhibited in the Museum there. In 1939 or 1940 Marshal Balbo, then Governor of Lybia, personally took the statue to Germany and gave it to Goering, without special legislation to authorize this alienation of State property. Research has failed to show wether Balbo acted on his own initiative or by order of Mussolini. Neither, of course, is now in position to testify. (For notes, see: Bartoccini, Le Terme di Leptis, p. 104 et seg., fig. 98).

II. Works of art sold and exported to Germany, despite opposition of Superintendencies and Consiglio Superiore, through political and personal pressure of Mussolini.

St. Clair
3220B-6
4. Lancellotti Discobolus. See photograph, Exhibit C. Antique marble copy of the Discobolus of Myron. Permission to sell and export was requested in 1937 by the Principi Lancellotti; this was refused by the Ministry of National Education. In answer to further insistence, a commisssion was appointed by the Ministry to render an expert opinion. The commission, composed of Professors Anti, Maiuri and Pace, in July 1937 confirmed the prohibition to export. In May 1938 the German Embassy sent the Ministry a memorandum, pointing to Hitler's personal interest in the transaction, but the

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Ministry again refused the necessary permit, alluding instead to the possibility of purchase by the State, as provided by law. In June, 1938 Mussolini personally ordered the Ministry of National Education to grant the export permit; this order was obeyed in letter No. 4730 of 3 June 1938, addressed by the Minister to the Export Office of Rome. The statue was thereupon sold by the Principi Lancelotti to the Government of the Reich (for the Museum of Munich) for 5,000,000 Lire and the Export tax was paid on this basis.

St. Claim
3220 B-2a

5. Bernardo Cavallino: S. Cecilia. See photograph, Exhibit D. This painting was presented at the Export Office of Rome in March 1941 by the Tartaglia Firm on behalf of Comm. Percicle Roseo, for export to the architect Reger for the Brown House of Munich. Declared value: 80 000 Lire. Being a "notified" work, the painting could not legally be exported without the consent of the Ministry of National Education. In a report signed by Professors de Rinaldis, Romanelli and D'Orsi, the Export Office recommended that the Ministry avail itself of its legal right to acquire the painting for the State at the quoted price of 80 000 Lire. The Ministry, however, overruled the opinion of its experts and conceded the export permit in letter No. 1246 of 19 April 1941. An export tax of 10 000 lire was laid.

St. Claim
3220 B-2e

6. Ceiling by Sebastiano Ricci. See photograph, exhibit E. Nine panels on canvas, originally part of the decoration of the Palazzo Mocenigo in Venice, and as such immobilized by law as an inherent part of a "notified building." Removed at the outbreak of the war and sent to Rome, with the consent of the Superintendency of Galleries of Venice, for protection from war risk, with the understanding that at the conclusion of hostilities the paintings were to be returned to their proper place. Instead, in August 1941 they were presented at the Export Office by Andrea Nicolis di Robilant for export to Germany, with a declared value of 300,000 lire. Both the Superintendent of Galleries at Venice, Professor Maschini, and the Export Office (in a report signed by Professor Romanelli, d'Orsi, and Bucarelli) advised the Ministry against granting the export permit. The Ministry then agreed; but later on the insistence of the Minister of Popular Culture, who stated that the purchase was being made by the Prince of Hesse on behalf of Hitler, the Minister of National Education revoked the "notification" and granted the export permit in letter No. 4910 of 26 November 1941 on payment of the export tax on an evaluation of 300 000 Lire. In exchange, Sign. Andrea Nicolis di Robilant gave to the State a worthless 16th-century painting of the Siege of Candia.

St. Claim
3220 B-5

7. Lot of November 1941 for Goering. A lot of 34 cases was presented at the Export Office in Rome in November 1941 by the firm of Stein on behalf of Marshal Goering for export to him at Karinhall, Berlin. Total declared value 200,000 lire on the following:

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1. DELLA ROBBIA: Figure in clay, S. Lucia.
2. CANALETTO: Two landscapes.
3. PANNINI: Two church interiors.
4. VENETIAN MASTER, 16th-century: Venus
5. " " , " " Leda
6. SCHOOL OF VERONESE: Venus and Mercury
7. " " : Venus and Satyr.
8. " RUBENS : Judith
9. SEBASTIANO RICCI: Diana and Callistus.
10. ANTONIO ROMANO: Adoration of the Kings.
11. BACCHIACCA: Portrait of a woman.
12. VENETIAN MASTER, 16th century: Portrait of a woman
13. SPANISH MASTER, 17th century: Portrait of a woman
14. FLORENTINE MASTER, 16th century: Portrait of a woman
15. Italian chest, 16th century
16. Italian table, 16th century
17. " " , " "
18. Italian Bench " "
19. Italian wardrobe, 16th century
20. Italian table, " "
21. " " , " "
22. Marble relief, Madonna and child, Italian 19th century
23. FRENCH MASTER, 16th century: Two women
24. TH. ROMBOURS: Mythological Scene
25. CARACCI: Portrait of woman
26. ITALIAN MASTER, 15th century: Madonna and child
27. ITALIAN PAINTER, 17th century: Venus and Jove.
28. FLEMISH PAINTER, 16th century: Adam and Eve

By letter No. 4732 of 18 November 1941, the Ministry of National Education informed the Export Office: that by order of Mussolini the export tax was to be paid by the Ministry of Foreign Affairs; that the Export Office should grant the exportation permit, merely ascertaining the identity of the works and holding their evaluation as low as possible. In fact even this verification was not possible, as the cases were presented closed and sealed; the estimate was accordingly held at the declared 200,00 lire, on which a short time later the Ministry of Foreign Affairs did pay the export tax.

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(Note the declared valuation of 200,00 lire for the lot of 28 items. Correspondence in Allied hands now identifies at least the first 15 items as two lots purchased by Hofer, Goering's agent, from the Florentine antiquary Alessandro Contini-Bonacossi, on 29 May 41 and 20 October 1941, according to Hofer, for a total of 12,500,000 lire for these 15 items alone.)

8. Lot of July 1942 for Goering. A lot of 67 cases, presented at the Export Office of Rome in July 1942 by the firm of Otto and Rosoni on behalf of Marshal Goering. One part, purchased from the antiquary Armando Brasini, was valued officially at 70,000 lire. The second part, purchased from the antiquary Sangiogi, was valued officially at 53,550 lire. The lot, consisting of various small antique fragments, sculptures, bas-reliefs, etc., was thus clearly believed to be of relatively little value. The export tax, however, was paid by the Ministry of Foreign Affairs.

9. Memling: Portrait of a Man. See photograph, Exhibit F. Purchased from the Prince Andrea Carlo Corsini, of Florence, by the Prince of Hesse on behalf of Hitler, for 6,000,000 lire. Ciano, by letter of 11 June 1941, informed Minister Bottai (National Education) that both the sale and the export were personally desired by Mussolini. To Bottai's protests, Ciano appears to have replied at first orally, and then in his letter of 30 June 1941 flatly repeated that Mussolini directed issuance of the export permit even without payment of the tax. As export without tax could not legally be done, the Ministry of Foreign Affairs assumed responsibility for paying it. By telegram No. 2165 of 14 June 1941 the Ministry of National Education had meanwhile directed the Superintendent of Galleries and the Export Office of Florence to issue the necessary export license. This was issued 1 September 1945.

10. Rubens: Equestrian Portrait of a Member of the Doria Family. See photograph, Exhibit G. Purchased for 600,000 lire by the Prince of Hesse on behalf of Hitler. On 12 July 1940 the Consiglio Superiore declared itself contrary to the release of this painting from "notification" and to its export. Minister Bottai (National Education), under pressure from the Prince of Hesse, gave oral orders for the granting of the export permit. The export occurred in Sept. 1941.

11. Magmasco: Landscape with Caravan. See photograph, Exhibits H & J. Presented at the Export Office of Torino in April 1941 by the antiquary P. Accorsi on behalf of the Prince of Hesse, for export to the Brown House of Munich.

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Declared value: 50,000 lire. Over protests of the Superintendent of Galleries at Torino, who recommended purchases by the state as provided by law, the Ministry of Foreign Affairs, directed by telegram No. 1189 of 2 April 1941 that the export permit be issued.

2 Strozzi P190
It. Claim
32203-3a
32203-3b
Magnasco 719
It. Claim
32203-4

12. Magnasco: Landscape with Caravan. See photograph, Exhibit K. Presented, together with the two Strozzi paintings mentioned in the preceding case, by the antiquary P. Accorsi on behalf of the Prince of Hesse, for export to the Brown House of Munich. Declared value: 50,000 lire. This painting had been "notified" in 1922 to its then owner, Baron Valentino Salvadori, by the Superintendent of Monuments and Galleries at Trento. The "notification" had been renewed later to the successive owner, Comm. Luigi Galli di Carate Brianza by the Superintendency of Galleries at Milano. In presenting the painting at the Torino Export Office, the antiquary Accorsi did not declare it to be "notified". The export was directed by the Ministry of National Education by telegram No. 1189 of 2 April 1941, as in the preceding case.

It. Claim
32203-2f

13. Italian-German painter: Resurrection of Lazarus. Wood panel, 0.98 x 1.37 No photograph available. Seized by Customs Office at Chiasso in 1942 from the firm of Carpi and De Censi of Rome for violation of the export law. Declared value: 8,000 lire. By letter 4083 of 17 November 42 the Ministry of National Education consigned the painting to the Superintendency of Galleries at Rome; by letter No. 1005 of 31 March 43, the Ministry required the Superintendency's opinion on acquisition of the painting for the State at the declared value, as provided by law. By letter No. 29 of 10 May 43, the Superintendency recommended acquisition, giving the opinion that the true value was in excess of 30,000 lire. By letter No. 1446 of 11 June 43, the Ministry adopted the recommendation, and notified the Ministry of Finance accordingly. But it developed that the Prince of Hesse, who had purchased the painting for Hitler and had attempted its export, now demanded restitution of the painting, to which the Ministry of National Education consented in letter No. 2031 of 18 July 43 to the Ministry of Finance. Instead of being again presented before the Export Office, as required by law, the painting was withdrawn from the Borghese Gallery in Rome by an officer of the SS and has never been presented to any Export Office, although the Superintendent has heard informally that the painting was in fact exported to Germany.

III. Works of art believed exported without permit.

14. G. Vanvitelli: View of the Quirinal Palace. Report of 5 Sept. 1941. by Superintendent of Galleries at Rome, states this painting was sold by Aldo Briganti for 40,000 lire and sent to Germany without ever being presented at any Export Office.

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15. F. Mazzola: Portrait of a Man. Report of 5 Sept 1941, by Superintendent of Galleries of Florence, states that the Germans were then negotiating for the purchase of this painting from the antiquary Eugenio Ventura. It had formerly been in Prince Doria's private collection, had been taken to America and back (by Ventura?), and may have been covered by a Certificate of Temporary Import. It is not known whether the sale to the Germans was effected.

16. Cecchino Salviati: Charity. According to an undated document in the Fascist files, this work has been sold for a price between 400,000 and 600,000 lire and exported to Germany without being presented at an Export Office. This must be a copy of the original, which is still in the Uffizi Galleries at Florence.

17. Luca Giordano: Allegorical composition. This signed painting on copper was reported by the Superintendent of Galleries at Rome, on 5 Sept 1941, to be the subject of negotiations between the Germans and the antiquary Grassi, of Rome. Although it was never presented at any Export Office, it is understood to have been sold and exported.

18. Lucas Cranach the Younger: Madonna. Report of 5 Sept 1941, by Superintendent of Galleries at Rome, states negotiations were then in course for the purchase of this painting by the Germans from the wife of the Peruvian Ambassador at a price between 250,000 and 300,000 lire. The sale is believed to have been effected, and it is presumable that the painting was covered by a Certificate of Temporary Import, which would have permitted its export without tax, but it was never presented at any Export Office for clearance.

19. Piedmontese painter: Nativity. Reported by letter No. 353 of 3 August 1945, by Superintendent of Galleries at Torino, to have been exported to Germany without presentation at the Export Office there. It does not appear to have been presented at any other Export Office.

20. Filippo Mazzola: Madnna and Saints. Same note as preceding.

21. Luca Giordano: Bacchus. Same note as preceding.

22. Tintoretto: (a) Portrait of a Gentleman and (b) Portrait of Warrior with Page. An undated document in the Fascist files states these two paintings, although covered by a Certificate of Temporary Import, were exported to Germany without presentation at any Export Office.

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IV. Works of art regularly exported under license.

23. Venetian painter, 18th century: Frieze of eleven pieces with mythological designs. Presented at Export Office of Torino by the antiquary Pietro Accorsi on behalf of the Prince of Hesse for export to the Brown House of Munich. Declared value: 35,000 lire. Export license granted 13 Feb 1941.

24. Tiepolo School: Two scenes of Jerusalem Liberated. First scene is of Rinaldo and Armida; second is of Rinaldo and warriors. Presented at Export Office of Torino by the antiquary Pietro Accorsi on behalf of the Prince of Hesse for export to the Brown House of Munich. Declared value: 220,000 lire. Export license granted 8 May 1941.

25. Marble figure of Aphrodite. Height 1.85 m, of the type of the Aphrodite of Frejus. Declared value: 20,000 lire. Export license granted by Export Office of Florence.

26. Neapolitan painter of the 18th century: Madonna and Saints. Declared value: 15,000 lire. Export license granted by Export Office of Florence.

V. Works of art expoted to Germany legally without payment of tax.

27. The following works of art, according to the records, were legally exported to Germany through Export Offices without payment of tax, being thus exempt either by virtue of being covered by Certificates of Temporary Import or as part of the "fedecommesse Barberini."

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a. Leonardo da Vinci (attrib.): Leda and Swan. Presented at Rome by firm of Tartaglia for Margherita Gallotti Spiridon to be sent to Munich for Hitler. Imported 6 Feb 1929. Released 12 May 41.

b. Unknown author: Baptism and Disputation of S. Agostino. Two panels. Presented at Rome by the firm of Tartaglia on behalf of the Prince of Hesse, to be sent to the latter at Munich. Imported 4 Dec 1940. Released 3 Sept 1941.

c. A. Longhi: Portrait of Senator Grassi. Presented at Rome by the firm of Tartaglia on behalf of Baron Lazzaroni, for shipment to Munich for Hitler. Imported 2 Nov 1934. Released 25 August 1941.

d. Bronze horse, 17th century. Height 0.42 m. Presented at Rome by the firm of Tartaglia on behalf of the Prince of Hesse, to be sent to the Brown House at Munich. Imported 30 Dec 1933. Released 12 Nov 1941.

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e. Bronze equestrian, 17th century. Figure in Roman dress, with right arm extended. Presented at Rome by the firm of Tartaglia on behalf of the Prince of Hesse, to be sent to the architect Reger, at the Brown House in Munich. Imported 8 April 1909. Released 14 Nov 1941.

f. Unknown Painter: Portrait of Lorenzo Superanzio. 1.15 x 1.26. Presented at Rome by the firm of Tartaglia on behalf of the Prince of Hesse, to be sent to the architect Reger, at the Brown House in Munich. Imported 2 Nov. 1934. Released 12 Nov 1941.

g. Unknown painter: Portrait of a woman. Half-figure, in white, with small dog on knee. 0.75 x 0.58. Presented at Rome by the firm of Tartaglia, on behalf of the Prince of Hesse to be sent to the architect Reger, at the Brown House in Munich. Imported 2 Nov 1934.

h. Five tapestries. representing hunting scenes. Released by Export Office of Florence, having been temporary imports.

i. Tintoretto: Deposition. Released by Export Office of Venice, having been temporary import.

j. Pontorno: Pygmalion. Presented at Rome by firm of Moschi and Castelnuovo, on behalf of Comm Alfredo Barsanti, to be sent to Dr. H. Posse at Dresden. Released April 1941 as part of "fedecommesse Barberini."

k. Pietro da Cortona: Sacrifice de Diana. Presented at Rome by Prince Barberini, to be sent to the architect Reger at the Brown House in Munich. Released May 1941 as part of "fedecommesse Barberini."

l. Roman mosaic: Rape of Europa. Presented by the firm of Tartaglia (at Rome) on behalf of the Sangiorgi Galleries, to be sent to the Architect Reger at the Brown House in Munich. Released June 1941 as part of the "fedecommesse Barberini."

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über ein "Exceptional Return of Works of Art"

- 1.) Der amerikanische Militärgouverneur für Deutschland hat in Form eines "Exceptional Return of Works of Art" die Rückgabe einer Anzahl von Kunstwerken aus dem Münchner Central Collecting Point an die italienische Regierung befohlen, obwohl keiner der Gegenstände unter die Restitutionsvorschriften des Alliierten Kontrollrates fällt, da die Erwerbungen vor dem von den Alliierten festgestellten Stichtag, dem 25. Juli 1943, getätigt worden sind.
- 2.) Die dem Befehl beigefügte Liste umfasst folgende Kunstwerke:
1. ✓ Rubens, Reiterporträt eines Mitgliedes der Familie Doria. Erworben für die Linzer Sammlung. Damaliger Wert mindestens 3 Millionen Lire. Genauer Kaufpreis unbekannt. Exportgenehmigung vorhanden.
 2. ✓ Cavallino, St. Cecilia
Erworben im Jahre 1941 für die Linzer Sammlung für 80.500 Lire. Export-Genehmigung vorhanden, Export-Steuer in Höhe von 10.600 Lire bezahlt.
 3. ✓ Leonardo da Vinci, Leda mit dem Schwan (aus der Sammlung Spiridon)
Erworben im Jahre 1941 für die Linzer Sammlung für 11.364.360 Lire. Dieses Bild befand sich im Jahre 1928 auf einer Auktion in Amsterdam, wurde dort nicht versteigert und wieder nach Italien zurückgeschickt. Durch diese Tatsache hat es laut italienischem Denkmalschutzgesetz seinen unbedingten Charakter als national wertvolles Kunstwerk eingebüsst (in temporanea importazione).
 4. ✓ Piero della Francesca (Fra Carnevale), Madonna mit Kind
Dieses Bild hat Italien niemals verlassen!
 5. ✓ Bernini, Statue der Verità
Diese Skulptur hat Italien niemals verlassen und befindet sich nach wie vor in der Galleria Borghese in Rom.
 6. Sebastiano Ricci, 9 Allegorische Kompositionen
Erworben für die Linzer Sammlung, Export-Genehmigung lag vor, Export-Steuer in Höhe von 60.000 Lire bezahlt.
 7. Deutsch-Italienische Schule, Auferweckung des Lazarus
Erworben mit Genehmigung des Italienischen Ministeriums für die Linzer Sammlung für 8.000 Lire.

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- ✓8. ✓ Bernardo Strozzi, Hl. Catarina und
 ✓9. ✓ ders. Hl. Cecilia
 Erworben im Jahre 1941 für die Linzer Sammlung für
 220.000 Lire. Die Export-Genehmigung lag vor und die
 Export-Steuer in Höhe von 31.210 Lire wurde bezahlt.
- ✓10. Magnasco, Landschaft mit Karawane
 Erworben für die Linzer Sammlung. Export-Genehmigung lag
 vor. Kaufpreis unbekannt. *Thürntal, Austria (SovZ)*
34. Kisten mit Kunstwerken, erworben für die Sammlung Goering:
11. Luca della Robbia, Hl. Lucia
 ✓12. ✓ Canaletto, Landschaft
 ✓13. ✓ ders. Landschaft
 14. Pannini, Kircheninneres
 15. ders. Kircheninneres
 ✓16. ✓ Venezian. Meister, 16. Jhdt., Venus
 ✓17. ✓ Venezian. Meister, 16. Jhdt., Leda
 ✓18. Schule des Veronese, Venus und Merkur
 ✓19. " " " Venus mit Satyr
 ✓20. Rubens-Schule, Judith
 ✓21. Seb. Ricci, Diana und Callistos
 22. Antonio Romano, Anbetung der Könige
 ✓23. Bacchiacca, Portrait einer Frau
 24. Venezianisch, 16. Jhdt., Portrait einer Frau
 ✓25. Spanisch, 17. Jhdt., Portrait einer Frau
 26. Florentinisch, 16. Jhdt., Portrait eines Mannes
 27. Italienisch, 16. Jhdt., Truhe
 28. " " " Tisch
 29. " " " "
 30. " " " Bank
 31. " " " Schrank
 32. " " " Tisch
 33. " " " "
 34. " 19. " Marmorrelief "Madonna mit Kind"
 ✓35. Französisch, 16. Jhdt., Zwei Frauen
 ✓36. Rembouts, Mythol. Szene
 37. Carracci, Portrait einer Frau
 ✓38. Italienisch, 15. Jhdt., Madonna mit Kind (*Maschine*)
 39. " 17. Jhdt., Venus und Jupiter

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40. Flämisch, 16 Jhdt., Adam und Eva

Für sämtliche vorstehenden Gegenstände lag eine Export-Genehmigung vor und die Ausfuhrsteuern wurden vom Italienischen Aussenministerium bezahlt.

✓41. Diskuswerfer aus der Sammlung Lancelotti

Erworben 1938 vom Reich für 6.860.000 Lire und in der Münchner Glyptothek aufgestellt. Die Export-Genehmigung lag vor und die Ausfuhrsteuer in Höhe von 1.460.000 Lire wurde bezahlt.

✓42. Memling, Porträt eines Mannes (aus der Sammlung Corsini)

Erworben 1941 für die Linzer Sammlung für etwa 5-6 Millionen Lire. Die Ausfuhrgenehmigung lag vor.

3. Wie aus Pressemeldungen hervorgeht, vertritt die amerikanische Militärregierung die Ansicht, dass "unredliche politische und gesellschaftliche Beziehungen zwischen Beauftragten Hitlers und Goerings und höheren Beamten der damaligen italienischen Regierung" zur Erteilung der Exportgenehmigung geführt hätten. Diese Annahme ist bisher nicht bewiesen worden. Die amerikanische Militärregierung macht weiterhin geltend, dass ein Protest des italienischen Kultusministeriums vorgelegen habe. Dem gegenüber muss betont werden, dass der damalige italienische Kultusminister, Giuseppe Bottai, laut "Il Giornale d'Italia" vom 9. Mai 1942 - im 20. Jahr der faschistischen Regierung - angesichts der in Frage stehenden Verkäufe eine ausführliche Rechtfertigungsrede gehalten hat, in der mit Ausnahme des Bildes Nr. 7 der vorstehenden Liste, sämtliche der nunmehr zurückgeforderten Kunstwerke als legal exportiert aufgeführt werden. In dieser Rede heisst es u.a.: "Die umlaufenden Gerüchte über grosse Exporte von Kunstwerken sind falsch. Auch eine etwaige illegale Ausfuhr hätte der Aufmerksamkeit der zuständigen Stellen nicht entgehen können. Es wurden nur solche Werke ausgeführt, die sich als zeitweiliger Import in Italien befanden oder auf die man das für Stücke von ausserordentlichem Wert geltende Ausfuhrverbot nicht anzuwenden für richtig hielt."
4. Die italienische Regierung beruft sich zur Rechtfertigung ihrer Forderung auf das italienische Denkmalschutzgesetz. Darauf muss geantwortet werden, dass es sich bei den meisten Stücken nicht um national wertvolle Kunstwerke handelt. Der Hauptanteil der zurückgeforderten Kunstwerke besteht aus üblicher internationaler Kunsthandelsware. Für sämtliche Objekte auch für die, die möglicherweise als national wertvoll

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angesehen werden könnten, liegt eine ausdrückliche Ausführungsgenehmigung seitens der italienischen Regierung vor.

5. Gegenüber einer möglichen Argumentation der Italiener, dass es sich um einen Rechtsbruch der faschistischen Regierungsvertreter an den Landesgesetzen handelte, muss betont werden, dass in jedem Falle die mögliche Schuld nicht auf Seiten des Käufers sondern auf Seiten des Verkäufers bzw. der ihn stützenden Regierung liegt.
6. Wenn die amerikanische Regierung sich mit der Rückgabe dieser Kunstwerke einverstanden erklärt, muss mit Recht die Frage erhoben werden, ob auch andere Länder dieser Rückgabepflicht unterliegen. Praktisch würde das etwa bedeuten, dass der Bolotto, der in der in Frage stehenden Zeit vom Metropolitan Museum, New York, erworben wurde, auch an die italienische Regierung zurückgegeben werden müsste. (Bulletin of the Metropolitan Museum of Art, N.4, Feb. 1940). Ebenso gehörte mit dem übrigen ins Ausland gegangenen Bestand der ehemaligen Sammlung Barberini etwa auch die "Schutzflüchtlinge", seit 1934 im Louvre, zu den Stücken, die in den Bereich derartiger Massnahmen fallen würden.
7. Von den seitens der Militärregierung zur Rückgabe bestimmten Werken konnten folgende im Central Collecting Point München identifiziert werden. Diese wurden am 16.11.1948 im Central Collecting Point von dem Vertreter der italienischen Regierung (Dr. Roberto Siviero) übernommen:

- | | |
|---|--|
| 1. (Nr.3) Leonardo da Vinci | Leda (Spiridon) |
| 2. (Nr.42) Memling | Portrait eines Mannes |
| 3. (Nr.8) Bernardo Strozzi | St. Catharina |
| 4. (Nr.9) ders. | St. Cecilia |
| 5. (Nr.2) Bern. Cavallino | St. Cecilia |
| 6. (N.35) Schule von Fontainebleau | Gabrielle d'Estrées und ihre Schwester |
| 7. (Nr.17) Italienisch, 16. Jhdt. (Tintoretto?) | Leda mit dem Schwan |
| 8. (Nr.23) Franc. Ubertini gen. Bacchiacca | Portrait einer Frau |
| 9. (Nr.21) Sebastiano Ricci | Diana und Callisto badend |

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- 10. (No 20) Rubens (?) Judith mit dem Haupt des Holofernes
- 11. (Nr.12) Canaletto Italien.Landschaft mit Blick auf eine Stadt
- 12. (Nr.36) Th.Rombouts Alexander und Roxane
- 13. (Nr.16) Bordone Venus und Amor
- 14. (Nr.25) Anchez Coello Donna Isabel, Clara Eugenia
- 15. (Nr.19) Veronese Mythologische Szene
- 16. (Nr.13) Canaletto Heroische ländl.Szene m. Ruinen
- 17. (Nr.1) Rubens Reiterbildnis eines Doria
- 18. (Nr.41) Römisch Diskuswerfer (Sammlung Lancelotti)

8. Die Problematik dieser Rückführung wird eindrucksvoll durch die Tatsache beleuchtet, dass der amerikanische Kunstschutz-offizier für Bayern, Mr.Herbert S.Leonard, im Zusammenhang mit dieser Angelegenheit der amerikanischen Militärregierung sein Amt zur Verfügung gestellt hat. Ferner hat die "Neue Zeitung", das offizielle Organ der amerikanischen Militärregierung für die deutsche Bevölkerung, in einem Leitartikel vom 23.Nov.1948 die Sache in höchst fairer Weise aufgegriffen und zum Ausdruck gebracht, dass "eine Veröffentlichung des Beweismaterials der Militärregierung im öffentlichen Interesse wünschenswert" sei. Diese Veröffentlichung ist bisher nicht erfolgt.

Dr.H.K.ROTHEL
 Konservator an den
 Bayerischen Staatsgemälde-
 sammlungen

Director
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Richard P. Weeber
Major CE

REPORT OF ACTIVITIES

FOR THE PERIOD 11 to 17 MAY INCL.

Saturday, 11 May 1946:

Left Vienna for Linz at 1430 hours in U.S. Government vehicle No. 2287956. Arrived at Linz 1800 hours. Obtained billets at Hotel Wolfinger; for the civilian driver, at the "Casual Company". (Billets at the Wolfinger are O.K. but much better food is served at the "Linzerhof", the 42nd Division hotel for staff officers.)

Sunday, 12 May 1946:

Trip to monastery Schlierbach, 25 km. South of Wels, to ascertain present status of property for part of which the Yugoslav Government has presented a claim. (Ref. also my report on Schlierbach of 26 March 1946.)

Since my last visit to Schlierbach, G-2 Section with the assistance of qualified technicians of the Austrian Cartographic Institute has completed an inventory of the various machinery, maps, and stock of printing paper stored in the monastery. Copies of the inventory were obtained. There are about two carloads of machinery left at Schlierbach that originated from Yugoslavia, in addition to printing plates and such other map material as the G-2 Section may release ultimately to the Yugoslavian Government.

The stock of printing paper is needed and will be requested by the Executive Division, Reports Branch for publishing the monthly U.S. Commissioner's report. This paper should be cleared from Schlierbach prior to turning over the machinery, etc. to the Yugoslavian Government.

Turning over of the remaining property at Schlierbach to the Yugoslavs can be accomplished as soon as G-2 has completed their check-up on maps and zinc plates. (Major Scotti of G-2 is expected to return from Italy to Vienna on or about 23 April 1946.)

Monday, 13 May 1946:

Reported to Hq. 42nd Art. Div. and to Col. Hanna, the C.O. of Mil. Govt. Det. at Linz, stating the purpose of my mission. Thence to P.C.O.'s office, Lt. Johnson. The matter of D.P. Liaison officers working on Restitution matters came up again. Both the Czech and the Yugoslav Liaison Officers at Linz came to the P.C.O. re restitution cases. Lt. Johnson, of course, turned down their request for information. Assured the P.C.O. that we would take up this matter at Vienna with the D.P. Division and Liaison Section.

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INTRODUCTION TO FIRST PHASE OF PROPERTY CONTROL HISTORY

The first phase of Property Control is defined as follows: That phase in its early development that was concerned with training and personnel problems; in the securing of an adequate table of organization; the training of field personnel, and the setting up of uniform practice on an operational level of standard operational procedures in the field.

Major John T. Kontz, together with Major Agnew, his chief assistant, comprised, in themselves, the forward echelon of Finance Division, Property Control Branch, USGCC/A. They left Florence, Italy on a Target Exploitation Team early in June 1945 and visited the Property Control Officers in Tyrol, then under American occupation, Salzburg and Linz, Upper Austria. These Land Military Government teams, engaged in the first steps of Military Government in Austria, were formed under the direction of the Third Army Command. The Property Control Officer in Salzburg at this time was Lt. Colonel Heller, and in Linz, Captain Sirota.

Major Kontz, together with Major Agnew, remained in Salzburg in the attempt to aid in the proper organizing and function of the Salzburg Military Government Property Control Office.

It was found, in outlining the situation in the two Laender in the U. S. Occupied Zone, that progress in dealing with those matters which were the responsibility of Property Control, had been impeded by the inadequacy of Property Control personnel, both in quantity and training. The failure of SHAEF to deliver required forms to Property Control Officers made it necessary to have them printed locally. They were, in fact, improvised and printed by order of the two Property Control Officers acting independently. Certain aspects of SHAEF procedure were inapplicable to Austrian conditions, as set forth in the Property Control Manual for Military Government (Austria) Task Force Element, SHAEF & AFHQ. Then too, there was the desperate handicap of a lack of clerical and administrative help.

With the discovery of a 44 car train of Hungarian looted property in the Salzburg area, Mr. Walker M. Treece, then First Lieutenant, with four officers

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and seven enlisted men, moved up from Verona, Italy into the Salzburg area on 15 July 1945, to represent Property Control in taking the train into custody and inventorying its contents.

Meanwhile in Verona, Italy, rear echelons of USGCC/A, preparing to move up and assume their roll as the U. S. Element of the Allied Control Commission for Austria, organized the Reparations, Deliveries and Restitution Division, of which Property Control Branch became a part.

On 18 August 1945 Colonel Paul, RD&R Division Chief, together with Major Simpson, Lt. Hague, and two enlisted men, arrived for duty in Salzburg. For personnel required by G-5 Section, II Corps, according to the T/O requirements, the following names were submitted by Major Kontz:

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| Property Control | - Major Agnew |
| Reparations | - 1st Lt. Hague |
| Monuments & Fine Arts | - 1st Lt. Hart |

During the first week of September 1945, RD&R Division moved from Salzburg to Vienna. Major Kontz with Lt. Hague, made up the forward echelon of Property Control and Major Agnew with Lt. Treece, remained in Salzburg as a rear echelon for the RD&R Division. Major Simpson and Lt. Hart accompanied Major Kontz and Lt. Hague to Vienna where the Property Control and Monuments and Fine Arts Branches comprised the RD&R Division under Colonel Paul. Conferences were held by Major Kontz with Major Weaver, Vienna Area Command Property Control Officer, to establish Property Control procedure and the operational implementation of current Property Control directives in Vienna. Meanwhile, a II Corps directive had been published and Military Government Instruction No. 17, which is dealt with in a more detailed manner in the following history of the First and Second Phases, would shortly be published by authority of the United States Forces in Austria, under General Mark W. Clark, whose command succeeded that of the II Corps. The end of the initial phase found the following personnel in Property Control Branch, RD&R Division, USACA:

Forward - (Vienna)

Major John T. Kontz, Chief Property Control
1st Lt. Hague, Administrative Officer
T/5 Mary K. Hawkes, typist and clerk

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Rear - (Salzburg)

Major Agnew, Chief Property Control Officer

1st Lt. Walker M. Treece, Assistant

The opening of the first phase of Property Control operations in Austria found members of the Property Control Branch, RD&R Division, then part of the Finance Division of USGCC/A, confronted with problems of reorganizing operations of Property Control Sections, the issuing of Military Government instructions to clarify objectives and formulate procedures from which no precedent could be obtained from Germany. However, the broad purpose of property control in Austria was authorized by the Joint Chiefs of Staff 1369/1 dated 24 June 1945 (a). At this stage in the operations, Property Control Officers had little or no knowledge of the properties they were to take under control, or the methods to be used. The most pressing problem was to obtain complete and full information concerning the location and number of properties possibly subject to control, and to place in operation necessary procedures to bring these properties under administrative management. Aside from JCS 1369/1 mentioned above, the blocking of control of property, Decree No. 3 (b) and Military Government Handbook for Austria, Property Control Officers had no guide to follow in achieving their objectives as to the methods by which property was to be taken into protective custody.

Another issue of this initial stage of Property Control was the proper transmission of information in report form and the dissemination of such information into a plan, listing and categorizing properties subsequently to be taken under control. This is illustrated in paper "Action to be Taken on Entering Austria" (c). An extension of this plan was to be found in the subsequent operations of the Property Control Branch previous to the issue of Military Government instructions recommended by Property Control Branch.

- (a) see tab A
- (b) see tab B
- (c) see tab C

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Since the Property Control Branch was faced with a minimum of specific directives from higher authority concerning the administration of properties, it was found that the "control" term of its title took on a special but widely diversified meaning. It was obvious that "control" as used in Decree No. 3 (d) was a term that could be operationally extended to describe varying degrees of use, possession, custody, protection, maintenance, conservation and supervision, depending upon the character of the property and the obligations of the U. S. Forces incident thereto. With the greater bulk of the major industrial and commercial enterprises in the U. S. Zone, Austria, in the process of being taken under control, personnel of the Branch were confronted with the problem of creating an overall but homogeneous policy.

However, the word "control" as shown in the directive "Instructions to Commanding Officers' Detachments Operating in Austria", Field Instruction 121 (e) and circular, Headquarters 12th Army Group, was a process, due to the enormous task at hand, that limited itself to taking property into static custody by the posting of notices, although such posting was not necessary or binding to the process of controlling, while the historical background of such property was investigated and probed previous to categorization. The Handbook of the Military Government in Austria, April 1945 edition, stated that properties in the following categories should be taken under control:

- a. Property owned by United Nations Governments or Nationals thereof.
- b. Property of NSDAP, its officials and active supporters.
- c. Property owned by persons in Germany and German persons in countries other than Austria, including companies, partnerships and other organizations.
- d. All property in Austria of the German Reich, all political units of the Reich, and all agencies and instrumentalities thereof.
- e. Property of residents, nationals and governments of countries other than Germany and Austria, still at war with any of the United Nations, and all areas occupied by such countries.
- f. Property of absent owners other than Germans.
- g. Property obtained through duress or wrongful acts of dispossession or spoliation.

(d) see tab B

(e) see tab D

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- h. Property of municipalities and institutions dedicated to public worship, charity, science, arts, etc. Specific instructions as to which, if any, of these properties were to be taken under control, except that action may be taken by Military Government officers, if necessary, to prevent disorder, or otherwise impaired, in the interest of the Military.

The cessation of hostilities and relatively peaceful nature of the Austrian occupation rendered this latter category unimportant, but a qualifying definition of control was not to be found at this early date.

As a guide, G-5 Operational Instruction No. 9, issued 1 March 1945 (f) implemented the categorized instructions for such operations as occurred in Germany, and served only as an imperfect model for Property Control Officers in Austria.

Nevertheless, it was agreed that a control of the following categories of property in Austria, during the course of operations, would be among the first objectives of the Property Control Branch:

- a. Property and records of local offices and headquarters of the Nazi Party and its affiliated, attached, controlled and supervised organizations, where such property was used for Party purposes.
- b. Abandoned property of sufficient importance and value, priority being given to property owned by United Nationals if an unacceptable administrator, manager, operator of caretaker, or other such person had been appointed by a German court.
- c. Prima facie loot from outside Austria. Property purchased or requisitioned by duress or otherwise, involved determination of title and ownership in establishing its status as loot.

Further concerning the disposition of properties, Property Control Branch proposed the following recommendations to higher headquarters, which were accepted:

- a. The turning-in of Austrian legal tender to authorized sub-accountants and taking proper receipt for deposit to a blocked bank account of the owner.
- b. The depositing of foreign currency, coin, bullion, securities, etc. with Reichsbank or other acceptable bank, taking a safe custody receipt.
- c. The inventorying of other movable properties, jewelry, art treasures, etc. and handling in conjunction with the Reichsbank or other acceptable bank for placing in adequately guarded warehouses.
- d. In all cases, recommended signed statements in triplicate, setting forth full particulars, as to the circumstances in which valuables are received and all available information as to ownership, etc. In matters of real estate, recommended the posting of control and the securing of property, and the recording of all particulars of the property previous to the appointment of administrator.

(f) A 12th Army Group Directive

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In the case of business enterprises, procedure required, in addition to the formal notification of owners or administrators as to their status, complete information concerning a business enterprise and its operations, its financial condition and the advising of the pertinent bank as to the appointment of an administrator and the extent to which the enterprise was authorized to operate.

In the selection of administrators, the following recommendations were made:

- a. The securing of fragebogen approval and the appointing of existing custodians or managers if suitable; the appointing of individuals as administrators only when necessary; e.g. in the case of a business enterprise a member of the Executive Staff would normally be appointed.
- b. For the administration of real properties, to expedite handling by a responsible financial organization, or other firm or individual with necessary knowledge, staff and organization.

In the accounting of property, it was proposed that:

- a. Completed accounts and movable property would be kept by Property Control Officers, with negotiable funds to be turned over to Finance officers or sub-accountants, on safe custody receipt.
- b. Monthly statements of receipts and expenditures would be presented by administrators of real estate properties.
- c. Additional monthly balance sheet and/or statements would be presented by administrators of business enterprises.

Nevertheless, Property Control Officers became increasingly aware that the procedure for which property control directives could be established, to support and direct property control matters on an overall policy basis, must originate from empiric analysis. A need became more evident for field work in the acquiring of first hand knowledge attendant to the formulation of an overall policy for operational purposes.

This was established in part by the location of the temporary headquarters of Property Control Branch in Salzburg, which was not too distant from Linz, where the observing, organizing and recommending of action to be taken in the field could be accomplished. Orientation and training became an important phase in this period, preceding the integration of an operational effort, and the expediting of first hand knowledge could be readily put into effect toward the formulation of a workable definition of the term control.

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Finally, on 22 July 1945 the first coordinated effort, based upon the proposals and recommendations of the Property Control Branch, was issued in the form of a letter order by II Corps, namely, "Property Control Procedures and Reports"^(g). This clarified property control issues and administrative problems for the entire Austrian effort. As a directive and forerunner to the basic directive for property control in Austria, it became the first coordinated guide for operations in the field.

Nevertheless, it opened discussion for many unanswerable questions at this time, and the need for more detailed instructions became apparent, and it was found that the file numbering system in Property Control Offices was not uniform. On 8 September 1945 a basic directive, Military Government Instruction No. 17,^(h) was issued in Vienna with the approval of Headquarters, United States Forces in Austria. This directive remains fundamental today and was the operational guide for the first phase of Property Control. It was the first directive which clearly required that control be established over specific properties as enumerated in Decree No. 3. It left the question of priority of control to the decision of the Military Government Property Control Officer in each Land, and only set out the considerations upon which he should base his determination of that priority.

The publication of this directive marked the termination of the first phase of operations. Retroactive accomplishment in property control matters of procedural analysis, orientation and training, together with the effecting of minimum T/O requirements and coordinated action achieved by the publication of Military Government Instruction No. 17, brought about the realization of initial operational objectives in the field.

It became necessary at this point to expedite staff action in order that the objectives of the second phase of Property Control operations could be accomplished. The establishment of Property Control Branch Offices in Vienna, as a part of the major transfer of USFA and USACA headquarters, had been effected. The extensive task of evolving policy guides for continuing administration over properties in accordance with Military Government Instruction No. 17, was begun.

(g) see tab E

(h) see tab F

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SUMMARY OF FIRST PHASE OF OPERATIONS

On the basis of broad instructions concerning Military Government activities in Austria, Property Control Officers were faced with the initial task of taking into control all classes of property in Austria within the following categories: Property belonging to the Allied Nations or their nationals, ex-enemy or nationals thereof, the German Reich or any national thereof, and the Nazi Party, its organizations, affiliations and leaders. In addition, the Property Control Officers were to seek out and take into custody all property, both real and personal, which had been the subject of confiscation, aryanization or dispossession through other means of force and duress during the Nazi occupation of Austria. Likewise, Property Control Officers initially were charged with the task of bringing into interim safe custody, looted and abandoned properties and such other miscellaneous properties requiring administration and for which no owner or responsible individual could be found.

These initial tasks involved a survey of the areas of the U. S. Zone of Occupation in order to locate and uncover the properties subject to Property Control action, through analysis of court records, by means of questionnaires distributed to Land Government officials and courts, through questionnaires distributed to Land Kreis officials, burgomisters and city government officials and finally through reports made to Military Government and Property Control officials as the result of decrees published in the zones of control.

Initially, representatives of the Property Control Section of the RD&R Division joined with Land Military Government Property Control Officers in carrying out the initial phase of operations aimed toward bringing under control classes of property uncovered by the means described above. This action involved the posting of property control notices on the property, the interviewing of existing responsible persons connected with the property interests, the choosing and appointment of an administrator, the indoctrination of that administrator as to his responsibilities and functions, and finally the compilation of a basic record on the property in question for the formulation of a basic property record file. With analysis, training and orientation in the field, Property Control Officers finally issued the II Corps directive, followed shortly thereafter by Military Government Instruction No. 17, which terminated the first phase of operations.

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INTRODUCTION TO SECOND PHASE OF OPERATIONS IN PROPERTY CONTROL HISTORY

During the period of this second phase of operations, the first phase was still in effect and operating. Handicapped initially by a lack of personnel, transportation facilities and clear directives, Property Control Officers moved ahead at a comparatively slow rate. In early October 1945, at the instigation of the Chief of the RD&R Division, special transportation and personnel were placed at the disposal of Property Control Officers for the purpose of completing an initial property survey in the U. S. Zone of occupied Austria.

In the months of September and October 1945, moving ahead into the second phase of operations, Property Control Officers evolved policies and procedural guides necessary to the continuing administration, and answering the problems arising from operations of the industrial and commercial firms taken under control. They were faced with the task of maintaining the overall capital value of all properties under control and at the same time were obligated to permit such operations as were essential to the maintenance and reestablishing a sound Austrian economy.

On 14 November 1945, during the period of the second phase of operations, Captain Edwin O. Merwin became an additional member of Property Control Branch, RD&R Division, and assumed charge of real and movable properties. Now that Military Government Instruction No. 17 had become an established fact, and the table of organization in the field and in this Headquarters was gradually being filled, specialization could be reasonably accomplished in Property Control offices. The following account shows the degree of fluctuation and change inherent in the personnel organization of the Property Control Branch before a period of relative stability was reached.

On 17 December 1945, Mr. James M. Dean, U. S. civilian, assumed duties as an understudy to Captain Merwin, who was to leave Property Control Branch of 8 April 1946 for Stateside redeployment. Mr. Dean assumed supervision of real and movable properties on that date.

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In December 1945, 1st Lt. Walker M. Treece came forward from Salzburg to act in the capacity of chief assistant to Major Kontz. Major Agnew shortly thereafter was transferred to the Salzburg Land Military Government as deputy to Lt. Colonel Heller. Lt. Archie P. Hague, Property Control administrative officer, was redeployed on 18 February 1946, and Mr. Frederic E. Ossorio, U.S. civilian, was transferred from the RD&R administrative office to Property Control Branch, as administrative officer. Mr. John Arnold, U.S. civilian, was assigned as chief of business enterprises on 21 January 1946, giving further evidence to the degree of specialization which became apparent in property control matters at this time. On 26 April 1946 Captain John E. Linehan, shortly afterwards reverting to civilian status, was assigned to Property Control Branch and worked with Mr. Arnold on business enterprise matters. On 13 July 1946 Mr. Arnold returned to the United States and Mr. Linehan assumed complete supervision of business enterprises.

Since the second phase of property control operations dealt mainly with continuing administration, correspondence increased, resulting in the need for establishing increased administrative procedure, and established the need, as well, for additional administrative personnel. Toward that end, in March 1946, Mr. Frank Ouradnik, U. S. civilian, was assigned to Property Control Branch as chief clerk to assist Mr. Ossorio.

To account for the following record of property control organizational changes, it is necessary to go back to February 1946. At this time former Lieutenant, subsequently Captain Walker M. Treece, became acting chief of the Property Control Branch and Major Kontz was assigned as deputy division chief. Captain Treece reverted to civilian status in June 1946 as chief of the Property Control Branch, RD&R Division, and on 3 June 1946 Mr. D. P. Waring entered the organization as field representative to Mr. Treece.

The table of organization for the Property Control Branch in late June and early July, including four Austrian typists and one clerk, was as follows:

| | |
|-------------------------|-------------------------------------|
| Walker M. Treece | Chief Property Control Officer |
| Mr. David P. Waring | Deputy Chief & Field Representative |
| Mr. John F. Linehan | Business Enterprises |
| Mr. John F. Arnold | Business Enterprises |
| Mr. James M. Dean | Real and Movable Properties |
| Mr. Frederic E. Ossorio | Administrative Assistant |
| Mrs. Emma E. Moore | Secretary to Mr. Treece |
| Mr. Frank Ouradnik | Chief Clerk |
| T/5 Mary K. Hawkes | Clerk-Typist |

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SECOND PHASE OF OPERATIONS

With the operational definition of the term "control" more firmly established, along with the functional clarification of the duties of the Property Control Officer and the appointed administrator, Property Control Branch was on the way to the accomplishing of the First Phase of its operations - the specific and essential task of taking properties under control in accordance with Military Government Instruction No. 17, and supplementary instructions.

During the week of 13 to 20 September 1945, Major John T. Kontz made a thorough inspection of the detachments in Linz and Salzburg, which disclosed discrepancies in field operations, and which became the subject of reports by the Assistant to the Deputy Commissioner for Austria to the Commanding Officers of the Military Government Detachments. These seven days of inspection succeeded in achieving more efficient practice in the field. (a)

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Meanwhile, looking toward quadripartite coordination on policies affecting property control activities, the RD&R Quadripartite Sub-Committee, sometimes referred to as Committee No. 7, was organized and had its initial meeting on 25 September 1945. Principally, it dealt with matters concerning property control and reparations, involving such problems as property subject to control in the First Bezirk of Vienna, remaining outside of the scope of Vienna Inter-Allied Command, as well as the property of displaced persons, and other property control matters common to each of the four zones. At the preliminary meeting on 25 September 1945 there were present representatives of the French, British, Soviet and U. S. Elements, and very general discussions were held concerning the revised ordinance presented by the French for the declaration of goods. Agreement indicated that the majority showed a willingness to accept a date of the valuation as of the time of the liberation of Austria in 1945, and an evaluative basis for required returns of property held at a minimum of 500 schillings. Further discussion dealt with the matter of

(a) Reports on Field Inspections signed by Brig. General Flory, sent to Commanding Officers of Linz and Salzburg Military Governments.

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phraseology in the framing of the proposed decree. It was agreed that, pursuant to the discussion at hand, a corrected copy would be furnished by the French Element. Further Four Power meetings during the months of September and October concerned themselves with continued discussions as to the setting up of procedures in each of the four zones, and agreement was reached on the control and administration of Allied property in the different zones.

Prior to the establishing of directives for standard procedure applicable to all types of property, it was necessary for Property Control Branch of the RD&R Division to develop an overall policy that would bear the weight of subordinate procedures in regard to the controlling of the many categories and types of properties subject to reparations or restitution. Toward this end Property Control Branch held inter-staff conferences concerning the consolidation of blocked accounts of real properties formerly belonging to Nazi organizations. Further steps taken to effect an efficient administration of the many different types of properties subject to control were as follows:

- a. The setting up of uniform methods for checking monthly financial statements submitted by business enterprises.
- b. The effectiveness and extension of a 30 day cancellation clause in the lease of foreign property.
- c. The effectiveness of appointing individual administrators to property, i.e. not restricting administration through the sole efforts of a bank.
- d. The effecting of a solution to the problem of conflicting appointments to property by the Ober-Burgemeister of Vienna. This conflict of appointments with Military Government administrative appointees was due to earlier Soviet action prior to U. S. occupation of Vienna.
- e. The meeting with Legal Division, USACA, concerning transfers of titles now under control or subject to control, and matters concerning the return of tungsten and commercial diamonds.

In addition, Colonel Paul, Chief of the RD&R Division, established after his return from a conference in Paris, that first priority for control of property would go to American held interests in Austria, second priority to Allied property, and that emphasis would continue to be placed on the control of all categories of looted property, either fixed or movable. Investigation was made of the properties already under control that fell under priority.

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A complete list of American interests in all four occupied zones, including the First District in Vienna was made and transmitted to the British, French and Soviet Elements. Much property belonged in a looted category and resulted in discussion on the RD&R Quadripartite Committee level. These internal adjustments in regard to the administration of property subject to control helped indirectly to regulate and influence overall Military Government procedure, but matters more directly influencing the operational procedure of Military Government policy were effected by the coordination between Property Control Branch, RD&R Division, and the Military Division in the preparation of a directive concerning the location and inventory of all Wehrmacht properties handled by officers of the occupying troops in the U. S. Zone, in conjunction with Property Control Officers, together with field inspection teams. (b)

Meanwhile, five conferences were held to determine the processing of property allegedly belonging to United States citizens, citizens of Austria, Switzerland and Palestine. These claims to property were usually in letter form, transmitted to the American Legation in Vienna or directly to Property Control Branch of the RD&R Division. The handling of U. S. claims was facilitated by an agreement with the Consul General in that claims of U. S. citizens pertaining to such items as insurance, pensions, accounts, leases and other intangible items would be investigated for final action by the American Legation in Vienna, and that tangible items involving business enterprises, real and movable property would be the responsibility of Property Control Branch. In a separate meeting with representatives of the Austrian Government it was agreed that all claims of Austrian citizens would be referred to the Austrian Federal Ministry for Property Control and Economic Planning. Further agreement was reached with the Austrian Ministry for Foreign Affairs in which the Legal

(b) In regard to the inventorying of Wehrmacht properties, a recommendation was sent to General Salzman to furnish six officers and six enlisted men to the Property Control offices of each Land for a period of time which would enable them to make a necessary survey of former Wehrmacht property, including properties taken from the barges on the Danube, in a manner satisfactory to the Military Division and which would enable Property Control Officers to take such property under control. The matter was referred to General Tate for final disposition and approval, and resulted in inspection teams that proved beneficial to Property Control operation.

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Department of that Ministry assumed responsibility for claims of Austrian citizens to property located outside of Austria. A final conference effected a plan in which the British Element agreed to handle claims of Palestinian citizens. Similarly, a plan went into effect for the return of all Swiss properties taken under control to the jurisdiction of the Swiss Consulate.

On 9 October 1945 Military Government Instruction No. 39 ^(c) was published through the combined efforts of the Property Control Branch, RD&R Division, and the Finance Division, USACA. As it was supplementary to Military Government Instruction No. 17, its immediate tasks were purely objective, and it added nothing to functional operations. Its aim in part was the absorption and control of properties that nourished the German and satellite war machines, and it integrated, in letter and spirit, the objectives of the occupational control agreement in existence at that time. ^(d) Further conferences brought about the plan in which Information Services Branch would handle German film and film equipment properties, now under control, with the stipulation that reports regarding these film properties would be rendered to Property Control Branch. While the month of October brought problems of restitution procedure in the matter of Hungarian property, and the need of directives pursuant to the handling of personal property and household goods of displaced persons, further developments were obtained somewhat later with an analysis of a letter, Headquarters, United States Forces in Austria, Finance Division, USACA, "German Penetration Into Austrian Corporations and Companies" to determine its bearing on Property Control. It was found that only twenty of the properties listed in the letter came within the jurisdiction of the Property Control Branch, and that of these seven have already been taken under control or were in the process of being taken under control. Lists of the remaining thirteen were prepared for the Land Property Control Officers so that appropriate action could be taken.

(c) See tab A

(d) Actually Military Government Instruction No. 39 was a companion directive to Military Government Instruction No. 17, and was written as such. It is included in the Second Phase of Operations only because it was effective on its date of publication, 9 October 1945.

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A further extension of Military Government policy was achieved in the formulation, by the submission of Military Government Instructions for higher headquarters approval, of the transfer of enemy plants, installations and machine tools from Ordnance Service, United States Forces in Austria, to the eventual control of the Property Control offices. In addition, numerous conferences with other Branches and Divisions of the USACA Section, attempted to establish procedure by which these machine tools could be integrated into the Austrian economy, and to what degree they were subject to reparations and restitution. The results of these conferences are to be found in Military Government Instruction No. 83,^(e) "Inventory, Custody and Disposition of Captured Enemy Machine Tools, Plants and Installations" and the supplementary Military Government Instruction No. 88,^(f) "Inventory of Movable Property (subject to reparation or restitution) to Determine Ownership". Both established additional procedures that resulted in the location and discovery of properties and established, as well, the procedures by which such property would be taken into custody by Property Control Officers under one of the categories enumerated in Military Government Decree No. 3. Supervisory authority in these two Military Government Instructions was delegated to the Chief Military Government Officer, Zone Command, Austria, and responsibility for coordination was, in part, shared by the Economics Division, USACA Section, as well as agencies of the Austrian Government. Far from being limited to general and objective procedure, it operationally accomplished the two-fold task of rendering a final blow to a former war industrial economy, while aiding nations benefiting from resulting reparations and restitutions, and further encouraged the Austrian Economy as well.

During the month of January 1946, 406 properties were taken under control, making a total of 1307 properties, and it was reported that 113 claims letters were received. These were transmitted to the Property Control Officers in Salzburg, Linz, and Vienna Area Command for investigation and necessary action.

(e) See tab B

(f) See tab C

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Considerable progress was made by the Real and Movable Property Section, Property Control Branch, in tracing ownership and securing signed statements as to the original discovery of many currency and precious metal property items, as well as art objects, and clarification was achieved on Captured Enemy Material items in a conference with G-4, USFA.

In February 1946, the Reparations and Restitution Branch was activated, and since the restitution of the Monuments and Fine Arts Branch was substantially completed in January 1946, the Monuments and Fine Arts Branch was deactivated. Future work in this, as well as in all other general restitution matters, was to be assigned to the Reparations and Restitutions Branch, which coordinated its efforts with the Property Control Branch in matters involving restitution items that had been or were to be taken under control.

Further recommendations forwarded to the Joint Chiefs of Staff concerning "Nazi Party and Party Leaders" property advocated that such property be turned over to an agency of the Austrian State for administration and ultimate disposal under the supervision of the Allied Commission. ^(g) Operationally, this was not carried out until the Third Phase of Operations, with the passage of pertinent Austrian Restitution Legislation. Further statistics for the month of February 1946 showed that 285 additional properties were taken under control. Additional letters of inquiry and claims totaled 28. At this time additional properties in the following categories were taken under control:

- a. Business Enterprises - 65 new business concerns were taken under control during February, bringing the total to 393. These properties present the most difficult administrative problems and their management is the subject of many conferences and much correspondence between this Division and others in the USACA Section.
- b. Real Estate - 211 properties in the category were taken under control during this period, 31 of which allegedly belonged to United Nationals. This brought the real estate properties to 1118.
- c. Movable Properties - 9 new properties in this category were taken under control, ranging from such varied items as a van-load of furniture belonging to an American citizen, to 170 crates of scientific instruments belonging to Italian universities.

(g) Action upon recommendation resulted in Cable P-3342 from Commanding General United States Forces in Austria; subsequent reply in WAR 80168, 12 March 1946.

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Instructions were issued to Property Control offices during March 1946, in the U. S. Zones and Vienna area, to transmit to the Property Control Branch extracts from the Austrian Brundbuch pertinent to real properties, and the Handelsregister for business enterprises, from the date of the Anschluss to the present, whenever possible. These extracts were to form a basis of authority for claims letters, and to decide in cases of disputed claims. With gradual delegation of responsibility to the Austrian Government, the position was taken that, unless otherwise instructed, Austrian properties would no longer be taken under control, but that the control of Austrian property of an unspecified nature would be referred to the Austrian Federal Ministry for Property Control and Economic Planning. Additional properties taken under control during March, April and May totaled 2200 and the number of claims letters received and processed during that period totaled 594.

In guiding the administration of properties to permit their maximum use in supplementing the U. S. policy of rehabilitating and establishing a sound economy, Property Control Officers were forced to adapt themselves to new measures so as to insure, through careful supervision, the proper balance between the release of property, as well as its safeguarding and control. An example of the former method is to be found in the letter, "Lease, Rental, and/or Sale of Property Subject to Reparations or Restitution".^(h) The above letter enlisted the cooperation of the Economics Division, USACA, to determine the beneficial results to Austrian economy of a property to be leased, rented or sold, and it enlisted, as well, the decision of the Reparations and Restitution Branch of the RD&R Division, in determining the feasibility of such a sale, rent or lease in regard to restitution matters. In matters concerning perishable items Property Control Officers had long held the initiative for disposal, but in matters pertaining to non-perishable items under control, the letter of 21 June 1946 set a precedent and forecast the change to come in the release of properties.

Considerable study and several informal conferences were held during the month of June in regard to Austrian NSDAP property, with reference to

(h) See tab D

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to procedure for its release to the Austrian Federal Ministry for Property Control and Economic Planning, under the proposed passage of Austrian Restitution Laws, and it was found that an increasing number of claims to ownership of property in Austria was received from U. S. claimants who reported to have been divested of their property for racial or political reasons. Whenever possible, plans will be made to release such property to the custody of agents, trustees or administrators to be appointed by the owners. The total number of individual claims and inquiries on hand at this time amounted to 1783. The total properties under control at this time can be found in the attached table. ⁽¹⁾

SUMMARY OF SECOND PHASE OF OPERATIONS

In light of the foregoing it may be said that the following implement the objectives, and at the same time sum up the activities of the Property Control Branch in the Second Phase:

- a. Property Control undertook, in the Second Phase, the formulation of policies and procedures and the implementation of quadripartite agreements and U. S. Government directives pertaining to Property Control.
- b. The establishment of uniform policies and procedures for, and staff supervision of, the operations of Property Control Officers and Austrian administrators in controlling properties subject to reparations or restitution.
- c. The transmitting to Property Control Officers on Land level, of all available information and policy procedures to be followed in respect to all other classes of properties subject to control.
- d. The transmitting of information to the appropriate Occupying Power concerning the property of U. S. citizens in zones of occupation other than the U. S. Zone of Austria and the U. S. Vienna area.
- e. The furnishing of such information concerning the control and administration of properties under control as is appropriate.
- f. The maintenance of an office and record for all property under control.

(1) See tab E

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INTRODUCTION TO THE THIRD PHASE OF OPERATIONS

With the enactment of the Trusteeship Agreement, transferring the administration of German owned properties to the Austrian Government, acting as trustee, and with plans made for the release of all Nazi properties under control to the administration of the Austrian Government, Property Control Branch of the RD&R Division was ready to begin the Third Phase of its operations.

The dominant feature of the Third Phase was the establishing of ground work for the transferring of responsibility to the Austrian Government. International communication systems having been established, Property Control Officers, together with the U. S. Legation, Consular Section, established plans for releasing to their authorized agents or representatives, properties belonging to United Nationals. Pending the completion of legislation covering internal restitution of aryanized properties, the framework was laid under the Austrian Public Administrator's Law and the Registration Law, for the transfer of administrative responsibility over aryanized and dispossessed properties, to the agencies of the Austrian Government.

Changes during the Third Phase of Operations affecting the table of organization were as follows:

On 27 July 1946 Mr. Earl E. Balthazar, U. S. civilian, replaced Mr. Frederic E. Ossorio as administrative assistant to the head of the Branch. On 18 November 1946 Mr. Albert Segat, U. S. civilian, took over the supervision of business enterprises, replacing Mr. John F. Linehan. Mr. Vernon E. Dean, U. S. civilian, replaced Mr. Ouradnik as chief clerk on 14 October 1946 and Mr. George Sweets, U. S. civilian, became file clerk for the Property Control Branch. T/5 Mary Hawkes, then Sgt. Mary Hawkes, left the organization of 17 March 1947 and was replaced by an Austrian male typist. The table of organization at that time and at the present time, including nine Austrian clerks and typists, is as follows:

| | |
|-----------------------|-------------------------------|
| Mr. Walker M. Treece | Head, Property Control Branch |
| Mr. D. P. Waring | Deputy to Mr. Treece |
| Mr. Albert Segat | Business Enterprises |
| Mr. James M. Dean | Real and Movable Property |
| Mr. Earl E. Balthazar | Administrative Assistant |
| Mr. Vernon E. Dean | Chief Clerk |
| Mrs. Emma E. Moore | Secretary to Mr. Treece |
| Mr. George Sweets | File Clerk |

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THIRD PHASE OF OPERATIONS

During July 1946 the first transfer to the Austrian Government of the trusteeship of all German assets was accomplished. Tuesday, 16 July 1946, marked a ceremony in which 5500 workers of the United Iron and Steel Works witnessed the transfer of the United Iron and Steel Works to the trusteeship of the Austrian Government by General Mark W. Clark. Chancellor Figl accepted on behalf of the Austrian Government, and both General Clark and Chancellor Figl affixed their signatures to the Agreement, which marked an operational beginning to President Truman's policy. Similar public ceremonies were held on 23 and 30 July respectively, for the transfer of the Steyr Works and vitally important Hydro-Electric project at Kaprun. Plans were also completed for additional ceremonies to cover remaining prominent business enterprises in the U. S. Zone.

The establishing of the Austrian Government as trustee for German assets in Austria was promulgated as the result of instructions of the President of the United States, confirmed by text of cable from American Embassy, Paris, to Secretary of State. ^(a) General Clark subsequently announced this policy in a letter to Chancellor Figl, which stated that the United States Government was prepared to turn over to the Austrian Government, as trustee, all German assets physically located in the United States Zone. ^(b) Incident to the Agreement of 16 July 1946, concerning the trusteeship of German assets, the procedures to be followed, instigated by Property Control Branch, were established by letter AG 014-ACA/X, this Headquarters, 1 August 1946. ^(c) The policy to be followed by the U. S. Allied Commission for Austria stressed the degree of staff work inherent in the procedure. ^(d) The terms of the agreement are contained in an Annex. ^(e) The instrument of agreement, signed by General Clark and Chancellor Figl, stated the broad general policy applicable to the transfer of German assets in the U. S. Zone to the Austrian Government as trustee. ^(f)

- (a) See tab A
- (b) See tab B
- (c) See tab C
- (d) See tab D
- (e) See tab E
- (f) See tab F

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The above agreement, along with the new Control Agreement of 28 June 1946, marked the initial stages of the Third Phase of Operations, the gradual release of property to the authority of the Austrian Government and the increased supervisory duties of Property Control Officers.

At this time the Austrian Parliament considered the first of five internal restitution laws which, when passed, will enable persons who suffered property losses through aryanization and duress under the Nazi occupation, to receive their properties back and, in some cases, to be compensated. Eight hundred Austrian Nazi properties were now under control and eligible for release to the Austrian Government as a result of the passing of these laws.

Law 106, the Nullification Law, became effective on or about 30 July 1946, after negative action on the part of the Allied Council for a period of 31 days, which declared null and void any legal act or disposition made during the period of the German occupation of Austria, with the intention of depriving natural or juridical persons of their property or property rights. The effect of this law in regard to Property Control was the placing in abeyance of titles to properties which were the subject of transfer through duress, aryanization, or other means, during the Nazi occupation. The rightful owner is to be adjudged under Austrian restitution laws that have or will be passed.

As a result, the Property Control Branch, RD&R Division, initiated a number of test cases set up to standardize the procedure by which property in Austria belonging to Allied Nationals can be released to their duly authorized representatives. These test cases brought favorable results and effected plans for the release from administrative custody of Military Government some 200 such properties within the next two months.

In July a clarification of the definition of captured enemy material was accomplished in a conference held by the Chiefs of Civilian Supply, G-4, Executive Division and Policy Branch, HSACA, and a clearer cut policy on matters affecting Property Control ensued.

There was a marked decrease in the number of inquiries and claims to properties from persons residing outside of Austria and who were allegedly divested of title to their property rights under the pressure of "Reich Property Sales Agents". However, this is not an indication that the majority of such persons had been heard from.

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A further ceremony was held in Lenzing 6 August 1946, when the following six plants were turned over to the Austrian Government as trustees:

Lenzinger Zellwolle und Papierfabrik
Gmündener Keramik-Werke
Schöller-Werke, Steeg
Dykerhoff und Widman, Ebensee
Heser-Werke, Gmunden
Siemens-Bau-Union, Ebensee

On 2 August 1946 the "Vereinigte Aluminium Werke, A.G. Mattigwerk", Braunau am Inn, was turned over under the terms of the Trusteeship Agreement, as well.

During the month of September an additional 17 plants were turned over, making the total to date 27 plants to the Austrian Federal Government as Trustee. These plants represented a wide variety of industries, ranging from a sugar processing to a copper mining and processing plant, and are listed as follows:

Rotax-Werke, A.G.
Zuckerwaren-Industrie Ried G.m.b.H.
Gesellschaft fuer Gas-Industria, A.G., Gaswerke Steyr
Schaerdinger Granit Industrie, G.m.b.H.
Ueberland-Werke Antiesenhofen
Stickstoff-Werke Ostmark, A.G.
AT Werke, A.G., Mattighofen
Studiengesellschaft Deutscher Kupferbergbau, G.m.b.H.
Welser Industriebahn, Reg. G.m.b.H.
Deutsche Gold-und Silberscheideanstalt "Degussa", formerly Roessler
Franck und Kathreiner, G.m.b.H.
Oswald Werke, G.m.b.H.
Hubert Wimmers sen. OHG.
Elektrizitaets Werke, Wels, A.G.
Strebelwerke, G.m.b.H.
Elektro Bau, A.G.
Chemosan-Union, A.G.

During September three of the laws affecting the internal restitution of property became operative. These laws, in addition to the "Nullification Law", effective 30 July 1946, aided in the legal procedure of returning properties to their rightful owners.

A. Law on the registration of aryanized and other property confiscated in connection with the ascension to power of the National-Socialists. This law was approved after some changes and modifications by the Allied Council. It became effective on 14 September 1946. The following is quoted from the first paragraph of this law:- "Property and property rights of which their owners have been deprived after 13 March 1938 in connection with the ascension to power of the National Socialists, either arbitrarily, or by virtue of laws or other regulations, or so-called racial, national or other reasons".

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The law further states that this class of property shall be registered with the Ministry for Property Control and Economic Planning; that pending final decision as to rightful ownership, public administrators or any other holder of property or property rights, within the class mentioned in this law, are responsible for a business-like management of the property and subject to punishment for maladministration.

B. Law 157, Federal Law on Appointment of Public Administrators and Public Controllers, became effective on 14 September 1946. This particular law provides the Ministry for Property Control and Economic Planning, in conjunction with other appropriate ministries, with the authority to appoint public administrators. Specifically, it granted authority to the above mentioned Federal Ministry to appoint public administrators over:

1. Property declared forfeit under the law forbidding the Nazi Party in Austria.
2. Properties having belonged to persons taken into "Statutory Remand Custody" under the code of criminal procedure.
3. Property owned by fugitives or other individuals who are not in position to properly manage the undertaking, or property which is the subject of registration under the law of registering of aryanized and other property.
4. Property of persons who, on 15 March 1938, were German subjects or other persons who after this date have acquired property located in Austria.

It is through this law that the Austrian Government has the authority to take all properties which might be the subject of restitution to owners deprived of their property through the Nazi occupation into protective custody, until such time as restitution can be effected. It further sets out the legal position, responsibilities and limitations of such public administrators as may be appointed.

C. The Federal Law on the Restitution of Dispossessed Property, administered by the Federation and by Federal Provinces (First Restitution Law). This law deals with that class of confiscated property which was taken by the Germans with or without cause and was held in the name of the German Reich, not passed to any third party or person, either natural, juridical or political.

D. The "Enabling Ordinance" to Law, 10 May 1945, provided for the declaration of properties having fallen under the class enumerated in "Paragraph 1" of the Law of 10 May.

1. Subject ordinance is the Enabling Act to "Paragraph 2" of the proposed law of 10 May 1945, which orders any person having properties or property rights of the class enumerated in that law, to register the same with the Ministry for Property Control and Economic Planning.
2. The above ordinance provides that the declaration shall be made by persons in any way connected with property falling within the class set out under the law of 10 May, and an extensive explanation is made describing property which would fall under that class. The declaration is to be made within 60 days of the promulgation of the ordinance.
3. This ordinance was published and effective on 14 September 1946.

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The Austrian Ministry for Property Control and Economic Planning was, at that time, preparing drafts to be presented to the Austrian Parliament, covering the Third, Fourth and Fifth Restitution Laws. Discussions with the Ministries concerned indicated that these laws will adequately cover all properties which were confiscated, aryanized or through other means taken from the rightful owners during the Nazi occupation, and that restitution will be made.

The Austrian Government had, in the enactment of the above laws and in the promulgation of future laws, declared null and void transfers of property or property rights under the Nazi occupation; had further provided for a means of locating and registering the properties involved; and had provided for the authority by means of which such properties could be placed under protective custody. Through a series of 5 restitution laws, the procedure for returning the properties to their rightful owners will be established.

These laws were the logical effect of the course of implementing the agreement establishing new control machinery for Austria, entered into by the four occupying powers on 28 June 1946, and from which the authority was delegated for the transfer of responsibility for control of all classes of property, with the exception of United Nations' property, enumerated in Military Government Decree No. 3, to the agencies of the Austrian Federal Government. The Austrian Government now possessed the authority to appoint public administrators over specified categories of properties, following those enumerated in Decree No. 3, and further provided for the initial steps toward the accomplishment of the ultimate restoration of property and property rights to persons deprived of them as the result of the annexation of Austria by Germany.

Incident to the coming into effect of the new Control Agreement of 28 June 1946, and the subsequent promulgation of Austrian legislation effecting the control and disposition of property, this Headquarters rescinded Military Government Instruction No. 39, and replaced it with Military Government Instruction No. 104, outlining the classes of property subject to control by

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Military Government Property Control Officers. ^(g) Military Government Instruction No. 104 objectively accomplished the identical task of Military Government Instruction No. 39, with the modification that it emphasized supervision of delegated control power in accordance with the more benevolent and recent control agreement, and the enactment of pertinent Austrian restitution legislation.

On the basis of this instruction, Property Control Officers ceased to exercise direct jurisdiction over all classes of property heretofore subject to their control, with the exception of properties of Allied Nationals and Ex-Enemy Nationals, exclusive of Germany. Other classes of property are to be administered by Austrian Government agencies ^(h) which the Austrian Federal Government, under the provisions of its Public Administrator's Law, began in a program for the establishment of its Property Control agencies at Land level. Action has resulted in respect to a survey of 500 properties in Salzburg and Upper Austria, principally under Austrian denazification directives.

The German External Assets Branch was organized, although not fully operative, on 12 October 1946, as a branch of the RD&R Division. The analysis of enterprises and property in Austria, with the view to determining its extent as a German external asset, will greatly clarify property issues of doubtful ownership, and will present an historical synthesis of business and property interests that should greatly benefit Property Control.

The October program of turning over German external assets continued with a plan to transfer in groups, plants and installations from the same industrial field, 39 German owned building and construction firms. The latter were released to the trusteeship of the Austrian Government in the largest group transfer accomplished in any single month since the announcement of the program in July.

(g) See tab G

(h) Although the Public Administrator's Law was fully recognized by the U.S. Element, it was not permitted to operate with respect to properties already taken under control by Military Government Property Control Officers until such time as these properties were to be formally transferred to the administration of the Austrian agencies. Meanwhile, the Property Control Officers in the field are assisting the Austrian officials in the establishment of Property Control agencies and will act in a supervisory capacity with respect to their activities under the provisions of the law.

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The process of turning over properties in groups from the same industrial field enabled the Austrian Government to evolve plans for the assimilation of these industries and integrate them into the Austrian economy. The firms transferred were confined to those engaged in, or associated with the contracting, construction and building trades, the assets of which included much vitally needed building material. This makes a total of 67 plants that have been turned over under the Trusteeship Agreement.

A plan was implemented, prior to the establishment of an overall policy decision, in which the interzonal movement of machine tools was to be effected.⁽¹⁾ The initial transfer of machine tools was based on a request from the Graz plant of Steyr-Daimler-Puch, A.G., forwarded to the U. S. Element and the Austrian Ministries of Trade and Reconstruction, and Property Control and Economic Planning. The British RD&R Division in its indorsement, volunteered to allow the U. S. Element to exercise in the British Zone, a degree of supervision over the transferred assets necessary to insure the carrying out of the U. S. Element's responsibilities with respect to German external assets. The U. S. Element, in reply to the British indorsement, assured the British Element that it would have the same privilege with regard to supervision of German external assets in the U. S. Zone, if transfer of assets from the British Zone to the U. S. Zone was to be effected. The above constitutes an existent hope for effecting the movement of German external assets throughout Austria, regardless of zonal boundaries, thereby materially aiding the reconstruction and revitalization of Austrian economy.

The "interzonal movement of machine tools" was a procedural policy, together with "the lease, rental and/or sale of properties subject to reparations or restitution",^(j) which affected a great bulk of properties in all categories, and in addition gave material aid to a nearly exhausted Austrian industrial economy. Further the policy, in effecting the interzonal movement of machine tools, maintained the value of property by permitting its maximum use in the establishing of an economy, while preserving and protecting assets for

(1) See tab H

(j) See Phase II, tab D

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ultimately possible reparations use.

Meanwhile, in November 1946, eleven former German oil companies engaged in the processing, refining and marketing of petroleum products in the U. S. Zone of Austria, were transferred to the trusteeship of the Austrian Federal Government. The Eugen Grill Werke, a German firm controlling the largest pool of machine tools in the U. S. Zone, was transferred as well, to the Austrian Government. The tools from this company were loaned to other firms in the U. S. Zone, and it is hoped, aided in the production of vitally needed consumer goods. A total of 79 firms have now been released to the Austrian Government under the Trusteeship Agreement.

During the month 44 properties belonging to the Austrian Cooperative Societies (Konsumverband) and their associate organizations were released from Military Government Property Control and turned over to the Austrian Federal Government for administration under the Austrian Public Administrator's Law. These properties were confiscated by the German Reich shortly after the annexation of Austria and were turned over by the NSDAP to the German Labor Front organization in February 1941. Release was made on the basis that these properties were Austrian and in existence prior to 13 March 1938.

The Austrian Federal Ministry for Property Control and Economic Planning, in collaboration with representatives of the Property Control Branch and the U. S. Legation, prepared a general information letter designed to give complete information regarding the restitution program in Austria. The information letter contained full instructions to former owners on the methods in making formal claims for the restitution of property. Plans were completed for the dispatch of this letter to persons making claim inquiries with the Property Control Branch, RD&R Division, or the U. S. Legation, as well as to claimants who have filed claims directly with the Austrian Federal Government.

The month of November produced the highest total of properties under control since the activation of the Property Control Branch. (k) From the period of December 1946 to the present, the total number of properties under control progressively grew less since release of property became the rule rather than the exception.

(k) See tab I

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The month of December saw the transfer of six additional properties under the Trusteeship Agreement. These six properties included five large public housing projects in Upper Austria and the Wien Film, G.m.b.H. in Vienna. The latter will greatly aid Austria in securing foreign exchange rates from nearby countries since Austria, prior to 1938, had been one of the greatest suppliers of film products in central Europe.

Forms were completed for the purpose of forwarding a current Property Report on each United National's property in the U. S. Zone of Austria, giving indication of the present status of the property.⁽¹⁾ With the report there is attached a statement and suggested power of attorney, requesting the owner, as a United National, to designate an attorney-in-fact or an agent or representative, to act in his behalf in accepting the release of the property from U. S. Government control^(m) for private administration. This is the first step in effecting the release of all United Nationals' property from the control of the U. S. Military Government, but was not to be in operation until January 1947.

As a further incentive and preparatory to the eventual transition of complete property control responsibilities to the Austrian Government, certain Military Government Property Control functions have been entrusted to the Austrian authorities, specifically:

- A. The local investigation of new property claims to industrial enterprises made by United Nationals.
- B. Measures for the preservation of the assets.
- C. Reporting to this Headquarters on results of (A) and (B) above.

Plans were completed as well, to forward all property claims from persons dispossessed of their properties and rights under the Austrian Nazi regime, to the Austrian Federal Ministry for Property Control and Economic Planning, for the purpose of investigation and appropriate action necessary to the protection of the claimant's property rights until the claim can be adjudicated in accordance with Austrian legislation. This was to be operationally effective in March 1947.

(1) See tab J
(m) See tab K

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The release of all publicly owned NSDAP properties to the Austrian Ministry for Property Control and Economic Planning, for disposition and administration in accordance with Austrian legislation, was accomplished.

Two large printing establishments of the Salzburg Press Association (Salzburger Presseverein), with enterprises in Upper Austria and in Salzburg, were released to the Austrian Government. The directors of this organization after the Anschluss, were replaced by NSDAP members who disposed of several holdings of the firm and with the funds secured and established the enterprises. The association, under control as a German external asset, was returned to the Austrian Government upon discovery that it was originally financed by Austrian funds.

In accordance with the policy of the U. S. Government to release all church property from control, a large estate taken under control as German property, was discovered to be owned by a Roman Catholic institution, and was therefore, automatically released to the rector, as trustee.

Property Control Officers of the Military Government Zone Command and Vienna Area Command released 126 properties to the owners. It was found that the category "Nazi Party and Party Leaders" included the majority of the releases, and investigations clarified the political status of many of these former members of the NSDAP, so that a transfer of the custody of the property was effected from the Property Control Officer concerned, to the owner. Such releases affected the month's total number of properties under control to the degree that it is 126 properties less than for the total of November.

In January 1947 the current phase of Property Control was marked by functions leading to the final clarification of categories of ownership, preparation for restitution, segregation of German property, supervision over the Property Control agencies of the Austrian Government, and measures to reconcile Military Government Property Control with the industrial and commercial requirements of individual enterprises in the Austrian economy.

During the year, Property Control Officers practiced a day to day establishment for procedural policies in guiding property administrators toward accomplishing:

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- A. The execution of lease and contract agreements.
- B. The securing and selling of surplus raw materials.
- C. The maintenance and compilation of "books", records and reports.
- D. The securing of funds for maintenance of non-income producing properties.
- E. The use of "blocked" bank accounts.
- F. The sale of perishable items.
- G. The payment and collection of debts.
- H. The execution of mortgages, bank loans and the securing of working capital.
- I. Foreign trade agreements.
- J. Interpretation of the application of Austrian laws, such as taxation, price control, etc.

With the process of delegating property control powers to the Austrian Government, the range of functions was increased to include:

- A. Controversial claims raised by well prepared actions of the parties.
- B. Economic considerations in carrying out the aims of the preservation of assets.
- C. The consideration of requests for release, sale, transfer and leases of industrial equipment and goods.
- D. Interzonal movement of machines and machine tools.
- E. Reconversion.

During the month of January all NSDAP and affiliated organizations' properties, bank accounts and movable properties, were turned over to the Austrian Government for administration, in accordance with pertinent Austrian legislation, subject only to provision that any assets in which there subsequently should be discovered a German interest, would not be disposed of until a final decision had been reached as to the disposition of German external assets in Austria. This release amounted to 89 pieces of real estate, bank accounts totaling 9,533,000 schillings, and movable properties consisting of office furniture, house furnishings and miscellaneous machines.

Current reports on the status of properties in the U. S. Zone, Austria, owned by citizens of one of the United Nations, were being screened, processed and then referred to the U. S. Department of State for transmission to the

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respective owner, in conjunction with the American Legation, in the plan outlined during December 1946. This plan effected the release of properties belonging to United Nationals from U. S. control, which had been taken under custody in accordance with Military Decree No. 3. Persons receiving the property report from the Department of State were being instructed to name an administrator with power of attorney for their property interests. ⁽ⁿ⁾

The total number of properties under control was 2462 as compared to 2551 properties at the end of December 1946. This was a decrease of 89 properties, with the majority of the releases in real estate categories.

Statistics pertinent to claims of Allied Nationals to property in Austria from September 1945 to December 1946 totaled 1169 claims, ^(o) and property owned by United Nationals was computed to be 123 properties.

Fourteen more plants in February 1947 were turned over to the trusteeship of the Austrian Government. Ninety-nine firms have thus far been released under the Trusteeship Agreement.

The Austrian Parliament passed the Second and Third Restitution Laws on 6 February. The Second Law concerned the restitution to dispossessed owners, property held by the Nazi Party, and which by Austrian Law, had now become property of the Austrian State. All property falling in this category was to be restored to the owners who were dispossessed of it. The claim for restitution must be filed within one year after the enactment of this law. However, the time may be extended by an ordinance of the Federal Ministry for Property Control and Economic Planning. The Third Law deals with the restitution of property not covered by the First and Second Restitution Laws, and covers as well, aryanized property now held by individuals. These laws became effective in March 1947.

Fifteen real estate properties located in Land Salzburg, formerly owned by the Austrian State, and subsequently confiscated by the German Army for military use, were returned to the Austrian Government for administration and disposition, in accordance with Austrian restitution legislation.

(n) See tab L
(o) See tab M

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The interzonal transfer of industrial equipment and materials was effected in several cases. Arrangements were made to transfer vitally needed machine tools from the Steyr-Daimler-Puch, A.G., automotive manufacturing firm in the U. S. Zone, to the Graz Branch of the same firm located in the British Zone. Also transferred to the British Zone were 22 miscellaneous machine tools needed by various firms for the continued operation of their plants. Fifty tons of asbestos were released for transfer from the U. S. Zone to a plant located in the Soviet Zone. This asbestos was needed to manufacture brake lining and miscellaneous parts used by the Austrian railroads. A lease was arranged covering the transfer of a Diesel motor from Gross-deutsche Schachtbau, A.G. in the U. S. Zone, to Josef Kirchmaier & Sohn in the Soviet Zone. This motor was needed to permit the continued production of yeast and malt products, about 60% of which was being used in the U. S. Zone.

The total number of properties under control for February amounts to 2448 as compared to 2462 properties for January. The total number of new claims and inquiries received from former Austrian citizens amounted to 58 in February as compared to 44 in January, 50 of 58 originating in the U. S. Zone.

During March, 23 additional former German or partially German owned properties were turned over to the Austrian Federal Government under the terms of the Trusteeship Agreement. The majority of these properties consisted of building and construction firms. A total of 122 properties had been turned over at that date.

A collection of approximately \$55,000.00 worth of gold, silver, precious stones and miscellaneous jewelry, collected by SS leaders as ransom from Jewish concentration camp internees, was released from Property Control to the trusteeship of the Jewish Agency for Palestine. Arrangements were made for the transportation of these funds and valuables to Palestine for use in the rehabilitation of persecuted persons of Jewish faith.

A new procedure was initiated for the segregation into categories and eventual disposition of 82,000 machine tools which were surveyed and registered in Lands Upper Austria and Salzburg. The machines indicating Austrian ownership eventually will be released to the Austrian Government for disposition

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in accordance with the best interests of Austrian economy, and with the understanding that the Austrian Government assumes any liability in connection with any claims subsequently arising regarding such machines. The Austrian Government also assumed the obligation to give priority for the purchase or lease of such machines to individuals having physical custody, with such recapture clauses as may be necessary. Machines of German ownership, or no ownership at all, are to be turned over to the Federal Ministry for Property Control and Economic Planning, in a plan somewhat similar to the Trusteeship Agreement of 16 July 1946, subjecting the trustee to the accountability of this Headquarters, and with the understanding that transfers from the U. S. Zone receive the prior approval of this Headquarters. The remaining machines, showing such ownership as ex-enemy nationals, United Nations' nationals and others will be screened to decide their disposition, restitution or retention as captured enemy material.

In conjunction with the first three Restitution Laws passed, the program for the dissemination of information to U. S. claimants concerning the status of the laws and procedures to be followed in the formal filing of claims, was operationally put into effect. The Property Control Branch, under the supervision and advice of the Chief of the RD&R Division, and the cooperation of the U. S. Legation in Vienna, in collaboration with representatives of the Austrian Government, prepared a general information letter,^(p) which is designed to give complete data on the property restitution program for Austria and instructions as to the filing of claims. This general information letter is presently being dispatched to all persons in the United States who have indicated interest in the matter.

In addition to the general information sheet sent to the claimant in the United States, there is a sample power of attorney form,^(q) additional information sheets, in German, A^(r) and B^(s) with a cover letter from the Chief of

- (p) See tab N
- (q) See tab O
- (r) See tab P
- (s) See tab Q

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the RD&R Division. (t) A mimeographed cover letter from the Head of the Property Control Branch (u) is sent with the claim letter and/or affidavits of claim, to the Austrian Federal Ministry for Property Control and Economic Planning, who ostensibly guarantees protection to the property until the filing of a formal claim by the claimant or claimants is accomplished, together with the appointment of an agent, representative or attorney-in-fact. Subsequent investigation or necessary probate or other court action is instigated by the representative of the claimant, who insures proper action until the claim is finally adjudicated in accordance with Austrian legislation. Further information is to be furnished to claimants as additional restitution laws are effected.

Plans are now formulated for the ultimate disposition of miscellaneous looted properties held under Property Control. The plans call for the release of miscellaneous looted properties to the Inter-Governmental Committee on Refugees, the Austrian Government, the "Gold Pot" established under the Paris Reparations Act, and to the Jewish Agency for Palestine. The majority of this category of properties consist of loot whose rightful owners were victims of Nazi aggression. The total number of properties under Military Government Property Control as of March amounted to 2403, compared to 2448 properties for February. One hundred and thirty-one new property claims were received as compared to 58 in February. One hundred and twenty-eight of these 131 were received from the United States.

SUMMARY OF THIRD PHASE OF PROPERTY CONTROL OPERATIONS

Coincident with the continuing supervision over the administration of properties under control, and supervision of the Austrian Government as trustee for German assets, the Property Control Branch attained the Third Phase of its operations, the ultimate disposition and releasing from control of properties taken under administration.

With the establishment of a new control machinery for Austria by the four occupying powers, on 28 June 1946 a basis of authority was found for transferring direct responsibility for control of all classes of property, with the

(t) See tab R
(u) See tab S

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exception of United Nationals' property enumerated in Military Government Decree No. 3, to the agencies of the Austrian Federal Government, and Property Control Branch began to lay ground work for the transferring of responsibility to the Austrian Government.

On 14 September 1946 the Austrian Government, with the approval of the Allied Commission, passed a federal law establishing authority for appointment of public administrators over specified categories of properties, and at the same time effected the ordinance on the "Registration of Aryanized and Other Properties of Which Owners Were Dispossessed During the Nazi Regime". On the basis of these laws the Property Control Branch set up procedures for transferring to the Austrian Government, administrative responsibilities and protection of all properties from which the owners were dispossessed during the Nazi occupation. The policy of effecting such a transfer became a continuing operation, with Property Control Branch becoming aware of property claims falling within that category, and transferring the information through a coordinated procedure to the agencies of the Austrian Government.

With the authority of the Public Administrator's Law making possible the appointment of custodians and managers by the Austrian Government, Property Control Branch, in accord with higher level policy, released to Austrian agencies, all Nazi Party and Party Organization property which had been taken under control during the course of Property Control operations.

Looted properties of United Nationals and properties of ex-enemy nations, which had been taken under control in the early stages of Property Control activities, were being released through the continuing operation of the restitution policies of the United States Forces in Austria, as applied by the Restitution Branch of the RD&R Division.

The Property Control Branch in September 1946, feeling that communication facilities were adequate to permit contact with representatives in Austria, initiated the staff action which resulted in its establishing a policy for the relinquishing of control over Allied Nationals' property in Austria, to the appointed agent or representative of the owner.

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Earlier action on release of properties occurred in July 1946, in accordance with an expressed U. S. policy concerning reparations from German external assets in Austria. The "Trusteeship Agreement" was effected as a consequence between General Clark and Chancellor Figl, based upon Property Control action, and the approval of the Chief of the RD&R Division, and cooperation of other Divisions in USACA, in completing the implementation of the plan calling for the transfer to the administrative trusteeship of the Austrian Government of all German owned properties in the U. S. Zone. With attention first directed to the major industrial and commercial undertakings, Property Control Officers effected the transfer to the Austrian Government an average of 15 properties per month. To date there have been 122 of the major German owned commercial industrial firms in the U. S. Zone transferred to the administration of the Austrian Government, leaving a balance of approximately 250 to be transferred. With the accomplishment of the "Trusteeship Agreement", Property Control Branch functions underwent a transition from emphasis in supervising the Military Government Property Control Officers, to emphasis in supervising the Austrian Government agencies' conduct of administration of German properties.

On 9 January 1947 plans were completed and formal transfer of administration of all Nazi Party and affiliated organizational properties was made to the Austrian Government. This did not include Nazi properties under control owned by individual Party Leaders. Nazi properties under control total 870, with movable properties being combined under one administration, and numbering thousands of miscellaneous items. The second phase of release of Nazi Party Leader properties is in the implementation stage at the present time and will shortly be completed.

Property Control Branch, RD&R Division, initiated staff coordination with Economics Division, Industry Branch, on planning matters pertinent to the interzonal movement of German owned machine tools and properties, in order that they might be most advantageously used in the Austrian economy, pending a final decision on disposition of German assets in Austria.

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Hand in hand with the transferring for direct administration to the Austrian agencies, the responsibility for aryanized and dispossessed properties, Property Control Branch, with the approval of the Chief of the RD&R Division, and working with the Austrian officials, caused to be prepared a series of information pamphlets covering restitution legislation. This information, covering the details of each restitution law as it is passed, will be transmitted to all claimants to property in Austria whose claims have become a matter of record in Property Control files.

In the same manner as above, properties belonging to a citizen of one of the United Nations, were being screened and processed previous to transmission to the U. S. Department of State, to be forwarded to the owner. This affected properties limited to the U. S. Zone in Vienna, Salzburg and Upper Austria. Citizens from one of the United Nations receiving these property reports from the Department of State were being instructed to name an administrator with a power of attorney to represent their property interests.

Under the terms of broad U. S. policy and higher level policy in this Headquarters, procedures have been and are being established for the disposition of miscellaneous looted movable properties taken into custody by Property Control Officers. During the first three months of 1947, \$4,700,000 worth of monetary gold uncovered in the U. S. Zone was returned to the Austrian Federal Government, as gold looted by the Germans from the Austrian Federal Treasury. Gold, silver, precious stones and jewelry valued at \$55,000 collected by SS leaders as ransom from Jewish concentration camp internees, was released to the trusteeship of the Jewish Agency for Palestine.

Eighty-two thousand machine tools were surveyed and registered in Lands Upper Austria and Salzburg. A plan was initiated to release these machines to the Austrian Government with the understanding that the Austrian Government assumes liability in connection with any claims subsequently arising in regards to the machines.

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PRESENT PLANS:

Property Control Branch of the RD&R Division is still faced with the problem of continuing supervision over the direct administration of over 2000 properties still held under direct control. With respect to the properties released to the Austrian Government, either as German properties under the Trusteeship Agreement, or for administrative supervision, pending final determination of disposition in other categories, Property Control Branch is undergoing a transition placing it in a supervisory and advisory position over Austrian Government agencies responsible for direct administration of released properties.

With the coming into effect of the Austrian Government's Second and Third Restitution Laws, the Branch will speed up its transition of direct supervision of aryanized, dispossessed properties to the Austrian Government agencies in order that they may implement their laws. In conjunction with these restitution laws, the program for the dissemination of information to Allied claimants concerning status of the laws and procedures to be followed in the formal filing of claims, has been accelerated.

Plans for the disposition of miscellaneous looted properties held under control must be completed, looking toward a release to the Inter-Governmental Committee on Refugees, the Austrian Government, the "Gold Pot" established under the Paris Reparations Act, and to the Jewish Agency for Palestine. During the latter part of April plans were worked out with representatives of the Inter-Governmental Committee on Refugees for the release of the inventory comprising the "Hungarian Loot Train", valued between one and one-half and three million dollars.

Property Control Branch will continuously be responsible for the supervision of Property Control agencies, participation in Headquarters staff actions, in the analysis of operational problems facing administrators, and in the application of broad U. S. policies to Property Control functions, looking toward the protection and preservation of the overall maximum value and worth of the properties under its custody.

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Report of Activities for the
Period 11 to 17 May incl.

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Richard P. Weeber
Major CE

Other matters of interest were: a. Economic Div. issuing instructions (re soap factory) directly to the P.C.O. to release items claimed in restitution by the Yugoslavian Government; and b. Col. Ladue DC/S, Vienna, requested investigation thru RD&R Div., PC Branch, re restitution of property for Count Victor Karolzi. Do not think that we received an official claim from the Hungarian Government for this property. Obtained copies of correspondence on both cases.

Rest of day at Stadl near Lambach re Yugoslav claim No. 4 for 12 stallions (not Lipizzaner) alleged to originate from Yugoslavia. The stallions are housed at the Austrian State Stud Farm at Stadl; appeared to be in excellent condition and are well taken care of, both by the Austrian officials and the 7 Yugoslav caretakers that came with the horses from Yugoslavia.

Met at the stud a representative from the Austrian Ministry for Agriculture and Forestry, Councillor (Amtsrat) Schug, who stated that from these 12 stallions only about two were of Yugoslav origin but that the others were of Austrian origin and were taken by the Germans to Yugoslavia after 1941 for breeding purposes. Suggested to this Councillor that the Austrian Government have the opportunity to present to our Government a counterclaim with necessary proof, but that they should hurry up this counterclaim since so far no objection had been raised by the Austrians against the Yugoslav claim and the officials at Stadl knew since last fall of this Yugoslav claim. He replied that the Austrian Ministry did not know of this matter till his recent visit from Vienna to Stadl.

Tuesday, 14 May 1946:

All day with Col. A. Podhajsky, the Director of the Spanish Riding School. The school is now located mainly at Wels, at the former "Artillery Kaserne", on the outskirts of the city on the road to Salzburg. Part of the stallions from the Riding School are also housed at St. Martin.

Observed from 0900 to 1100 hours the training-exhibition of the school at the large riding hall, then conference with Col. Podhajsky and Councillor Schug on status of the Lipizzaner horses in U.S. Zone of Austria. Col. Podhajsky has the story of these horses on his 'fingertips', as he has been connected with the school, more or less, since his 14th year. The record keeping on these horses appeared to be satisfactory.

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Report of activities for the period 11 to 17 May incl.

Richard P. Weeber
Major CE

The Yugoslavs have a valid claim for the 22 Demir Kapia Lipizzaner horses which was acknowledged by both Col. Podhajsky & the Austrian representative of the Ministry for Agric. & Forestry. There are two Demir Kapia mares which the Austrians would like to exchange for other Lipizzaner mares for the purpose of bringing blood from a new family into their stud. Suggested to them that they would have to take this up directly with the Yugoslav Mission & only if the letter agreed to it could we authorize an exchange of horses.

P.M.-Made a trip to Ried, 60 km Northwest of Lambach, where the Demir Kapia horses are kept with part of the other Lipizzaner horses. The horses appeared to be in fair to good condition. The matter of providing adequate food, pastures and caretakers seems to be quite a problem in spite of American Army assistance. However the Demir Kapia horses, which are mixed according to age groups etc. with other Lipizzaner material, receive the same identical care as all the other horses at Ried.

In order to expedite the turning over of the horses to the Yugoslav Mission and to simplify the loading into freightcars etc., I arranged with Messrs. Podhajski & Schug to have all the Demir Kapia horses shipped beforehand to the studfarm at Stadl near Lambach, where Railroad connection are better, more pasture land is available, as well as Yugoslav caretakers are housed at Stadl.

Instead of 22 claimed Demir Kapia horses, another Demir Kapia stallion, in use at the Riding School, will be added & also 2 young foals, with the possibility of a third foal having been born by the time these horses are turned over to the Yugoslav Mission.

Wednesday, 15 May 1946.

Heavy Rain all A.M., with intermittent rains rest of day; hence postponed my planned trip to the mine at Bad Aussee for to-morrow.

A.M.-Called again on Col. Podhajski of the Spanish Riding School at Wels to get additional information on the story of the Lipizzaner horses and their present number in the U.S. Zone of Austria (see attached memo).

P.M.-Called on Lt. Col. Newman, the Transportation Officer at Linz, re the "old" case: French claim for materials of the International Sleeping Car Company, which material was formerly on Danube barge 222. The barge had been captured as OEM, unloaded & the material partly turned over by RTO to the Wagon-Leit Company & partly being used in equipping sleeping cars of the Mozart train.

Was informed by Capt. J. Barnett, E.O. & Operations Officer, that to the best of his knowledge all of the remaining material had been turned over to the Wagon-Leit Company. He would have a check-up made & a written statement ready for me by Friday A.M.

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Report of activities . . . the
period 11 to 17 May incl.

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Richard P. Weeber
Major CE

Rest of P.M. wrote up memo on status of Lipizzaner horses.

Thursday, 16 May 1946.

Inspection trip with Asst. P.C.O. Lt. Duda of Linz to Saltmine Bad Aussee; located Southeast of Bad Ischl, a three-hour car ride from Linz.

On way to the mine stopped at Ebensee Solvay Works to arrange for extension of storage time for electrical machinery (Brown-Bovery Co.) stored there & for which machinery a Yugoslav claim is also pending. The Solvay Co. needs the storage space for building purposes. Other storage space on the factory grounds was found and pointed out to the manager of the Co., who is also the administrator of the claimed property.

Arriving at Bad Aussee we called at the mine office & were informed that the art objects are located in the saltmine "Alt-Aussee". Took a guide along from the office & reached the entrance to the mine after a rather steep and winding one way mountain road-ride from the valley to the stop of the mountain "Salzberg".

As per information from Lt. Johnston, all material at Alt Aussee Saltmine has been, at the request of Mr. Miller made about 4 weeks ago, taken under control. The administrator of the property, Ingr. Max Eder, who spends nearly all his time at the Salzberg, met us at the entrance to the mine. Mr. Eder, has been on this job as caretaker, chemist and apparently underground-movement agent for the past three years. Business Manager of the Salt mine is a Mr. Danner.

Upon my inquiry, I was told that the caves in which the art objects are located are NOT needed for operating the mine, since all the salt has been leached out from these caves & they are located in an unused part of the mine.

Entrance to the mine is gained through the so-called "Steinberg Haus"; heavy iron double doors protect the entrance to the main shaft. Keys to these doors are securely guarded. Before entering the main shaft, one's name is entered in the visitor's book and carbid lamps are issued. After a ~~little~~ through the narrow main shaft (about 4' x 6') for 900 m, the first cave is reached; entrance to it again is blocked by two entrance doors. There are 8 such "Artobjects" caves in this part of the mine. The furthest cave is 2 km from the main entrance. A small narrow gauge R/R is laid along the main shaft, on which the material is transported.

The caves have electric lights and are well equipped with wooden floors & racks on which the material is stored. At least the caves in which the Germans stored their loot, destined primarily for use of the Nazi overlords, are thus equipped. The other caves do not have wooden floors. The air in the caves is dry, of uniform temperature and instead of being harmful to the stored paintings it is rather beneficial. The administrator Mr. Eder, a chem. engineer, had been keeping climatic records & microscopic investigations in the mine for 2 years under the Germans to verify the

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fact that this saltmine is probably the most ideal storage place that could be found for those art objects, by far better than some art museum.

The administrator, Mr. Eder, has as yet no inventory of the remaining art objects in the mine, but he appears to be well informed, wide awake, honest & reliable; his work on the Saltmine during the past few years probably appears to be the main experience of his life. Dr. Juraschek, the Landesconservator of the Denkmals Amt at Linz, apparently has a complete inventory of the material at the mine; suggested to Lt. Duda to have photostatic copies made of it.

As per information from Mr. Eder, the following material is still remaining in the caves:

Cave No. 1: a- about 50% of the content in this cave is the former property of important Jewish family, which was "arisiert" by the Germans. About 700 paintings belong to the Rothschild's and about 500 to other Jewish families.

b- 18 cases belonging to the former Croat Head of State, (are in a separate, locked bin).

c- The remaining material, more or less Austrian Govt. property, originated from: Heeres Museum; Kriegsschule Wiener-Neustadt; divers church property; Museum Eisenstadt; Oilpaintings from "Wiener Dorotheum" and a map and plans collection of public Bldgs of Vienna from the Denkmalsamt.

Cave No. 2: mostly empty, except for about 20 pieces of "arisiert" furniture.

Cave No. 3: a- Czech collection, which has been turned over to the Czech Mission - they are waiting for their trucks from Czechoslovakia.

b- 5 pieces of "arisiert" furniture.

Cave No. 4: empty - contained the former Rosenberg collection, shipped to Munich in July 45.

Cave No. 5: Austrian Govt. property;

a- 3 to 4 carloads of wallpanelings from Castles Schoenbrunn and Hoetzendorf;

b- 10 boxes of flags from Austrian Heeresmuseum; and

c- 6 marmor reliefs, owner unknown.

Cave No. 6: a- "Arisiert" property of important Jewish families, such as Rothschild, Bondy, Polak, Gutmann et al.; and

b- a theater poster collection of the English citizen Craig, supposed to have been bought by Hitler.

Cave No. 7: empty - contained modern paintings of Hitler's collection and his library; all shipped to Munich in July 1945.

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Report of activities for the
period 11 to 17 May incl.

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Richard P. Weeber
Major CE

Cave No. 8: Library of Austrian Count Ranckoronsky, deceased, (born in Poland); these books are now being transferred to the G-2 document center at Linz.

In view of the safe and excellent storage facilities at the mine, believe that Rotschild property should be left there under our control until further instructions; the material which definitely belongs to the Austrians should be turned over to the Austrian Government & removed from the mine; disposition of the English property should not be too difficult upon contacting British R.D.&R. Div.; the former Jewish "arisiert" property should also remain under our control until such time as we are assured that the Austrian Govt. and their officials can be safely entrusted with the disposition of this "arisiert" property.

There appears to be considerable friction between the PCO administrator Mr. Eder and the German citizen Sieber, a former Wehrmacht Captain, who is still employed by the Denkmal Amt as "restoration painter", the same position he held under the Germans at the mine. Eder further claims that the present Landesconservator of the Denkmal Amt at Linz, Dr. Juraschek, is also a former Nazi and held the same job (Gauconservator) under the German regime. They had been trying to have Mr. Eder removed from his position as administrator. Similarly, as per Eder, a Hofrat Michel from the Vienne Denkmal Amt who also led an important role at the mine when the American forces took over last year, is supposed to be a former Nazi. Mr. Eder is probably exaggerating these difficulties which may have become to him enlarged due to his monasterical life at the mine, however a closer check-up on this Dr. Juraschek appears to be advisable. Lt. Duda took notes on this matter.

Friday, 17 May 1946.

Called at RTO's office at Linz, where letter receipt was obtained that all remaining material from barge 222 had been turned over to the Wagon - Leit Company.

Short call at Col. Hanna, CO of MG team, then loading "liquid refreshments" at warehouse.

Left Linz 1330 hrs for Vienna where we arrived 1800 hrs.

Richard P. Weeber
RICHARD P. WEEBER
Major CE

2 Incls.-

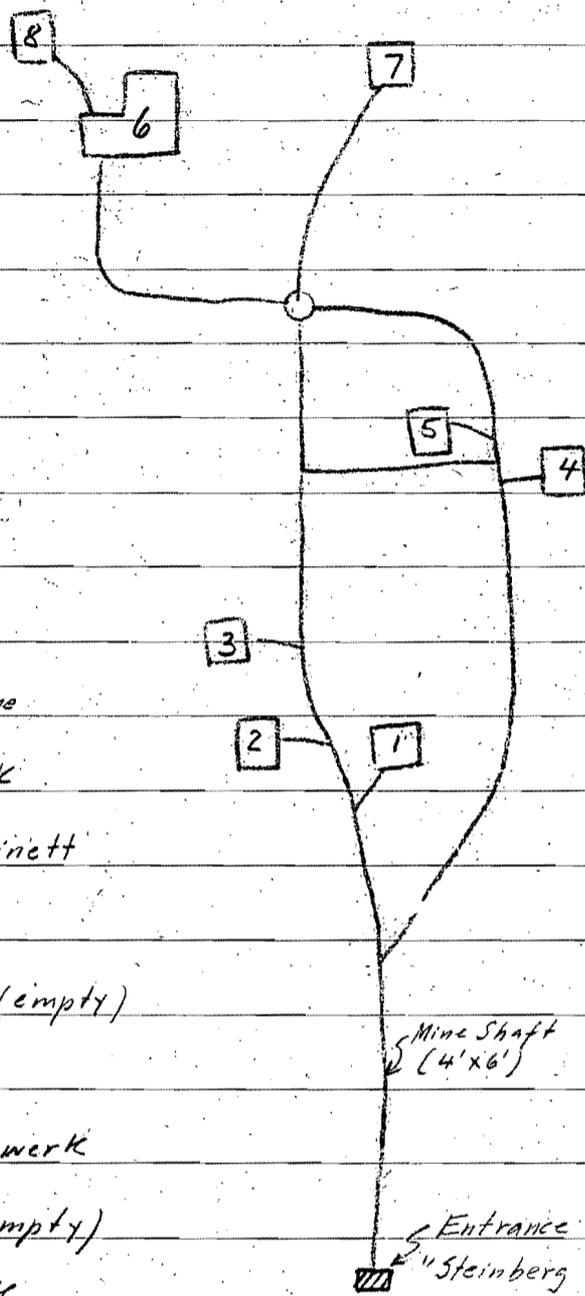
- 1- Memo Lipizzaner horses
- 2- Sketch Map of Caves Alt Aussee Mine.

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- | CAVE NO. | Name |
|----------|----------------------|
| 1 - | Springerwerk |
| 2 - | Mineralien Kabinett |
| 3 - | Kapelle |
| 4 - | Koenig Josef (empty) |
| 5 - | Kaiser Josef |
| 6 - | Kammergrafenwerk |
| 7 - | Monsberg (empty) |
| 8 - | Probstes Werk |

Mine Shaft
(4'x6')

Entrance to Caves
"Steinberg Haus" of Saltmine Alt Aussee

Sketch Map of Cave Location at Alt Aussee Mine

No Scale

Note: From entrance to Cave #1 about 900 m.

" " " " H 2 " - 2 Km.

Ind. # 2

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TELEGRAM SENT COPY

To: **SECSTATE** Date: **Sept. 10, 1947, noon**

No.:

Code: Charged to: **Sept. 11, 9 am**
1-1142

Info: **Mr. Haralson**

FOR RUBIN.

In continuation past efforts Embassy and in concert with Embassy representatives, Department desires you discuss non-monetary gold provisions article 8, Paris REP Agreement, with appropriate Foreign Office officials. Embassy files undoubtedly contain all relevant background telegrams and airgrams. Special attention invited following: **SECDEL 1268, January 28, 1947 (362 Paris); SECDEL 1363 March 21, 1947 (1055 Paris); DELSEC 1448 from Moscow, April 19, 1947 (160 Paris); DEPTTEL 1695 May 8, and EMTTEL 2359 June 15, 1947; also USPOLAD Berlin telegram 2091, August 29, 1947 (Paris 381).**

3929/

6026/

Department especially interested having Hungarian gold train properties delivered IRO and otherwise in obtaining most liberal French interpretation and application which may be feasible. Department would not be inclined to agree refer "broader" definition to new five power conference as is reported to have been suggested

CONFIDENTIAL

8713/

by French Foreign Office. Department also fails to see usefulness further discussions IARA (USPOLAD telegram 2091) (Paris 381), August 29, 1947, through French Government of course free to raise matter there.

Suggest you make most of point that French delegate Moscow CFM gave what were regarded as commitments to US representatives. Important that non-monetary gold deliveries not be further delayed and even if not successful securing substantial French agreement with US views, you should press for full information re French plans for implementation. Suggest you discuss with Patten recent informal disclosure some French reasons delay and reluctance this matter.

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COMMANDEMENT EN CHEF
FRANCAIS EN ALLEMAGNE

Berlin-Frohnau, le 22 Aout 1947.

GROUPE FRANCAIS
 DU
 CONSEIL DE CONTROLE

Le Chef de la Division Finances du GPCC
 a Monsieur le Chef de la Division Finances
 Americaine - OMGUS APD 742

Délégation Economique et Financière

DIVISION DES FINANCES

PRF/CR

7346 /FIN

DEFINITION DE L'OR NON MONETAIRE -

En reponse a votre lettre du 15 Aout 1947 par laquelle vous avez bien voulu me communiquer la definition adoptee par vous au sujet de l'or non monetaire, je vous informe que le Gouvernement francais est favorable en principe a un elargissement de la definition fournie par l'article 3 de l'Acte Final de Paris afin de permettre d'y inclure des objets de valeur autres que les articles en or.

Mais il estime qu'avant de prendre une decision definitive, il est indispensable de consulter les autres pays signataires de l'Acte Final. En consequence j'ai transmis le texte de votre definition a Paris par telegramme avec priere d'en saisir le president de l'Agence Interalliee des Reparations a Bruxelles.

Le Chef de la Division Finances



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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Office of the Director of Political Affairs
APO 742

Berlin, August 25, 1947

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MEMORANDUM

To : Mr. Albert F. Bender, Jr.
Finance Division

From : Office of Political Affairs

Reference is made to two recent memoranda from your office concerning your discussions with the British on the definition of non-monetary gold. We are quoting below, substance of a telegram recently received from the State Department on this subject.

"Department gratified British element Berlin favors U.S. definition non-monetary gold.

"Please advise further developments.

"Some time ago Department queried London re "operation sparkler". Foreign Office advised Embassy that no repeat no loot whatever uncovered this operation. In view press reports at time re substantial amounts uncovered, request you obtain clarification. If property uncovered was not repeat not loot, information requested as to what its classification is."

If it is possible for your office to get any information from the British concerning the assets taken during "operation sparkler", we should be pleased to be so informed.

Wesley C. Haraldson
Wesley C. Haraldson,
Acting Chief, Economics Branch

2-1362

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THE GENERAL BOARD

United States Forces, European Theater

CIVIL AFFAIRS AND MILITARY GOVERNMENT ACTIVITIESIN CONNECTION WITHMONUMENTS, FINE ARTS, AND ARCHIVES

MISSION: Prepare Report and Recommendations on Civil Affairs and Military Government Activities in Connection with Monuments, Fine Arts, and Archives.

"The General Board was established by General Order 123, Headquarters European Theater of Operations, US Army, dated 17 June 1945, as amended by General Order 182, dated 7 August 1945 and General Order 312, dated 20 November 1945, Headquarters United States Forces, European Theater, to prepare a factual analysis of the strategy, tactics, and administration employed by the United States Forces in the European Theater.

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THE GENERAL BOARD
UNITED STATES FORCES, EUROPEAN THEATER
APO 408

CIVIL AFFAIRS AND MILITARY GOVERNMENT ACTIVITIES
IN CONNECTION WITH
MONUMENTS, FINE ARTS, AND ARCHIVES

Prepared by:

Brigadier General C. E. Ryan, GSC

Colonel Walker R. Goodrich, GSC

Captain Everett P. Lesley, Jr., QMC

Chief, G-5 Section

G-5 Section

G-5 Section

Principal consultants:

Colonel Henry C. Newton, INF, O-104029, Director,
Ministerial Collecting Center, Office of Military
Government for Germany, Furstenhagen, Germany
(APO 742, US Army).

Major Louis B. LaFarge, AC, O-905778, Chief, Monuments,
Fine Arts, and Archives Branch, Reparations,
Deliveries, and Restitutions Division, Office of
Military Government for Germany, APO 757 (Main),
US Army.

Captain Walker K. Hancock, INF, O-513319, Military
Government Detachment G-39, 2d Military Government
Regiment, APO 758, US Army.

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THE GENERAL BOARD
UNITED STATES FORCES, EUROPEAN THEATER
APO 408

REPORT ON CIVIL AFFAIRS AND MILITARY GOVERNMENT ACTIVITIES
IN CONNECTION WITH MONUMENTS, FINE ARTS AND ARCHIVES

PART ONE

PLANNING, POLICY, AND PERSONNEL

CHAPTER 1

PLANS AND POLICIES ESTABLISHED BY CIVILIAN

AND MILITARY AGENCIES

SECTION 1

CIVILIAN AGENCIES

1. American Defense - Harvard Group. On 6 January 1943, the American Defense-Harvard Group interested itself in the protection of works of art and historic monuments in theaters of war and occupied territory.¹ Correspondence with the Provost Marshal General's Office led to a request by that office that the Harvard Group undertake to prepare appropriate materials. The Harvard Group took the initiative in preparing lists of monuments, sent them to the Provost Marshal General's Office, and revised them in the light of suggestions received.

2. The American Council of Learned Societies.

a. On 15 March 1943, Professor William Bell Dinsmoor of Columbia University, writing² to the Secretary of War, enclosed a Memorandum relative to the military steps to be taken for the protection and salvage of artistic and historic monuments in Europe. This Memorandum³ had been prepared and signed by Francis Henry Taylor, Director of the Metropolitan Museum, New York City. Mr. Taylor pointed out that measures should be undertaken by the War Department, which, if not in conflict with military strategy, would contribute to the salvage of whatever possible of European civilization. The Secretary of War forwarded both these documents to the Director of the School of Military Government (SMG) at Charlottesville, Virginia.

b. On 7 April 1943,⁴ Professor Dinsmoor wrote to the Director, SMG, that it was necessary immediately to utilize experience already accumulated by civilian agencies. Appended to Professor Dinsmoor's letter of 7 April 1943, was an "Outline of Preliminary Processes", which might be undertaken at once by a committee of the American Council of Learned Societies (ACLS). These were: compilation of a roster of competent individuals in the armed forces; preparation of a card catalogue of cultural monuments, museums, and private collections; preparation of lists and locations of "inventories of inventories", and a series of city and town maps with the locations of important monuments and

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collections plainly marked; information on European museum personnel; compilation of information regarding the confiscation, forced sale, or destruction of material in Europe; preparation of brief general directions for the salvage and protection of works of art; and preparation of directions for treatment of isolated monuments or chance discoveries.

c. The ACLS committee formed in March 1943, shortly became the "Committee of the ACLS on the Preservation of European Cultural Material". The committee sent out to interested scholars a statement of its aims, and a questionnaire enlisting their assistance, which were forwarded to the Secretary of War, 11 May 1943.⁵ On 18 June 1945, the committee was granted the sum of \$16,500 by the Rockefeller Foundation of New York City for the prosecution of its work. On 25 June 1943, the committee, now called the "Committee on Protection of Cultural Treasures in War Areas", had its first full meeting⁶ in New York City.

d. The activities of this committee for the next year may be summarized as follows:

- (1) Maps marked with the locations of cultural monuments in regions and towns of continental Europe were assembled and published in the form of atlases by the Army.
- (2) Civil Affairs Handbooks, (Section 17, on Cultural Institutions), were prepared by the Army with the committee's assistance.
- (3) A file of information on looted cultural objects was compiled.

3. The Frick Art Reference Library. On 15 June 1945, Miss Helen Clay Frick invited the members of the ACLS Committee to utilize the facilities and staff of the Frick Art Reference Library,⁸ which were then concentrated on the production of the cultural maps and atlases.

4. The American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas (The "Roberts Commission").

a. On 8 December 1942, the Honorable Harlan F. Stone addressed a letter to the President concerning the creation of an organization to function under the auspices of the Government for the protection and conservation of works of art and of artistic or historic monuments and records in Europe.

b. On 20 April 1943, the President was again approached.⁹ By this time the matter had been given consideration by the Department of State; the Governments of the United Kingdom and the Union of Socialist Soviet Republics also had been approached relative to a similar organization. It was deemed appropriate to appoint a commission to be known as "The American Commission for the Protection and Salvage of Artistic and Historic Monuments in Europe", such commission to advise and work with the SMC. Personnel for the commission was suggested.

c. On 20 August 1943, the President approved the estab-

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lishment of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in Europe,¹⁰ with the Honorable Owen J. Roberts, Justice of the Supreme Court of the United States, as Chairman. The Commission was to function under the auspices of the United States Government and in conjunction with similar groups in other countries for the protection and conservation of works of art and of artistic and historic records in Europe. The Commission was to cooperate with the appropriate branches of the Army and of the Department of State, including the Office of Foreign Relief and Rehabilitation Operations, and would also advise and work with the SMG at Charlottesville, Virginia. The principal functions of the Commission would be to:

- (1) Act as a channel of communication between the Army and the various universities, museums and individuals from whom information and services were desired.
- (2) Furnish museum officials and art historians to the General Staff of the Army.
- (3) Compile lists of property appropriated by the Axis.

SECTION 2

MILITARY AGENCIES

5. Civil Affairs Division, Office of the Chief of Staff.

a. On 1 April 1943, the Director, SMG, Charlottesville, Virginia, in a Memorandum to the Acting Director, Civil Affairs Division (CAD),¹¹ stated that special measures would be required in occupied territory for the protection and preservation of historical monuments and art treasures.

b. The memorandum recommended that:

- (1) Four or five carefully selected experts be commissioned for the purpose of taking the course at the SMG.
- (2) The Civil Affairs Section of each theater commander include one or two such experts to advise in the matter of protecting historical monuments.
- (3) Experts be included in the pool of technicians and specialists being formed by the Provost Marshal General.
- (4) Field Manual 27-5 be amended or supplemented by appropriate reference to the subject.

c. On 19 April 1943, it was agreed¹² that the CAD would be furnished a comprehensive list of qualified officers for duty in connection with this work, and a further list of qualified personnel not at the time in the military service.

d. In a Memorandum for the Assistant Secretary of War,

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21 July 1943,¹³ the Chief, CLD, outlined the steps to be taken up to that time.

- (1) The Directive for HUSKY (the Sicilian invasion) made reference to the preservation of historic monuments.
- (2) General Eisenhower had agreed to the addition of two staff advisers on the preservation of historical and art treasures.
- (3) The cultural material so far prepared by the ACLS Committee had been furnished to General Eisenhower.

e. On 26 October 1943, a Memorandum for the Chief, CLD,¹⁴ outlined the action taken to preserve artistic treasures in territory where military operations were undertaken.

- (1) Determination of Policy. The War Department had adopted the policy of protecting artistic treasures to the fullest extent consistent with military operations.
- (2) Formulation of Plans.
 - (a) Directives for military operations issued by the Combined Chiefs of Staff provided that, so far as consistent with military necessity, all efforts should be made to preserve local archives, historic and classical monuments and objects of art.
 - (b) In the Mediterranean Theater of Operations detailed instructions had been issued.
- (3) Procurement of Personnel: Provision was made in tables of organization of Allied Military Government (AMG) for museums and monuments officers recommended by the ACLS Committee and the Roberts Commission.
- (4) Distribution of Maps: Four copies of each cultural map prepared by the CLS Committee were distributed to the theater of operations by the Provost Marshal General; one was retained for possible duplication in handbooks.

f. The memorandum recommended that:

- (1) Civil Affairs directives should contain a clause to the effect that consistent with the success and security of military operations appropriate precautions would be taken to protect records, library holdings, museum collections, and works of art.
- (2) The percentage of monuments personnel should be substantially increased.

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- (3) The Roberts Commission should be requested to collect information, prepare plans, and recommend measures for locating storage places to which works of art and historic documents had been removed from museums in enemy-occupied territory.
- (4) The State Department should be informed of the action being taken by the Army, and should be asked for a report of detailed measures being taken by the agencies of other United Nations.

g. In April 1944, Colonel Henry C. Newton became a member of the C.I.D. Colonel Newton's primary task was to set up an organization and Standing Operating Procedure (SOP) by means of which the civilian planning already undertaken could be put into effect. Writing on 20 April 1944 to Professor Geoffrey Webb,¹⁵ Colonel Newton envisaged a selection of competent personnel sufficiently large in number to cover all aspects of the anticipated Monuments, Fine Arts and Archives (MFAA) problem. This personnel Colonel Newton categorized as: tactically trained officers; officers with engineering or construction experience; specialists in rehabilitation of objects of art; and officers with museum and record experience. Colonel Newton also suggested a constant flow of reports and information back to the War Department and the Roberts Commission from the theater. Monthly reports would be made by the principal staff officers in each sub-section, and occupancy reports would be made immediately upon the occupancy of an area by either US or other Allied troops. Colonel Newton's very comprehensive plan had, however, been anticipated to a certain extent by the activities already under way at SHAEF.

SECTION 3

PLANNING BY SUPREME HEADQUARTERS, ALLIED EXPEDITIONARY FORCE

6. As early as 25 June 1943, British officers were concerned with the military protection of artistic/historic monuments. A memorandum¹⁶ was submitted to the First Secretary of the US Embassy in London, suggesting that precautions, orders to troops, publicity, detail of guards and prescription of disciplinary measures, consultation of local authorities and appointment of special officers should be undertaken.

7. In November 1943, when the Civil Affairs Section of Monuments, Fine Arts, and Archives was established at Headquarters Chief of Staff, Supreme Allied Commander (COSAC),¹⁷ the duties of the section were to:

a. Record and assess war damage suffered by historic monuments prior to our occupation; take or advise the steps necessary to prevent further deterioration; supervise and pass estimates for repairs.

b. Prevent damage by troops; affix notices, close buildings or procure guards; check billeting; interest the troops by lectures or otherwise; and investigate charges of wanton damage brought against the Allied troops and report proved cases.

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c. Prevent the looting, sale or removal of objects of art.

d. Establish the fact of looting by enemy troops.

The Director of the section (British) was to operate from GHQ, together with one Deputy Director (US). He was to have a pool of officers, and assign these officers to different areas.

8. On 20 December 1943, the Commander in Chief AFHQ, issued to all commanders a letter ¹⁰ on historical monuments which was to be the basis upon which further MFA policies were enunciated. The text of the letter in part follows:

"Today we are fighting in a country which has contributed a great deal to our cultural inheritance, a country rich in monuments which by their creation helped and now in their old age illustrate the growth of the civilization which is ours. We are bound to respect those monuments so far as war allows.

If we have to choose between destroying a famous building and sacrificing our own men, then our men's lives count infinitely more and the buildings must go Nothing can stand against the argument of military necessity ... But the phrase "military necessity" is sometimes used where it would be more truthful to speak of military convenience or even of personal convenience. I do not want it to cloak slackness or indifference.

It is a responsibility of higher commanders to determine through AMG Officers the locations of historical monuments whether they be immediately ahead of our front lines or in areas occupied by us. This information passed to lower echelons through normal channels places the responsibility on all commanders of complying with the spirit of this letter."

9. The letter was accompanied by General Order No. 68, "Historical Monuments", 29 December 1943. This General Order provided that:

a. No building listed in the sections "Works of Art" in the "Zone Hand-Books" of Italy was to be used for military purposes without the explicit permission of the Allied Commander-in-Chief or of the Commander-in-Chief, 15 Army Group, in each individual case.

b. Commanders were authorized to close and put "Off Limits" any of the buildings listed in the AMG "Zone Hand-Book". Notices were to be affixed and guards provided if necessary.

c. Allied Military Government Officers were prepared to furnish commanders with a list of historic buildings which might be used for military purposes when deemed necessary.

d. The prevention of looting, wanton damage and sacrilege of buildings was a command responsibility.

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11. Civil Affairs Instruction No. 15, "Public Monuments and Fine Arts", for Operation OVERLORD, Rankin "C",²² was issued by the Civil Affairs Division, SHAEF, 17 February 1944. This instruction stated that:

- a. Civil Affairs staffs and detachments would operate in conformity with Standard Policy and Procedure, Paragraphs 51 and 117, Public Monuments and Fine Arts, and Paragraphs 52 and 118, Government Records and Archives, in the spirit of General Eisenhower's letter of 28 December 1943 to all commanders in the Mediterranean Theater.
- b. It was the policy of the Allied Governments to prevent further deterioration of damaged buildings, and to safeguard works of art.
- c. Civil Affairs staffs and detachments should have in mind the possibility of slanderous accusations against Allied troops. The work of the MFA Specialist Officer was essential in preventing damage which might be used for propaganda.
- d. It was the duty of the Civil Affairs staffs and detachments to protect the Allied authorities from false claims.
- e. Classified lists of monuments and repositories were to be issued as necessary.
- f. Ordinance No. 11, the "Antiquities Ordinance", had been drafted and would be issued at an early date.
- g. Detailed proposals for the composition of staffs to deal with this function had been drawn up.
- h. Among instructions likely to be issued was a detailed appreciation of the problem of tracing and impounding looted works of art.
- i. Subject to the establishment of the staff mentioned in (g) above, Civil Affairs staffs were instructed that:
 - (1) Specialist officers at army group headquarters would inform subordinate units as areas or towns containing historic monuments and works of art came within their sphere.
 - (2) Specialist officers at army group headquarters would contact Allied liaison officers to ensure that similar practice would be adopted by any Allied military forces.
 - (3) Detachment commanders would be responsible for initiating demands for assistance from the specialist pool.
 - (4) Detachment commanders would enlist the cooperation of local commanders to prevent damage, and secure the cooperation of local indigenous authorities.
 - (5) Detachment commanders should report the condition and contents of local monuments at the earliest moment.

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12. As finally organized, in G-5 Section, Supreme Headquarters, Operations Branch directed the operation and planning of MFLA matters. The principal control headquarters, the Functional Group, was under the general direction of Professor (later Lt Colonel) Geoffrey Webb.²³ This headquarters controlled and directed all work of the MFLA units and prepared policies, plans, orders, drafts and instructions for the execution of the work.²⁴

13. On 5 March 1944, a Memorandum to the LCOS, G-5, SHAEF,²⁵ outlined a preliminary plan for the organization and operation of MFLA. Experience in Italy had proved that insufficient organization, training, and the lack of an SOP caused confusion and misunderstanding. The following suggestions were made to simplify pending operations:

- a. Personnel: British and US participating must be balanced in numbers and rank.
- b. Intelligence: On the MFLA staff at SHAEF, the T/O should call for an MFLA Intelligence Officer.
- c. Operations: The relation of MFLA Officers to the military staffs should be clarified.
- d. Supplies: Previous to operational commitment all MFLA Officers should be fully equipped with transportation, SOP instructions, guide books and maps, lists of monuments, posters, and standard report forms.
- e. Training: MFLA Officers should undergo preliminary military training in the fundamentals of their own field.

14. A Monuments, Fine Arts, and Archives unit was activated in March 1944, in the Interior Sub-Section of the German Section, Special Staff, Civil Affairs, SHAEF (the "German Country Unit"). The MFLA Section in the Functional Group (Refer Par 12) became the technical higher echelon for the MFLA Branch of the German Country Unit. In the reorganization of the Civil Affairs Staff in May, the MFLA Unit became the MFLA Branch of the Interior Division, German Country Unit, under G-5 (Civil Affairs) Operations Branch of SHAEF. On 7 June 1944, the German Country Unit moved from the American School Center at Shrivenham, Berkshire, England to London. This move concluded the first planning stage of the activities of the MFLA Branch.

a. Personnel of the MFLA Branch of the German Country Unit were:

- (1) Major Theodore Sizer, LC (O-167115)
- (2) Capt Mason Hammond, LC (O-918013)
- (3) 2d Lt Calvin S. Hathaway, QMC (O-1591790)

b. Principal activities were:

- (1) Submission of estimates of personnel and other requirements.
- (2) Preparation and revision of a chapter of the Civil Affairs Handbook for Germany.

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(3) Completion of an Official List of Monuments.

(4) Preparation of a Handbook chapter and other directives for the Austrian Country Section.

15. Another MFL unit was activated in March 1944 as part of the Interior Sub-Section of the French Section, Special Staff, Civil Affairs, SHAEF (French Country Unit). The French Country Unit moved from Shrivenham to London, 23 April 1944.

a. Personnel of the MFL Branch, French Country Unit, were:

- (1) Capt Louis B. La Farge, LC (0-905778)
- (2) Capt Walker K. Hancock, Inf (0-513319)

b. Principal activities after arriving in London were:

- (1) Rewriting part of the subject matter for the Field Handbook for Civil Affairs, France.
- (2) Preparation of charts.
- (3) Liaison with the French delegation regarding French depositories of works of art, personnel of French museums and libraries, etc.

16. 19 March 1944, the suggested T/O&E was enlarged and submitted.²⁶ This T/O&E provided for a maximum of 27 officers, 6 trucks, $\frac{1}{2}$ ton, 4x4, and miscellaneous technical equipment.

17. The need for specific instructions similar to those issued in Italy was felt well before operational commitment. On 1 April 1944, the Government Affairs Branch, Civil Affairs Special Staff, SHAEF, composed a staff study²⁷ in which both a General Order and letter from SHAEF were recommended. The considerations leading to this recommendation were that:

a. In Northern Europe, it was necessary that the Allies should show the utmost respect for Allied national treasures; our behaviour in this matter would affect feeling after the war.

b. Something more than a general recommendation to respect public monuments and works of art was required.

c. The task of the specialist officers who were to help carry out MFL policy was a new one, and their position novel in any military organization.

d. Considerable publicity had been given to the declared policy of the US and British Governments in relation to the problem of the preservation of monuments and works of art during military operations.

18. Objections voiced by G-5 Operations, SHAEF, to the General Order on Historical Monuments²⁸ drafted by the MFL Sub-Section led to its abandonment. The Adviser on MFL, writing to Brigadier H. Price Williams, G-5, SHAEF²⁹ stated that such an order was necessary in NW Europe, where we should be fighting in the territory of our friends. It was essential that it should be binding for all conditions and Allied personnel.

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and not merely an instruction to G. Officers.

19. On May 26, 1944 the Supreme Commander Allied Expeditionary Force issued a Letter, Subject: "Preservation of Historical Monuments".³⁰ The text represents an enlargement over the policy of the letter of 29 December 1943, and was undoubtedly influenced by the needs set forth previously by the Adviser MFA. The text, in part, follows:

"Shortly we will be fighting our way across the Continent of Europe in battles designed to preserve our civilization. Inevitably, in the path of our advance will be found historical monuments and cultural centers which symbolize to the world all that we are fighting to preserve.

It is the responsibility of every commander to protect and respect these symbols whenever possible.

In some circumstances the success of the military operation may be prejudiced in our reluctance to destroy these revered objects.

.... there are many circumstances in which damage and destruction are not necessary and cannot be justified. In such cases, through the exercise of restraint and discipline, commanders will preserve centers and objects of historical and cultural significance. Civil Affairs Staffs at higher echelons will advise commanders of the locations of historical monuments of this type, both in advance of the front lines and in occupied areas...."

20. The issuance of the Supreme Commander's letter of 26 May 1945 made desirable a second edition of Civil Affairs Instruction No. 15.³¹ The second edition was considerably enlarged in the light of work done in the preparation of handbooks, and after discussion with various authorities and officers who had seen service as MFA Specialist Officers in the Mediterranean Theater.

21. MFA Policy in the Civil Affairs Directives:

a. The SLEAF Civil Affairs Directive for France, 25 May 1944,³² stated that it was the basic policy of the Supreme Commander to take all measures, consistent with military necessity, to avoid damage to all structures, objects, or documents of cultural, artistic, archaeological or historical value; and to assist, wherever practicable, in securing them from deterioration consequent upon the process of war. Commanding generals were directed to:

- (1) Take such steps as might be consistent with military necessity to insure that no unnecessary or wanton damage was done to such structures or monuments, and make such regulations as they thought fit.
- (2) Take steps to insure that no building listed in the Official Lists of Monuments would be used for military purposes without their explicit permission or that of the commander to whom they might delegate the power to give such permission.

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- (3) Close any of these buildings.
- (4) Insure that the prevention of looting, wanton damage, and sacrilege of buildings by troops, was the responsibility of all commanders.
- b. The Civil Affairs Directive for Belgium³³ and Luxembourg³⁴ involved no change over that for France.
- c. In the Civil Affairs Directive for The Netherlands,³⁵ appropriate protection, consistent with the success and security of military operations, was to be extended to public and private records, and archives, art, and other cultural treasures, historic buildings and monuments, and the property of institutions dedicated to religion, charity, education, the arts and sciences.
- d. The Directive for the Military Government of Germany, 23 August 1944,³⁶ added several provisions to the policies and procedures. The Supreme Commander announced that it was his policy also to take measures to facilitate the eventual restitution of works of art and objects of scientific or historical importance which might have been looted from Allied Governments or nationals. Commanders were directed to take steps to enforce regulations forbidding the sale, movement, concealment or destruction of any work of art or object of scientific or historical importance, and to insure preservation and guarding of all German records, documents and archives of value to Military Government.
- e. In the revised Directive for Military Government of Germany prior to Defeat or Surrender, 9 November 1944,³⁷ an important and comprehensive section on "Records and Archives" was added. The Supreme Commander's policy was to ensure the preservation from destruction, alteration or concealment of all German records, documents, plans or archives of value to the attainment of the objectives of Military Government. Commanders were directed to:
- (1) Take such steps as might be necessary to carry out the above policy.
 - (2) Seize and hold records and archives of interest to Military Government.
 - (3) Supervise the custody and preservation of records and archives and make provision for their availability to authorized persons.
 - (4) Prevent removal of records and archives unless required by military purposes or for safe preservation.
 - (5) Use care in the handling of records and archives.
 - (6) Take steps to ensure that no unnecessary or wanton damage was done to German records and archives by troops.
 - (7) Require German authorities to give any assistance needed.

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- (8) Ensure that responsibility for the preservation of records and archives was placed on all military commanders.

22. Special Planning Regarding Archives:

a. Planning in regard to archives as a more specialized field distinct from the usual duties of the MFL Officer was badly retarded during the initial planning phases for several reasons: lack of trained archivists in the armed forces; the highly technical nature of archival procedure; and the broad construction given to the term "archives", which was used to embrace "...all accumulations of documents, both active and historical, and whether public or private".³⁸

b. The Civil Affairs Information Guide, "Field Protection of Objects of Art and Archives", 12 May 1944,³⁹ contained a section on depositories of books, manuscripts, archives, and records, and directions for the protection and salvage of their contents in the event of damage. The Civil Affairs Guide, "Archival Repositories in Germany",⁴⁰ 15 May 1944, listed a total of 47 archival establishments. In addition to the list of German Archives, the War Department also issued a list of archival repositories in France, in mimeographed form, and SHAEF issued a "Classified Summary of French Archives".

c. The Handbook for Military Government in Germany Prior to Defeat or Surrender, December 1944, repeated the policy laid down for archives, and also laid down certain instructions for Military Government Officers. The preservation of records and archives was made the responsibility of every military commander. Military Government detachment commanders were to coordinate records and archives activities with other interested elements, to ensure access to records and archives, and to prevent their removal from their location except when necessary. Military Government Officers were to facilitate the use of records and archives under their control by authorized users. Users were to be impressed with the necessity of handling the contents with care and replacing the contents in the order in which found. Instances in which archives seemed to have been removed or tampered with were to be reported. The problem of securing business or administrative archives in current use was recognized as presenting great practical difficulty. Military Government Officers were instructed that the type and importance of the business or administration and its archives, and the likelihood of destruction, alteration, or dispersal, would have to serve as the guide.

d. On 20 August 1944, SCAEF issued a letter on the preservation of archives⁴¹ which marked the first concrete definition of policy on archives as distinct from monuments and fine arts. This letter stated that:

- (1) Accumulations of documents connected with business of all kinds, public and private, secular and ecclesiastical, were to be found in all towns.
- (2) The importance of these archives lay in the fact that not only did they contain valuable information, but also they were continuous

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series of related documents. They might be ruined by the displacement of a few documents.

- (3) In order to insure that archives were not destroyed or damaged, all buildings in which they were housed would, where practicable, be put "Off Limits" to all troops.
- (4) Local authorities in all large towns would be consulted as to their whereabouts.

e. On 29 December 1944, SHAEF issued a series of "Instructions for the Use by Military Government Officers of Archives mentioned in the 'General List of Archives in Western Germany'",⁴² which list was simultaneously issued. These instructions consisted of two parts, the first a series of rules for the handling and use of archives, the second rules governing the temporary removal, custody, and return of archives in listed repositories. Unfortunately, these rules applied only to Military Government Officers.

23. The "Official Lists" of Monuments:

a. The Country Units (Refer Pars 14 and 15) prepared a series of Official Lists of Monuments to accompany Civil Affairs Field Handbooks and/or Directives for the following countries:

- (1) France
- (2) Belgium
- (3) The Netherlands
- (4) Luxembourg
- (5) Germany

b. Considerable difficulty was encountered in the selection of monuments. Many world famous and universally accepted buildings and museums were of course obviously to be listed, but there were also a number of lesser monuments, not so spectacular but equally important from the cultural point of view, between which the choice was not so patent.

c. Some internal dissension arose⁴³ regarding the nature of these lists. It was eventually decided that the SHAEF Official Lists should be the only lists of monuments the use of which would be prohibited to military personnel. In the various Civil Affairs Directives for the countries concerned (with the exception of The Netherlands), it was provided that no monuments listed in these Official Lists would be put to military use without the explicit permission in each case of the Supreme Commander or commanders to whom such authority had been delegated. Commanders were further, at their discretion, to protect, close, or put "Off Limits" to troops any of these monuments, buildings, or sites.

d. The numbers of monuments for the various countries mentioned above were as follows:

- | | |
|----------------------|------|
| (1) France: | 1643 |
| (2) Belgium: | 463 |
| (3) The Netherlands: | 224 |
| (4) Luxembourg: | 30 |
| (5) Germany | 1055 |

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The discrepancy between Germany and France was due to the realization that many inhibitions regarding the use of property in Allied territory would no longer be in force in enemy territory. Only the most important monuments were listed, with the emphasis placed definitely upon public and ecclesiastical property. For this reason many private buildings were omitted. The discrepancy between the number of monuments listed for France (1643) and Germany (1055) is even greater than it would appear, for the German Official List included 167 archives, public and private; the difference between the French Official List, in which archives were not, as a general rule, included, is thus 755 monuments, or 35 more than the total of Belgium, The Netherlands, and Luxembourg.

e. In some cases entire towns were given as official monuments and in other cases singularly effective complexes of buildings, while not forbidden to military use as an entirety were called to the attention of commanders.

CHAPTER 2

PERSONNEL PROCUREMENT AND DEPLOYMENT

SECTION 1

PROCUREMENT

25. The Roberts Commission:

a. The personnel initially assigned to MFAA activities in the ETO were selected by the Roberts Commission.⁴⁴ A comprehensive biographical list of 123 officers and enlisted men recommended by the Commission was compiled⁴⁵ and sent to the ETO in April 1944. This list was broken down both by qualifications, those of especial fitness being marked with an asterisk (*).

b. In spite of the good offices of the Roberts Commission personnel shortages were chronic. The Adviser, MFAA, G-5 (Ops), SHAEP, in a memorandum⁴⁶ of 27 December 1944, wrote that there was a serious shortage of US MFAA Officers in the theater.

c. Further attempts were made to exact specialists from other branches of the armed forces, with the Civil Affairs Division of the War Department acting as the procurement agency with the advice of the Roberts Commission,⁴⁷ but the number of personnel thus procured remained small.

26. European Civil Affairs Division: Screening of personnel by the European Civil Affairs Division at Shrivenham also produced other officers who, however, with a few exceptions, were not long active in the field.⁴⁸

27. Commissioning of Enlisted Personnel: Additional officer personnel was eventually procured by the direct commissioning of enlisted personnel. Under the provisions of Hq ETOUSA Letter, Subject: "Appointment of Second Lieutenants,

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AUS, for Duty with Military Government", 29 March 1945,⁴⁹ six enlisted MFMA Specialists,⁵⁰ three of whom had been included in the Roberts Commission list, were appointed Second Lieutenants in Army of the United States after a short period of training and indoctrination.

SECTION 2

DEPLOYMENT

28. European Civil Affairs Division: The usual procedure for the deployment of MFMA Officers procured for the European Theater was to assign them to the various "E" Detachments, the only detachments which included such an officer on authorized T/Os, and then place the officer concerned on indefinite detached service with armies in the field. It was sometimes necessary to assign the officer or enlisted man to the ECAD Reception and Training Battalion in order to effect an indefinite period of detached service. This mechanism had manifest disadvantages (Refer Par. 31).

29. Assignments to Armies and Army Groups.

a. Of the units within the ETO only SHAEF, Hq ETOUSA, Hq 21 Army Group, Hq 12 Army Group and SHAEF Missions to France and Belgium had, originally, T/O positions for MFMA Officers.

b. The following units employed one or more MFMA Officers on detached service for an indefinite period; Seine Base Section, Oise Base Section, Hq ADSEC Com Z; First, Third, Seventh, and Ninth US Armies; and Hq 6 Army Group.

c. Fifteenth US Army was the first army in the field to allot a definite position within the G-5 non-T/O allotment of grades and ratings to an MFMA Officer.

d. After the initial deployment of armies and army groups, the firm station list of MFMA Officers assigned to or on detached service with organizations in the field, exclusive of "E" detachments, was as follows (asterisks indicate assignments): First Canadian Army*; Zone of Communications (ETOUSA)*; (Oise Base, Seine Base, Hq ADSEC Com Z); British Line of Communications*; 6 and 12* Army Groups; SHAEF* and SHAEF Missions to France*, Belgium*, and The Netherlands.

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UNITED STATES FORCES, EUROPEAN THEATER
APO 408

CIVIL AFFAIRS AND MILITARY GOVERNMENT ACTIVITIES IN
CONNECTION WITH MONUMENTS, FINE ARTS, AND ARCHIVES

PART TWO

MAJOR PROBLEMS ENCOUNTERED IN MONUMENTS, FINE ARTS,

AND ARCHIVES OPERATIONS

CHAPTER 1

ADMINISTRATIVE, TECHNICAL, AND SUPPLY PROBLEMS

SECTION 1

ADMINISTRATIVE PROBLEMS

30. Channels of Communication.

a. MFAA Officers were to use prescribed command channels for routine reports, submitting these reports for indorsement to the next higher organization. Special reports on emergency field situations, and fortnightly reports (Refer Par. 32), were sent direct to the Adviser, MFAA, G-5 SHAEF. For all other matters prescribed staff and command channels had to be followed.

b. In a static situation, command channels were necessary and effectual. However, where the loss of a day might mean the loss of an incomparably valuable edifice and its contents, the delay imposed by these channels sometimes proved contrary to the purpose of the MFAA mission.

31. Staff Status and Command Authority.

a. The Adviser, MFAA, SHAEF, had wanted to avoid the MFAA experience in Italy. MFAA Officers had been assigned to definite units and restricted to the unit's operational area. This had led to want of supervision in areas without such officers, with a proportional increase of avoidable damage which might have been forestalled had the officers been permitted free circulation. In order to affect a continuously existing pool of specialists, who might be attached and re-attached to various units according to operational necessity, these officers were in general placed on temporary duty or detached service with units in the field from the only organizations authorized to accommodate them, the Reception and Training Battalion of ECAD, or various inoperative CA detachments. (Refer Par. 28).

b. From the inception of planning the status of the MFAA Officer was that of "adviser" to tactical and administrative commanders; no stipulations as to actual inclusion of these officers within the official command framework of the military organization were made.

c. After operational commitment had demonstrated the disadvantageous position of the MFAA Officers, there still remained no

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means of remedying the situation so long as, in order to be deployed in the field at all, basic assignment to ECAD and attachment therefrom to field units was necessary.¹

d. In many instances when it became necessary for MFAA Officers to operate among lower echelons in the field, their position as presumptive members of the G-5 Sections was cited as a reason for preventing operations of a technical nature which, though nominally the responsibility of commanders of lower echelons and Civil Affairs/Military Government Detachments, could not be carried out except by the MFAA Officers themselves.²

e. On 18 April 1945, due to the increased administrative burdens of occupation, Hq Fifteenth US Army issued a Memorandum³ assigning various G-5 responsibilities to other General and Staff Sections. In this memorandum, the responsibility for "monuments" was assigned to the Engineer. In no previous directive or publication had a "monument" been defined, and the MFAA Specialist Officer, Fifteenth US Army, pointed out to the AG of S, G-5, not only the need for clarification but for the assignment of additional MFAA responsibilities to other General and Special Staff Sections.

f. A subsequent Memorandum,⁴ "Staff Responsibilities for MFAA" was issued on 30 April 1945. The memorandum stated that in regard to monuments, fine arts and archives the army commander had been charged with three primary responsibilities:

- (1) Safeguard from damage or deterioration consequent upon the process of war of all structures, objects, or documents of cultural, artistic, archaeological, or historical value.
- (2) Maintenance or reactivation of the civilian agencies charged with the care of monuments, fine arts and archives in Germany.
- (3) Preservation and exploitation of all documents and archives of value to the attainment of the objectives of Military Government.

g. The original reassignment of G-5 Section responsibilities to other General and Special Staff Sections had assigned to the Engineer the added responsibility for monuments. A monument was defined, for operational purposes, as "Any structure, real property, or site, including fixed objects, but exclusive of readily moveable objects, which, by reason of its cultural, artistic, historic, or archaeological value, should be protected in implementation of the policy of the army commander". In regard to monuments as defined, the responsibilities of the Engineer were:

- (1) Protection of monuments from damage which might result from construction or demolition projects in the immediate vicinity.
- (2) Where practicable, the supply of Engineer materials necessary for the protection of such monuments.
- (3) Prevention of requisition for military use of such monuments as might be exempted from military use by the army commander.

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h. In view of the interest of monuments, fine arts and archives to certain other General and Special Staff Sections, further assignment of responsibilities was made as follows:

- (1) To the AC of S, G-2, responsibility for:
 - (a) Clearance of enemy personnel necessary for the maintenance or reactivation of civilian agencies charged with the care of monuments, fine arts and archives in Germany.
 - (b) Exploitation of documents and archives, subject to such directives as might be issued by Hq Fifteenth US Army or higher headquarters.
- (2) To the AC of S, G-3, responsibility for:
 - (a) Provision of military safeguard consistent with established priorities when, in the opinion of the AC of S, G-5, such safeguard was necessary for the protection of monuments, fine arts and archives.
- (3) To the Provost Marshal, responsibility for:
 - (a) Authentication of such "Off Limits" or other notices as might be provided for protective purposes by the MFAA Officer.

i. By means of this reassignment of responsibilities complete staff coordination for MFAA was achieved.

SECTION 2

TECHNICAL PROBLEMS

32. Field Reports.

a. As originally contemplated,⁵ the MFAA Officers were to keep three specific types of records and reports:

- (1) Diary.
- (2) Fortnightly Report.
- (3) Field Record.

b. The diary was to maintain a brief consecutive record or log of the activities of the MFAA Officer. Entries were to be made by date and hour. Monuments inspected or visited, reports submitted, and orders received were to be noted.

c. The fortnightly report was to inform officers at higher headquarters of the principal activities of the reporting officer during the two weeks preceding the date of the report. Submitted in triplicate, it was to contain a description of major activities for the period: places visited, monuments inspected, action taken for protection or emergency repair, instructions on procedures at various localities, personnel under the charge of the MFAA Officer, status of equipment, supplies and transportation, and

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a brief consideration of all matters pertaining to the work.

d. The field record was to provide specific data on the condition of buildings and objects inspected, and on instances of actual or reputed damage or deterioration. The field record was to be kept on a specific form (Monuments, Fine Arts and Archives Field Record Form), in triplicate, and typewritten if possible.

e. In addition to the Field Record Form, a similar form for the reporting of chance finds of objects was devised. These forms, by their comprehensiveness, possessed great disadvantages. Without specialized clerical assistance or lacking portable assigned office equipment, execution of the forms became quite impractical, and their use for reporting purposes was all but discarded early in the operational period.

f. No specific sequence of contents for the fortnightly report was prescribed. Great divergence in make-up occurred between the reports of the various MFAA Officers in the field. Since these reports were to be collated and consolidated at both army group and SHAEF Hq, this irregularity of pattern presented considerable difficulty from the point of view of unifying, in one comprehensive report, the activities of officers at lower units.

g. In December 1944, Lt George L. Stout, USNR, then MFAA Officer at 12 Army Group, with the assistance of Colonel Henry C. Newton, devised a uniform report form for the MFAA Officers under that command. This consisted of five principal paragraphs:

- (1) Personnel.
- (2) Information.
- (3) Operations: monuments and sites inspected, arranged alphabetically by town, and if more than one, alphabetically within the subheading of the town. Under each monument inspected, the following information was to be given:
 - (a) Name of Monument and Location
 - (b) Date Inspected
 - (c) Condition of Area
 - (d) Condition of Monument
 - (e) Contents
 - (f) Military Use
 - (g) Person(s) Interviewed
 - (h) Photographs
 - (i) War Damage
 - (j) War Protection.
- (4) Supply.
- (5) Remarks: additional information, and recommendations not included in the four paragraphs listed

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above.

h. With the inception of this standard system, reference to previous reports, and the consolidation of information as it flowed into higher headquarters, became much easier.

33. Extent of Areas Covered.

a. The areas to be covered by MFAA Officers grew, within a very short time, to such an extent that it was practically impossible to inspect and report on all the officially protected monuments, much less those not mentioned on the Official Lists.

b. Up to 1 December 1944, during the first four months of operations within Hq Com Z, the work of an average of two and one-half MFAA Officers in the field was summarized by the AC of S, G-5, Hq Com Z, as follows:⁶

SITES INSPECTED

| | |
|--------------------------------------|------|
| Advance Section | .224 |
| Seine Section | .270 |
| Loire Section | .254 |
| Brittany Base Section | .233 |
| Oise Section | .199 |
| Normandy Base Section | .34 |
| Monuments and Depositories | .26 |
| SITES INSPECTED, TOTAL..... | 1240 |

TOWNS VISITED

| | |
|--------------------------------------|------|
| Advance Section | .120 |
| Seine Section | .190 |
| Loire Section | .69 |
| Brittany Base Section | .74 |
| Oise Section | .104 |
| Normandy Base Section | .17 |
| Monuments and Depositories | .23 |
| TOWNS VISITED, TOTAL..... | 597 |

The AC of S, G-5, Hq Com Z, pointed out that in view of transportation difficulties, the averages of 125 sites per man per month, and 60 towns per man per month, were excellent.

c. Col Henry C. Newton, in his report⁷ of 20 December 1944, wrote that the MFAA Officer, Advance Section, Com Z, had travelled nearly 12,000 miles in 13 weeks in connection with his various inspections.

d. According to a report⁸ of the AC of S, G-5, Hq Com Z, between D-Day and 1 March 1945, the MFAA Officers of Com Z had inspected over 1500 individual monuments (churches, museums, chateaux, etc.).

e. By 25 April 1945, the area of 12 Army Group in Germany alone contained approximately 47,000 square miles. In this area there were only two full time MFAA Officers, with the First and Third US Armies, and one substitute MFAA Officer with Ninth US Army, the regular officer having been killed in action. The MFAA Officer of the First US Army, with approximately 15,000 square miles to cover in one of the richest cultural areas in Germany, was without assigned transportation or enlisted assistance.⁹

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f. A recapitulation of the Official Lists for France, Belgium, The Netherlands, Luxembourg, and Germany reveals a total of 3415 items. For the major part of operations, the MFAA Officers in the field averaged ten in number. This averaged 341½ officially listed monuments per officer, and did not include the several thousand other structures eventually to come under their purview, or the approximately 350 known depositories of works of art which were within the area of US forces in Germany by 7 May 1945.

34. Emergency Protective Materials.

a. In the field practically no restoration, protection or repair of monuments as originally envisaged was undertaken. The reasons for this were:

- (1) Lack of any agreed priority or requisitioning procedure.
- (2) The practical impossibility of demanding materials for purposes of repair, protection or restoration.
- (3) Unwillingness of national or local authorities to furnish materials when urgent humanitarian demands were being made.
- (4) Lack of any clearly defined responsibility placed on any military organization for the supply of materials.

b. As operations progressed, the damage from aerial and artillery bombardment became so great that no quantity of materials which could be regularly supplied through the US Army would have been sufficient to effect substantial repairs or protection.

c. In isolated cases, it was sometimes possible for MFAA Officers to procure materials through the individual cooperation of sympathetic special staff sections of the units to which they were attached,¹⁰ but in general operational priorities and military needs were such as to make this process rare.

d. It was not until the publication by the Fifteenth US Army of the Memorandum on "Staff Responsibilities for Monuments, Fine Arts, and Archives" (Refer Par. 31, h) 30 April 1944, that a particular staff section of a unit was given the definite responsibility of supplying protective materials for MFAA purposes. By means of this assignment of responsibility, the MFAA Specialist Officer, Fifteenth US Army, was enabled to provide urgently needed protective materials for the cathedrals of Bonn and Cologne, and the Quirinus-kirche at Neuss (WT/2689).

35. Protection and Evacuation of Depositories.

a. Depositories of art collections removed from their normal locations, and dispersed for protection presented no very great problems in France and Belgium. In France the most important depository of works of art, established before the declaration of hostilities, was at Souches. In Belgium the area of the country was relatively so small that return of works of art to museums was comparatively easy for the national authorities without aid from the US Forces.

b. The first problem of any magnitude involving a depository

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was encountered by the First US Army with the discovery of the hiding place of the greatest Dutch public and private collections at St. Pietersburg (WK-506500) near Maastricht.¹¹ The collection consisted largely of paintings, drawings, and prints of Netherlandish and Flemish masters, 15th to 20th centuries. There were, in addition, many works by Italian masters and a smaller number of English, French, German, and Spanish origin. The paintings alone numbered about 800. A limited number of archives, textiles, ceramics, scientific specimens, and few musical instruments were also contained in the depository. The principal museums and collections from which the collection had been brought were:

- (1) Ryksmuseum, Amsterdam
- (2) Mauritshuis, The Hague
- (3) The four Royal Palaces
- (4) Franz Hals Museum, Haarlem
- (5) Lakenhal, Leyden
- (6) Freisch Museum, Leeuwarden.

It was reported the "the general quality of the holdings was very high and the aggregate value beyond estimate."

c. The second major depository to be discovered was that at Siegen (WG/2053). The existence of this depository had been known for some time. A marked catalogue, found in the Suermondt Museum at Aachen by the MFAA Officer of the First US Army in October 1944, listed several important objects which had been moved prior to the Russian advances in September, 1944, from Meissen to Siegen. On 2 April 1944, the MFAA Specialist Officer, First US Army, arrived at the depository, an iron mine, while the city was still under artillery fire.¹² The depository contained over 400 paintings, including many of the best from museums of Aachen, Siegen, Essen, Cologne, Wuppertal, and Münster. In addition to some 60 pieces of sculpture (unpacked) there were some 35 or more cases from Cologne museums and 40 cases from the Landes-Museum of Bonn. The cathedral treasures of Metz, Aachen, and Essen were identified, as well as miscellaneous boxes marked with the names of other Rhineland churches. There were also about 40 boxes from the Beethoven Museum in Bonn, including the manuscript of the Sixth Symphony. Great damage had been done by dampness. Because of operational urgency, the depository had to be left under guard by the Eighth Infantry Division, and evacuation did not begin until 25 May 1945.

d. Though the find at Siegen had led MFAA Officers in the advancing armies to expect recurrences of similar situations, the discovery of the depository at Bernterode (C-9016), Kreis Worbis,¹³ pointed up the general problem of depositories in a way which had not been accomplished hitherto. The depository was located in the Heeres-Munitions-Anstalt at Bernterode, a salt mine, since 1936 used as a munitions plant. At the time of the first inspection, 29 April 1945, about 400,000 tons of ammunition and quantities of military supplies were stored in the mine. Captain Walker K. Hancock, MFAA Officer, First US Army, inspected the depository. The room was found to be a rectangle, 45 feet by 17 feet, parallel to the main corridor and separated from it by 15 feet of rock and masonry. The contents of the depository were in part as follows:

- (1) Caskets of Field Marshal von Hindenburg; Frau

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von Hindenburg; Friedrich Wilhelm I, "der Soldaten König"; Frederick the Great.

- (2) 225 banners, both painted and embroidered, dating from the early Prussian wars and including many of the war of 1914-1918.
- (3) 63 cases of books, china, textiles, tapestries, altarclothes, and other objects lay boxed and unboxed within the bays.
- (4) The Hohenzollern Museum Treasures, including crown jewels.

e. Because of the precarious conditions at the depository, the Chief of Staff, First US Army, directed that it should be evacuated. The MFAA Officer, Hq 12 Army Group, Lt George L. Stout, USNR, arrived 30 April to take part in the work. The following day the MFAA Officer, First US Army, returned to his headquarters with the three boxes containing the Hohenzollern Treasure. On the morning of 2 May 1945 they were opened and the contents inspected in the office of the Chief of Staff, First US Army. The Scepter and Orb were replaced in the boxes from which they had been taken and all three boxes repacked for shipment to Frankfurt by convoy. Between 3 May 1945 and 9 May 1945 the remainder of the objects in the mine were evacuated.

f. Prior to 7 May 1945, the largest and most valuable depository discovered in the US zone of operations was that at Merkers (H-6851), Regierungsbezirk Eisenach.¹⁴ The mine was inspected by Capt Robert K. Posey, MFAA Officer, Third US Army, 8 and 11 April 1945.¹⁵ A brief check of the artistic contents disclosed that the collections were from 14 of the most important German museums and archives. 16 April 1945, Lt Stout, USNR, MFAA Officer, G-5, 12 Army Group, made a spot check of the boxes and cases and came to the conclusion that they constituted great wealth. 17 April 1945, a convoy consisting of 26 trucks performed the move from Merkers to the Reichsbank, Frankfurt. The actual number of art objects removed from the mine during this period follows:

| | |
|---|-------------|
| Paintings, uncrated | 393 |
| Boxes of prints | 2,091 |
| Cases of miscellaneous objects, including paintings and sculpture | 1,214 |
| Textiles | 140 |
| | <hr/> 3,838 |

g. The above statements give only a slight idea of the conditions in which most of the depositories were found. In the case of two depositories, Bernterode and Merkers, the immediate interest of high-ranking army officials facilitated evacuation. 232 depositories within the area of that command had been reported to Hq 12 Army Group by 30 April 1945.¹⁶ Though most of these were in no way comparable in value of holdings to those described above, the auspices under which the most important of them were evacuated by seldom more than three MFAA Officers working together at one time were often far from favorable.

36. Protection of Archives.

- a. According to the definition of "archives" adopted,

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almost any accumulation of documents came within the use of the term. For Western Germany alone, the SHAEF "Official General List of Archives in Western Germany" listed approximately 1304 archives. The dispersal of archives was even greater than that of works of art. When operations in Germany disclosed enough of the country to make estimates for the future possible, four usual contingencies were discovered:

- (1) Buildings housing the archives had been destroyed, leaving the contents inaccessible.
- (2) Buildings housing the archives had been destroyed, after the contents had been dispersed, making restoration of the contents to their original repository impossible.
- (3) Buildings were completely or fairly intact, along with their contents, leaving only a security problem.
- (4) Buildings were completely or fairly intact, but their contents had been so widely dispersed that no restoration to their original repository was possible.

b. Only (3) and (4) above presented problems for the MFAA Officers. In the case of (3), the building would, if possible, be posted "Off Limits" and, if especially valuable, be put under military guard. This minimal protection was not always possible. The Staatsarchiv of Marburg (C-7347), the second largest Staatsarchiv in Germany, though a monument on the Official List of Protected Monuments, Germany, was occupied by troops.¹⁷ Much irreparable loss to the contents as well as damage to the building was suffered as a result of mistreatment and carelessness. At Jesberg (G-9967) the archives dispersed from the Marburg Staatsarchiv (about 7,000 parcels) had been dumped out of the depository in the courthouse onto the grass,¹⁸ just previous to the inspection, to make room for military occupation.

c. The largest single depository of dispersed archives was uncovered in the Fortress of Ehrenbreitstein (WL/9195). On 23 October 1944, the Archivist of the Grand Duchy of Luxembourg reported to MFAA Officers of the First US Army that the archives of former rulers of the Grand Duchy had been removed in 1942 to Ehrenbreitstein by the Germans. Information later given by officials in Bonn indicated that an archival repository of major importance existed at the fortress. The principal archival collections within the Fortress were: rooms full of vital statistics of cities, arranged alphabetically from Aachen to Zulpich; the City Archives of Wiesbaden, Trier, Mainz, Dusseldorf, Osnabruck, Speyer, Koblenz, and Bonn; the Archives of the Grand Duchy of Luxembourg; the Royal Archives of the House of Orange-Nassau; numbering in the aggregate, several million items. In a Memorandum for the Chief of Staff, Fifteenth US Army,¹⁹ the AC of S, G-5, Fifteenth US Army, pointed out that:

- (1) The archives belonging to German cities and institutions came, in their majority, from locations later incapable of offering protection. There was no structure remaining in the Rhein-provinz more suited to the purpose of protection than the Fortress in which they were housed.
- (2) The personnel necessary to instigate and continue an inventory could conservatively be estimated

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at 20 curatorial or archival specialists, or approximately the skeleton staff of the archives concerned. Such personnel could not be supplied by the Allied Forces. The task would probably be a matter of three to four years; at least the time occupied by the formation of the depository.

SECTION 3

SUPPLY AND SECURITY PROBLEMS

37. Transportation.

a. The problem of covering extensive operational areas was greatly complicated from the beginning by lack of adequate transportation.

b. The original T/O & E for MFAA operations (Refer Par. 10, d) included six trucks, 1/2-ton, 4x4 (jeeps) for the use of the MFAA Officers attached to SHAEF and army group headquarters. This T/O & E, while it would have been insufficient in the light of future necessities, was none the less more ample in its provisions than none at all.

c. Field reports from all US commands for the subsequent operational period reflect the inconveniences and disadvantages of the lack of this fundamental requirement.

d. Colonel Henry C. Newton, in a letter²⁰ to the AC of S, G-5, Hq 12 Army Group, 25 November 1945, took up the matter from an overall operational point of view, and in a special report for the War Department, 20 December 1944,²¹ reiterated this stand and enlarged on the inconveniences of the lack of transportation.

e. In spite of constant and repeated requests this problem was never fully solved in any US command.

38. Photographic Equipment. The six Leica cameras included in the proposed MFAA T/O & E were never procured. MFAA Officers went into the field either with their own equipment, or with none.

39. Distribution of Information, Publications, and Intelligence.

a. When the first handbooks and atlases were published in May and June, 1944, they were sent to the Provost Marshal General's Office, Washington, D. C., for further distribution to the theater. No prescribed channel from the Provost Marshal General's Office to the officers in the field had been laid out.

b. Col Henry C. Newton, in his report of 20 December 1944,²² wrote:

"Invariably, the documents prepared in the United States by the War Department, assisted by various civilian agencies, have reached this Theater of Operations too late to be of great value."

c. By February 1945, necessary publications had largely been received. Distribution of lists and atlases to tactical and Military Government units was satisfactory. However, the problem of protecting monuments in Germany was overshadowed by a different

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problem, that of intelligence information regarding the looting and dispersal of Allied collections, and the enemy personnel responsible for such looting. Lists of German personnel²³ had been drawn up by S/Ldr Douglas Cooper, RAF, MFAA Officer, British Element, Control Commission for Germany, on the basis of intelligence information available in London. The disadvantage of these lists was that the information contained was largely obsolete by the time it arrived in the field. S/Ldr Cooper had also maintained an indexed card file of German personnel, containing much more information than the lists. In April 1945, the MFAA Specialist Officer, Hq Fifteenth US Army, made arrangements in London for the reproduction and distribution of the cards to officers in the field. These arrived at various headquarters some six weeks later.

40. Posting of Notices.

a. Although the policy regarding officially protected monuments stated that these monuments would be put "Off Limits" to troops, at the commencement of operations no notices had been printed or distributed to the MFAA Officers in the field. "Off Limits" notices were occasionally supplied by field units themselves.

b. "Off Limits" and other notices, when affixed to historical monuments, were usually signed "by command of" the army or other unit commander of the area at the time the notice was affixed. As soon as the area changed command, the notices were not valid. On 7 February 1945 Hq 12 Army Group issued a Circular,²⁴ "Posting of Notices on Monuments, Collections and Archives", which established a uniform procedure for posting of monuments within the area of that command.

CHAPTER 2

APPLICATION OF MONUMENTS, FINE ARTS, AND ARCHIVES POLICY

TO FIELD OPERATIONS

SECTION 1

CONFLICTS OF POLICY

41. Billeting and Supervision of Troops in Historic Monuments.

a. The greatest single problem of the MFAA Officer in the field in liberated territory was the protection of historic buildings from spoliation and damage by US forces. The factors contributing to this were by no means all to the discredit of the US forces. Primary among these factors were:

- (1) Incomplete knowledge of the existence of a policy for the protection of historic/artistic monuments among tactical commanders.²⁵
- (2) Over-riding emergencies in which the need for troop accommodation outweighed any considerations.²⁶
- (3) Lack of instruction and discipline of the troops themselves.²⁷
- (4) Over-enthusiasm on the part of the liberated

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authorities, who offered the use of buildings which later suffered.²⁸

- (5) Political pressure, for the protection of private property.²⁹
- (6) The understandable feeling on the part of US troops that buildings which had been occupied for four years by German units were consequently open to immediate use.

b. Difficulties of this nature began almost as soon as did military operations on the Continent. Perhaps fortunately, the areas chosen for the initial landings were not architecturally the richest, so far as domestic architecture is concerned, in France.

c. With the liberation of Paris and the immediately surrounding area at the end of August 1944, and the consequent establishment of several large headquarters with numerous supporting units within the city, an acute situation developed. Many of the buildings requisitioned were on the Official List of Protected Monuments. Some, omitted from the list, were none the less worthy of as much consideration as others which had been included. MFAA Officers were constantly being called upon to justify the military necessity for occupancy of a monument on the Official List, or to protect a monument not so covered. In each case, a command decision was necessary before the occupancy or evacuation could begin officially, and in the meantime, irreparable damage might be done. (Refer Par. 30, b).

d. It was not long after repeated occupations, that complaints became so numerous that by October 1944 official action was necessary. A Letter,³⁰ "Preservation of Monuments, Fine Arts, and Archives", issued from Hq Com Z, 1 October 1944, called attention of all subordinate units to the Supreme Commander's policy and directed special attention to the problem of billeting.

e. On 28 October 1944, Hq Oise Section, Com Z, issued further instructions,³¹ and shortly afterward additional official action from higher headquarters was forthcoming. On 14 November 1944 a Letter,³² "Use of Buildings, Their Contents, and Other Property by Military Personnel" was issued by Hq ETOUSA.

f. However, renewed publication of directives, and additions to the disciplinary and supervisory measures taken, did not necessarily abate the problem, as may be seen from the report³³ of the AC of S, G-5, Hq Com Z, to the AC of S, G-5, SHAEF, of 9 December 1944:

"Lawless occupancy of chateaux by US Military personnel presents the greatest single problem at the moment. This condition is prevalent in the Paris region and east of Paris where Service Troops are now necessarily quartered; i.e. Seine and Oise Sections."

g. With the addition of Belgium to the liberated territory the problem became genuinely severe. This country concentrated within a much smaller area a great number of exquisite smaller buildings which were not officially listed.

h. Attempts to counteract a critical situation were made by the tactical units (First, Third, and Ninth US Armies) operating in the country during January and February 1944. The MFAA Officer,

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Ninth US Army, in his report of 3 January 1945³⁴ determined that no US Army organization had been given the responsibility for making and retaining inventories of personal property in buildings requisitioned. Some objects were invariably damaged, destroyed, or stolen, causing conditions under which unwarranted and exorbitant claims could be made by owners against the US Army. This officer recommended that MFAA Officers should receive periodic listings of buildings assigned to troop units, or which were on the list to be assigned.

i. Two more official publications from the Communications Zone were forthcoming during January 1945. The first of these was a Letter, "Preservation of Historic Buildings and Monuments", issued by Hq ADSEC Com Z, 25 January 1945.³⁵ The second, "Occupation of Chateaux by Allied Armies", was issued from Hq Com Z, 29 January 1945.³⁶

j. So long as US troops continued to be operational the billeting situation remained a source of difficulty to all US and Allied personnel concerned.³⁷

42. Restitution.

a. Restitution of looted works of art to the countries of their pre-war ownership had always played a major part in MFAA planning. In the case of France and Belgium, it was discovered that looting of national cultural treasures was practically negligible. Certain inestimably valuable paintings and sculpture had been removed from Belgium at the last moment, and secreted in depositories not uncovered until after 7 May 1944.

b. In order to prevent any illicit disposal of looted works of art, cultural objects, archives, and so forth, the provisions of Military Government Law #52, Blocking and Control of Property, were particularly stringent. If restitution was to be effected, this required, in each instance:

- (1) A specific order from SHAEF for the removal and restitution of the property.
- (2) A certificate of title to the property claimed.
- (3) An exact inventory of the property to be removed.
- (4) Receipt forms for the property removed.

c. These requirements, which were necessary and legally unimpeachable, were onerous in the case of looted archives. If representations were made to Supreme Headquarters by the highest Allied national authorities for the restoration of personal or governmental property, diplomatic embarrassments might well have resulted were the representations rebuffed. Yet MFAA Officers could not abandon their duties in order to inventory and transport such property. Because of the urgency of MFAA requirements in the field, no major restitutions were made until after the cessation of hostilities.

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Authority NND 735027By SR NARA Date 12-16-99RG 153Entry 135File Judge Advocate General
Law Library FilesBox 63SECTION 2THE OFFICIAL LISTS AND THEIR DISADVANTAGES43. Restrictive Character of the Official Lists.

a. The Official Lists of Monuments for liberated and occupied countries became as much a source of trouble as convenience to MFAA Officers. The very fact that a command authority was embodied in these lists worked to a disadvantage. It was tacitly assumed by both tactical and administrative higher authorities that their responsibilities toward monuments, fine arts, and archives ended with the items included. The original purpose of the lists was to act as a guide, rather than to define irrevocably the monuments to be accorded extra consideration. Authorities were extremely reluctant to order evacuation of buildings not on the Official Lists, even though these structures might be superior to others officially protected.

b. With the commencement of the Ardennes Counter-Offensive, on 16 December 1944, the deficiencies of the Belgian list were thrown into strong relief.³⁸

44. Counteractive Measures Taken.

a. To counteract the situation, the MFAA Officers, First US Army, drew up a command letter and form for the exemption of buildings from military use, which was approved and published by Hq First US Army, 4 February 1945.³⁹

b. The text of the form letter⁴⁰ to be provided owners or guardians of historic/artistic monuments follows:

"(1) Notice is given that the property described below has been designated a Protected Monument.

"(2) This property and/or contents thereof is of such artistic or historic importance that it will not be requisitioned, occupied, entered, or used, in whole or in part, in any way, by military personnel, except in cases of greatest urgency, and then only with the written permission of Army, Corps, or Division Commanders.

"(3) The description below will be authenticated by the signature of one of the duly designated Monuments, Fine Arts, and Archives Specialist Officers attached to this headquarters, and approved by the Assistant Chief of Staff, G-5, this headquarters."

c. Though this innovation conferred a much needed discretionary authority upon the MFAA Officers within a single army area, and was sufficient for the emergency prevention of damage and emergency accommodation of troops, in applying to one army area only it became invalid so soon as that area was transferred to a different command authority. In order to supplement the Official Lists for Belgium and the Netherlands, SHAEF issued on 20 February 1945 two additional lists of buildings for these countries. The list for Belgium⁴¹ was furnished by the Ministre de l'Instruction Publique, that for the Netherlands⁴² by various Dutch civilian authorities,

d. A command form letter similar to that of the First US Army was issued by the Fifteenth US Army 8 April 1945.⁴³ On 15 April 1945, in order to avoid the necessity of reposting monuments

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in an area which had been occupied by five other major commands, Hq Fifteenth US Army issued a letter,⁴⁴ the only one of its kind issued during the European campaign by any major headquarters, which provided that all "Off Limits" signs, "Notices of Designation as Protected Monuments", or other protective measures taken in regard to historic/artistic monuments by authorized personnel of other Allied armies, would be respected and obeyed by all military personnel within the area of the Fifteenth US Army, unless specifically removed or rescinded by Army, Corps, or Division Commanders, or the MFAA Officer, that headquarters.

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36. Letter, Subj: "Occupation of Chateaux by Allied Armies", (AG 007 GpGE), Hq ComZ ETOUSA, 29 January 1945.
37. MFAA Semi-Monthly Report, Area of 1st US Army, from Capt Walker K. Hancock, G-5 Sec, Hq 1st US Army, 1 March 1945 (MFAA Files, RD&R Div, OMG, USFET, Folder 1st US Army Reports, B), and MFAA Report from Lt Roger A. Clarke, G-5 Sec, Hq Oise Sec, ComZ, 14 March 1945 (MFAA Files, RD&R Div, OMG, USFET, Folder ComZ Reports).
38. MFAA Semi-Monthly Report, Area of 1st US Army, from Capt Walker K. Hancock and Capt Everett P. Lesley, Jr., G-5 Sec, Hq 1st US Army, 1 February 1945 (MFAA Files, RD&R Div, OMG, USFET, Folder 1st US Army Reports, B).
39. Letter, Subj: "Protection of Historic/Artistic Monuments" (AG 007 (E)), Hq 1st US Army, 4 February 1945.
40. Incl 1 to Ltr, note 39, above.
41. Letter, Subj: "List of Belgian Chateaux Furnished by Ministre de L'Instruction Publique", (AG 000.4-2 GDS-AGM), SHAEF, 20 Feb 1945.
42. Letter, Subj: "List of Belgian Chateaux Furnished by Netherlands Authorities", (AG 000.4-2 GDS-AGM), SHAEF, 20 February 1945.

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43. Letter, Subj: "Protection of Historic/Artistic Monuments and Archives", (AG 386 GMEDE), Hq 15th US Army, 8 April 1945.
44. Letter, Subj: "Protection of Historic/Artistic Monuments" (AG 386 GMEDE), Hq 15th US Army, 15 April 1945.

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Law Library FRSBox 63PART THREECONCLUSIONS AND RECOMMENDATIONSCHAPTER 1CONCLUSIONS

IT IS CONCLUDED THAT:

45. Planning by Civilian Agencies.

a. The planning by civilian agencies, though begun relatively late when compared to the remainder of planning for the European campaign, was successful and useful except for the lack of definition regarding the actual duties of the MFAA Officer. The limitation of the MFAA Officer to an advisory capacity without providing an adequate operational agency, detached him from the usual means of working effectively within the military establishment and handicapped the MFAA program.

b. The publications undertaken by civilian agencies were of considerable use to MFAA Officers in the field, though duplication of these publications by both military and civilian agencies for basically the same purpose impaired their utility.

46. Planning by Military Agencies.

a. The planning by military agencies was undertaken too late, and with too few personnel, to be effectively integrated with the overall operational plans. Planning would have been more efficacious if undertaken earlier by experienced officers. Several MFAA functions could have been incorporated to advantage in the duties of other staff sections.

b. Operational exigencies were, on the whole, correctly envisaged, but the provision of means for meeting these exigencies was not objective. Personnel, transportation, and specialized equipment needs, while foreseen from the experience gained in Italy, were not adequately met. Tables of Organization and Equipment were not provided.

c. A more courageous and cooperative approach should have been made to the Air Forces. It is probable that the Air Forces would have been able to prevent inestimable destruction if the MFAA program had been properly presented to them.

47. Policy.

a. The overall policy in regard to Monuments, Fine Arts, and Archives was both feasible of application and worthy of the best traditions of the Allied Forces.

b. The interpretation of the policy was not materially changed by commanders to whom responsibilities were later delegated.

c. Policy regarding looted works of art, while not a substantial problem during hostilities, was poorly coordinated with the policy regarding blocking and control of property.

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Law Library FRSBox 6348. Personnel Procurement and Deployment.

a. On the whole, the MFAA Officers active during operations performed their duties with commendable resourcefulness and adaptability.

b. The greatest deficiency in some of the personnel assigned or attached to the MFAA organization was a lack of:

- (1) Sufficient military training, including staff procedure.
- (2) An aggressive approach to the MFAA program within the military establishment.

c. Knowledge of the fine arts, as such, was proved on the whole to be not entirely necessary to MFAA Officers. Those with architectural training and Engineer experience were perhaps best equipped to operate in the field. Combat training, and the stamina to meet grueling conditions in the field, while not essential, would have aided in the accomplishment of the MFAA mission in forward areas.

d. The policy of procuring personnel through civilian agencies was successful insofar as it called attention to certain officers who had civilian qualifications, though it failed to realize the essential combination of military and professional background.

e. Commissioning of enlisted personnel was a definite success. Enlisted men, by the time they achieved their commissions, were sufficiently trained in military procedures and had lost none of their civilian qualifications.

f. Deployment of personnel through the agency of the European Civil Affairs Division was a mistake.

49. Staff Procedure and Organization.

a. MFAA Officers should have been provided with a means of carrying out the policy of the Supreme Commander which was consistent and authoritative for all echelons and areas. "Off Limits" notices and letters of exemption of monuments from military use should have been issued by SHAEF in the name of the Supreme Commander.

b. Insufficient rank among MFAA Officers was a continuous major difficulty.

50. Supply and Equipment.

a. The supplies of protective and restorative materials necessary for the accomplishment of the MFAA mission were completely inadequate.

b. Organizational equipment was completely inadequate.

51. The Official Lists.

a. The Official Lists should have been prepared:

- (1) By officers having a full first-hand knowledge of the monuments themselves.

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- (2) With the considerations of preventing military occupation or damage by other military means, and the repairing of such damage, fully in mind.

b. MFAA Officers were not given sufficient discretionary latitude or authority to act outside the Official Lists. This deficiency should have been remedied.

52. Communication. Means of communication for the dissemination of information and intelligence between MFAA Officers at all echelons were impeded by insufficiency of personnel, both staff and operational, and the extent of areas covered.

53. General. The MFAA policy, organization, and operations effected during the European campaign should, with necessary revisions, be continued in future planning and operations.

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Law Library FRSBox 63CHAPTER 2RECOMMENDATIONS

IT IS RECOMMENDED THAT:

54. Policy. The MFAA policy as embodied in the directives of the Supreme Commander be continued as a stated policy of the US Army for future planning and operations.

55. Lists of Monuments. Lists of monuments, objects and collections of cultural, artistic, historic, or archaeological value in possible Theaters of Operations be compiled, kept up to date, and prepared for publication at the appropriate time by the War Department.

56. Assignment of Responsibilities. Assignment be made to appropriate General and Special Staff Sections, in official manuals and War Department publications, of the following responsibilities regarding Monuments, Fine Arts and Archives:

a. Prevention of billeting in or military use of such structures, collections, or institutions as may be designated Protected Monuments.

b. Procurement of US Monuments, Fine Arts and Archives personnel and assignment thereof to such Monuments, Fine Arts, and Archives organizations as may be constituted within the military establishment.

c. Compilation, evaluation, and distribution of intelligence information regarding the location of such Monuments, Fine Arts, and Archives as have been displaced from their normal repositories, and the Allied or enemy personnel responsible therefor.

d. Provision, consistent with established priorities, of troops or personnel for the military safeguard of Monuments, Fine Arts, and Archives, when such safeguard is deemed necessary in the opinion of the commander.

e. Estimate, procurement, and supply of materials necessary for the protection of Monuments, Fine Arts and Archives, and technical assistance required for their repair and the prevention of their deterioration consequent upon the process of war.

57. Archives. Appropriate staff sections of the War Department initiate a coordinated program, to be embodied in an official War Department publication, for the protection and exploitation of such collections of documents or archives as may concern the military establishment.

58. Future MFAA Organization.

a. Further consideration be given by the War Department to Tables of Organization and Equipment for Monuments, Fine Arts, and Archives in future operations and planning.

b. Tables of Organization and Equipment, based upon the experience of the Italian and European campaigns, include,

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as a separate Branch under G-5, the following minimum allotment of ~~NFAA~~ officers and enlisted men, not including drivers:

(1) Theater Headquarters:

| Officers | EM |
|-----------------------|---------------------------|
| 1 Colonel | 1 Chief Clerk (Grade 2) |
| 1 Lt Colonel or Major | 2 Stenographers (Grade 3) |
| 1 Captain | 2 Clerk-Typists (Grade 4) |
| | 1 Draftsman (Grade 4) |

(2) Army Group Headquarters:

| Officers | EM |
|--------------|---------------------------|
| 1 Lt Colonel | 1 Chief Clerk (Grade 2) |
| 1 Major | 2 Stenographers (Grade 3) |
| 1 Captain | 2 Clerk-Typists (Grade 4) |
| | 1 Draftsman (Grade 4) |

(3) Army Headquarters

| Officers | EM |
|------------------|--------------------------|
| 1 Major | 1 Chief Clerk (Grade 3) |
| 1 Captain | 1 Stenographer (Grade 4) |
| 1 1st Lieutenant | 1 Clerk-Typist (Grade 5) |
| | 1 Draftsman (Grade 5) |

(4) Equipment include adequate transportation, photographic and technical equipment.

c. Monuments, Fine Arts, and Archives Detachments be organized, trained and equipped for attachment to the Civil Affairs/Military Government organization (regimental or battalion).

(1) Composition:

| Officers | EM |
|--------------|---------------------------|
| 1 Major | 1 Chief Clerk (Grade 3) |
| 1 Captain | 2 Stenographers (Grade 4) |
| 1 Lieutenant | 1 Clerk-Typist (Grade 5) |
| | 1 Draftsman (Grade 5) |

(2) Equipment:

Equipment include adequate transportation, photographic, drafting, and technical equipment.

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Entry OMGUS - Records of the Exec. OfficeFile SWNCCBox 808SECRETANNEX TO APPENDIX "B"DRAFT DIRECTIVE NO. 2CONTROL OF WORKS OF ART AND MONUMENTS

1. This directive is issued to you as Commander-in-Chief of the U.S. (U.K.) (U.S.S.R.) forces of occupation. Identical directives are being issued simultaneously to the Commanders-in-Chief of the forces of occupation of the other two Allies. In this directive, the phrase "Control Council" refers to the three Allied Commanders-in-Chief acting jointly. The words "you" or "you in your zone" refer to each of the Commanders-in-Chief as zone commander and, where applicable, to the Inter-Allied Governing Authority (Komendatura) in the "Greater Berlin" area.

2. Reference is made to the pertinent provisions of the "Unconditional Surrender of Germany"^{*} and to the pertinent provisions of the General Order^{**}. You will enforce and implement in your zone of occupation the surrender terms and general orders as they relate to the control of works of art and monuments, in accordance with the policies and instructions hereinafter set forth.

3. In this directive, the phrase "works of art and other cultural materials" covers all objects or materials of artistic, historic, scientific or other cultural importance or value. The phrase includes archives, records or documents of historic or cultural importance and scientific exhibits, specimens or equipment of a research or educational character or pertaining to cultural history, so far as such archives and scientific materials are not covered by the directive on "Securing and Examining Information and Archives."

4. The Control Council will establish policies covering the conservation and disposition of works of art and other cultural materials. In particular, it will hold available for restitution those which have been looted from the Governments or nationals of the several United Nations and Associated States and those in German public or private collections which might be used for restitution in kind.

5. The Control Council is authorized to demand transfer of purported titles, and assignment of all rights, to looted works of art and other cultural materials, owned or controlled by German nationals or their agents, which have been deposited or concealed anywhere in the world. Reference is made in this connection to the appropriate portions of the directive on "Property Control."

6. The Control Council will make available to the zone

* Including Article 8.

** Including new sub-paragraph following 15(a); paragraph 17; new paragraph preceding 35(a); paragraphs 37 and 38.

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Annex to Appendix "B"

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commanders recognised and competent experts from any of the several United Nations and Associated States for the purpose of assisting in the identification and conservation of works of art and other cultural materials.

7. The Control Council will be guided in matters covered in this directive by any appropriate international organisation or agreement to which the three Allied Governments subscribe.

8. You will, in your zone, take all practicable measures to locate and, at your discretion, seize or otherwise secure works of art and other cultural materials. You will report to the Control Council, for disposition by it, all works of art and other cultural materials so located, seized or secured by you, stating their location and general nature.

9. You will take all practicable measures to protect and conserve works of art and other cultural materials from loss, removal, concealment, damage or deterioration. You will be responsible in your zone for the proper warehousing and care of such objects. To assist you in accomplishing these objectives, you are authorized to employ reliable and qualified German personnel.

10. You will forbid the sale, transfer or export of works of art and other cultural materials except as may be directed by the Control Council.

11. You will take all practicable measures to seize or otherwise secure records and other information concerning works of art and other cultural materials which have been looted from Governments or nationals of the several United Nations and Associated States. You will report to the Control Council the location and general nature of all records and other information so seized or secured by you. Reference is made in this connection to the appropriate portions of the directive on "Securing and Examining Information and Archives."

12. You are authorized to detain for questioning any persons in your zone known to have, or suspected of having, information which will assist in locating works of art and other cultural materials. You will report to the Control Council the names of any persons so detained who are known to have been, or suspected of having been, concerned in the looting of works of art and other cultural materials.

13. You will permit any representative of either of the other two principal Allied Governments appointed therefor by the appropriate Allied Commander-in-Chief, or any representative of any of the several United Nations and Associated States authorized therefor by the Control Council, to have access to works of art and other cultural materials in your zone. You will furnish such accredited representatives with appropriate assistance in their examination of works of art and other cultural materials.

14. You will, through the Control Council, call upon recognised and competent experts from any of the several United Nations and Associated States to assist in the identification and conservation of works of art and other cultural materials in your zone.

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15. You will, in your zone, seize and close all archives, monuments and museums which are of Nazi inception or devoted to the perpetuation of German militarism and hold their properties pending further instructions. You will take all practicable measures for the care, maintenance and operation of other monuments, and of buildings or institutions devoted to public worship, education or the arts and sciences. You will take all practicable measures to protect such monuments and other buildings from acts of damage or disrespect and from further deterioration due to war damage. Reference is made in this connection to the appropriate portions of the directive on "Property Control."

SWNCC 118/D

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Annex to Appendix "B"

104913

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 Authority NND 775057
 By JW NARA Date 12-8

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 File General Records 44-
 Box 8 '50

EFH:bls

Case presented to State by Nyaradi: re property continuously in custody Hungarians

CONFIDENTIAL
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1 O/SS FD 14 APR 47

NOTE FOR RECORD

1. Subject of incoming cable WI-95468, Property in Continuous Custody of Hungarians.

2. Wherever possible as new Hungarian properties are taken under control careful consideration is given to appointment of Hungarian displaced persons as custodians. In the case of property already under control, many have Hungarian custodians and they will be continued in service so long as they perform their duties in accordance with Military Government regulations. We recommend that any request to replace present German custodians who have performed satisfactorily not be granted at this time, as such a policy would result in numerous complications and much delay and is a privilege not accorded to U. S., United Nations' and Neutrals' nationals.

Previous charges of great waste and dissipation of assets not substantiated by the facts as determined by thorough investigation of the situation. In fact, on 10 January 1947, three members of the Hungarian Claims Commission visited the Property Control Office in Regensburg and offered their apology for having complained, etc. This apology only forthcoming after the results of our investigation were made known. Decontrol program may soon become effective. Request at this time whether or not Hungarian properties are to be treated as properties of United Nations' and Neutrals' nationals under Decontrol program. [Reurad W-85962 and W-88846].

Property Control Files

3. Coordination with other Divisions of OMBUS not necessary.

Attachment:
 Proposed cable

T. H. BALL

THEODORE H. BALL
 Director

Tel. 43936
 Rm 403, Finance

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Authority NND 775057
By JW NARA Date 12-8RG 260Entry OMBUS - Prop. Div.File General Records 44-Box 8 '50OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)
AG Cables

INCOMING MESSAGE

U N C L A S S I F I E D

TOO 171358Z

R O U T I N ERECD 171902Z Aug 48
194/17/dm

FROM : HQ EUCOM SIGNED HUEBNER

TO : OMBUS
EPOE
HEIDELBERG MIL POST
WETTLAR MIL POST
WUERZBURG MIL POST
NUERNBERG MIL POST
MUNICH MIL POST
USAFE
FRANKFURT MIL POST
STUTTGART MIL POST
BERLIN MIL POST
REGENSBURG MIL POST
AUGSBURG MIL POST
GARMISCH MIL POST

REF NO : SC-13868

CITE: ECGSP

The Jewish Restitution Successor Organization (JRSO), the successor organization for Jewish property, established under Article 15 of Mil Govt Law No. 59 (Restitution of Identifiable Property), is authorized support from US Army sources under the terms of USFET Cir 185, dtd 8 Nov 1946. The allied nationals authorized to AMT for and on behalf of JRSO are: Mr. Joel H. Fisher, Mr. G. Weis, Dr. Meinhold Mussbaum, Dr. Joshua Starr, Mr. Maurice Grynblatt, Mr. Sidney Garber, Mrs. Helen Fink, Miss Ester Cherkasky.

ACTION : PROP

INFORMATION: C/S
OFF ECON ADV
CONT OFF
POL AFF

AGC IN 11972

18 Aug 48

JHD/dm REF NO: SC-13868

U N C L A S S I F I E D

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 Authority NND 775057
 By JW NARA Date 12-8

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 Box 8 '50

~~Mr. Miller~~ → FILE: JRSO Authorization

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

AG CABLES



OUTGOING MESSAGE



UNCLASSIFIED

RECD 051740Z Aug 48

ROUTINE

TO : DIRECTORS:
 OMG BAVARIA, BREMEN, HESSE, WUERTEMBERG-BADEN

INFO : EUCOM
 USAF FOR PROP CONTROL & EXTERNAL ASSETS BRANCH
 PROPERTY DIV OMGUS
 EUCOM FOR REP & REST BR, PROP DIV OMGUS
 OMG BER SEC

FROM : OMGUS SGD HAYS

REF NO : V-34731

Subj is preliminary operations of Jewish Restitution
 Successor Organization, appointed pursuant to Regulation No 3 under
 Mil Govt Law No 59.

1. Effective 3 Aug 48 and until 1 Sept 48 or the issuance of a permanent authorization by OMGUS, prior to 1 Sept 48, JRSO is hereby authorized to make the necessary arrangements for hiring indigenous staff, procuring office space and office furniture and furnishings, arranging logistical support, engage in conversations with Property Control officials, German authorities, officials of the central filing agency and German Jewish Gemeinde with a view to developing procedures for its operations.

2. The foregoing authorization does not extend to nor include the actual examination by representatives of JRSO of files, records, repositories or collecting points of any agency. Such authority will be defined in the permanent authorization to be issued by OMGUS to JRSO shortly. You will be advised on issuance.

3. The names of the allied nationals authorized to act for and on behalf of JRSO within the scope of the activities authorized in Para 1 are: Mr Joel H Fisher, Mr Georg Weis, Dr Meinhold Nussbaum, Dr Joshua Starr, Mr Maurice Grynblatt, Mr Sidney Garber,

V-34731

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REF NO: V-34731

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Mrs Helen Fink, Miss Esther Cherkasky.

4. Please advise all Mil Govt and German Property Control authorities, Ministries of Justice, Restitution authorities, and custodians of records and files which would normally be of interest to the JRSO.

ORIGINATOR : PROP DIV AUTH: F G MULSE
 INFO : C/S
 LEGAL
 OMG BER SEC
 POL AFF

V-34731

5 Aug 48 LW/ge1 AG 602.3

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Authority NND 775057By JW NARA Date 12-8RG 260Entry OMBUS - Prop. Div.File General Records 44-Box 8 '50I.A.R.A./AS/Doc. 805.
19 April, 1949.

- 1 -

First Meeting, held in Brussels

on Monday 14 March 1949

at 3.30 p.m.

The Meeting was opened at 3.40 p.m.

1. Opening address and Election of the Chairman

Mr. SUTTON (Secretary General of the Inter Allied Reparation Agency) speaking in his own name and on behalf of the Inter Allied Reparation Agency, welcomed the Representatives of the various Custodians' Offices who had come to the Conference. He had taken the initiative of inviting Custodians to meet entirely unofficially, to discuss problems of mutual interest, and most particularly to make each others acquaintance. The Secretariat would provide all necessary services, but in his mind, it was entirely for the Custodians present to decide in what way and with what degree of formality they wished their discussion to be conducted. He suggested that the first task of the Meeting should be to elect its Chairman.

On the proposal of the REPRESENTATIVE OF THE UNITED KINGDOM, seconded by the REPRESENTATIVE OF GREECE, M. DUQUESNE de la VINELLE (Belgium) was unanimously elected Chairman.

2. On the proposal of the REPRESENTATIVE OF THE UNITED KINGDOM, seconded by the REPRESENTATIVE OF GREECE, the Conference also decided to invite Mr. SUTTON (Secretary General of the Inter Allied Reparation Agency) and Mr. FAGEN (Chief of the German External Assets Division of the Agency) to assist at its Meetings.

3. Rules for the Conference

The REPRESENTATIVE OF GREECE proposed that the rules of the Inter Allied Reparation Agency for its Assemblies should apply to the Meetings of the Conference.

The REPRESENTATIVE OF THE UNITED KINGDOM expressed the view that it was not necessary to adopt any strict rules. The object of the Conference was to try to find means of solving the problems submitted to it, but the representatives of the various Custodians' Offices had not official mandate and their powers were limited. Any proposals it might decide to put forward could only become definitive after approval by the Governments concerned, which alone were entitled to take decisions.

The CHAIRMAN approved this point of view and proposed that the rules normally in force for meetings of experts should be followed.

The Conference adopted this proposal.

4. Provisional Agenda

In submitting the provisional agenda to the Conference, the CHAIRMAN pointed out that the REPRESENTATIVE OF DENMARK had already proposed the addition of a further item entitled "Inter-Custodial Conflicts with Switzerland".

The REPRESENTATIVE OF THE UNITED KINGDOM proposed the addition of a further item entitled: "Situation at the end of the Accounting Period".

The Conference approved the addition of these two items.

On the proposal of the REPRESENTATIVES OF EGYPT and FRANCE, the Conference also decided that the addition of new items to the agenda might be proposed at any time during the Meetings of the Conference, provided they were submitted in writing accompanied by an explanatory note.

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I.A.R.A./AS/Doc. 805.

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Government had undertaken to keep within the limits laid down by Article 6A. The discussion had shown, according to the statement made by the Representatives of France and the United States, that these two major countries were making every effort to prevent German assets from returning to German control, and he felt that the Conference should follow their example rather than appear to countenance a less strict policy which was not in conformity with Article 6A of the Paris Agreement.

The CHAIRMAN pointed out that two main methods, broadly speaking, seemed to have been followed in this matter:

1. The United Kingdom and certain other countries had included restrictive clauses in contracts of sales.
2. France and the United States had relied on legislation, backed by penal clauses, which forbade re-sale, in the one case to Germans, in the other, to non-nationals of the United States.

The REPRESENTATIVE OF BELGIUM thought the discussion had shown a need for serious consideration as to the duration of the application of Article 6 of the Act of Paris.

The REPRESENTATIVE OF CZECHOSLOVAKIA said that the problems discussed did not arise in his country, as all forms of German enemy assets had been seized on behalf of the Czechoslovak State. In particular, the liquidation of vested shares was covered by the nationalisation of the various limited companies. No German national was or would be in a position to acquire any holding whatever in these companies or in any other vested assets. However, he wished to draw the attention of the Conference to a particular danger: that the Germans, after their experiences in two world-wars, would be particularly careful not to attempt to regain economic control by direct methods, but would use every effort to do so indirectly by ingenious cloaking devices. Did Custodians feel confident that their internal legislation, or the other measures they had taken, effectively blocked all possibility of indirect action of this kind?

The REPRESENTATIVE OF THE UNITED KINGDOM replied that in his country, and he thought in most others, would-be purchasers were very carefully checked as to their associations and contacts in order that it might be assured, so far as was humanly possible, that they did not or would not act as German cloaks. Insofar as the Representative of Czechoslovakia had raised the question of future German economic penetration by means of cloaking devices, this was a political question with which Custodians were not concerned.

The SECRETARY GENERAL, replying to an enquiry by the President, stated that the Secretariat was aware of no documents emanating from the Paris Conference on Reparations which revealed any evidence one way or the other as to what opinions Delegates to that conference held as to the duration of Article 6 of the Act of Paris.

After a further exchange of views, it was generally agreed that the Paris Agreement would remain in force at least until a Peace Treaty had been signed, after which the various national legislations might have to be adjusted to the Peace Treaty as they had been in many cases during the past two or three years to the Paris Agreement.

This concluded discussion on item 1 on the Agenda.

The Conference decided to hold over items 2 and 3 on the Agenda, since a paper by the representative of the Netherlands in connection with them would be available later in the Session.

2. Item 4 on the Agenda: Administration of German enemy-owned Trade-marks

The REPRESENTATIVE OF INDIA informed the Conference that the problem did not arise in his country since, before 1940 there was no provision for registration of trade-marks in his country.

The CHAIRMAN thought that no wholly satisfactory solution could be put forward. The suggestions made in the document before them were not always consistent in themselves and, since the drafters of their Charter, the Paris Agreement, did not seem to have dealt with this problem, it would be necessary to refer to the general spirit of that Agreement.

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I.A.R.A./AS/Doc. 805.

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The REPRESENTATIVE OF BELGIUM advised caution in view of the fact that an International Conference was soon to meet to try to clear up a number of problems in this field.

The REPRESENTATIVE OF FRANCE, on the contrary, felt that the conference should try to define its own position before the International Conference met. Liquidation of German assets was likely to be badly held up if there was delay in settling the general position with regard to trade-marks, and other assets of which the value was similarly in doubt until their ultimate fate was settled - if liquidation was held up I.A.R.A. accounting would also be held up - and under the Paris Agreement that accounting had to be completed within five years of the signature of the Agreement. The problem was highly complex and involved general questions concerning patents, trade-marks and sales agencies. If the present conference was not competent to suggest solutions to these various questions; it might at least express a formal wish that the International Conference should meet as soon as possible.

The CHAIRMAN pointed out that although the question of German trade-marks could give rise to problems outside the competence of the present meeting and only capable of solution by an International Conference of a different kind, nonetheless insofar as these German trade-marks fell within the provision of Article 6 of the Act of Paris, this was a question entirely within the competence of I.A.R.A. and not of any other International Conference. He thought therefore that the present meeting should, as suggested by the Representative of France, try to define its position before the International Conference met. With this in view he asked for comments on the following alternative methods of disposing of trade-marks:

- a) the sale of trade-marks, despite the difficulties involved;
- b) the cancellation of trade-marks;
- c) the leasing of trade-marks.

The REPRESENTATIVE OF BELGIUM was in favour of selling a trade-mark if there was a stock-in-trade or a manufacturing process attached to it; if not, it would probably be better to lease it. In no case should it be cancelled.

The REPRESENTATIVE OF CZECHOSLOVAKIA explained the procedure followed in his country, and said that those trade-marks which were bound up with firms operating on Czech territory came under the Confiscation Act of 1945 and had been nationalised together with the firms themselves. Until 1948 isolated trade-marks had not been considered as a form of German external asset, but this attitude had been modified in view of the practice followed in most I.A.R.A. countries. In September 1948 a Decree by the Ministry of Internal Trade had placed such trade-marks under national control and had charged the Central Federation of Czechoslovak Industries with carrying out this Decree. The said Federation was empowered to lease these trade-marks for exploitation subject to approval by the Ministry of Internal Trade and against payment of a royalty. He added that the sale of trade-marks gave rise to many practical difficulties. For example, it had happened that goods manufactured in Czechoslovakia under a German trade-mark had been refused entry by an importing country because that country had vested that particular trade-mark on its own territory. There were a number of similar difficulties into which he would not enter: but it would certainly not be easy to solve this problem.

The REPRESENTATIVE OF NORWAY stated that his country had sold trade-marks apart from those which included the name of a German individual or company. This exception was made to avoid complications in the future when normal trading relations between Norway and Germany started again and no one would be able to prevent the Germans concerned from trading under their own names. The difficulties of those neighbours of Germany who were economically obliged to trade with that country must not be left out of account.

The REPRESENTATIVE OF THE UNITED KINGDOM expressed himself in general in favour of the sale of trade-marks attached to a firm operating in the I.A.R.A. country concerned, but felt that there were high policy as well as technical aspects of the question which should be left to the International Conference which was to meet in the near future. He also underlined the moral responsibility of Custodians in disposing of trade-marks to see that the general public was not defrauded and did not buy under a

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trade-mark commodities of a characteristic different from that which they were entitled to expect. In any event, the United Kingdom would not go into any International Conference unmindful of its obligations to I.A.R.A.

The REPRESENTATIVE OF THE UNITED STATES said that he had been informed that the International Conference to which various speakers had referred was to meet in May or June, and suggested that the problem could safely be held over until then.

The REPRESENTATIVE OF FRANCE, having pointed out that trade-marks which concerned the exploitation of a patent would obviously receive the same treatment as the patent to which it was attached, again referred to the urgency of the problem in that the liquidation of certain assets was impossible until general agreement on a number of points had been reached, and once more suggested that the present conference should express a formal wish to see the International Conference meet as soon as possible.

After a brief discussion of this suggestion, it was agreed that it was beyond the competence of an unofficial meeting to act so categorically. However, on the CHAIRMAN'S proposal, it was agreed that each Custodian should draw the attention of his Government's Delegate to I.A.R.A. to the fact that this problem was one which called for early solution: the Delegates in question could then bring the matter before the Assembly of I.A.R.A. or take whatever other action they thought fit.

The REPRESENTATIVE OF YUGOSLAVIA underlined the fact that there were certain aspects of the trade-mark question - those involving the Paris Agreement - with which no general International Conference could deal. The present meeting or the Assembly of I.A.R.A. were alone competent to examine such points.

The CHAIRMAN, summing up the discussion, said that the meeting had already agreed that its Members should draw the attention of their Government's Delegates to I.A.R.A. to the urgency of the problem. Further, there seemed to be general agreement as to the desirability of selling a trade-mark which was bound up with a stock-in-trade or with an enterprise operating on the territory of the country concerned; that there seemed to be a difference of opinion as to the treatment of isolated trade-marks; and that there was general opposition to the suggestion of cancelling trade-marks.

This concluded discussion on item 4 on the Agenda.

The Meeting adjourned at 12.40 p.m.

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Third Meeting, held in Brussels

on Tuesday, 15 March 1949

at 3.30 p.m.

The CHAIRMAN opened the Meeting at 3.40 p.m.

1. Item 4 on the Agenda: administration of German enemy owned trade-marks
(Continuation of the discussion).

The REPRESENTATIVE OF NEW ZEALAND said that it could be inferred from previous discussion on this subject that the trade-marks bound up with a stock-in-trade located on the territory of a Member Government had been vested and sold together with that stock. Now, it was possible that the German parent company had branches, entitled to use the same trade-mark, located in other Member countries which had also been vested and sold. It might therefore occur in the future that the countries in question would find different products, all carrying the same trade-mark, being sold on their territory, and having originated from various branches of the German parent firm located in other countries. This might lead the countries concerned to take protective measures. He wondered what his fellow Custodians' opinions were on the subject.

With reference to a different point, he would like to know if any of the Custodians present had already effectively sold trade-marks.

The REPRESENTATIVE OF THE UNITED KINGDOM felt that the first question asked by the Representative of New Zealand was not within the competence of Custodians and that it depended solely on the legislation on trade-marks in the countries concerned. The position of which the Representative of New Zealand had spoken was not new, for it had already occurred in the past when a single trade-mark had been used by several companies; the Bayer trade-mark was a case in point. This was a question of administration of law and one which did not come within the Custodian's field.

As regards the Representative of New Zealand's direct question, he stated that the British Custodian's Office had never sold individual trade-marks but only those bound up with a commercial enterprise which had been vested and sold; the trade-marks were sold together with the enterprise.

The REPRESENTATIVE OF CZECHOSLOVAKIA reminded the Conference that he had already raised the problem of single trade-marks being used by several companies, and he was entirely in agreement with the opinion expressed by the Representative of the United Kingdom. The question was not one which could be solved by the present Conference and it was to be hoped that an international Conference would meet on the subject, as had been done in the case of patents.

The CHAIRMAN noted that the Conference had reached agreement on the fact that, in addition to the particular problems regarding trade-marks and patents facing the Governments which had signed the Paris Agreement, there were problems which could only be solved by an international Conference.

2. Item 5 on the Agenda: The seizure of unexercised options owned by a German enemy.

The CHAIRMAN drew the attention of the Conference to the fact that a right of option might be of considerable value from the financial point of view or as a means of exercising economic pressure. On the other hand, the option could only be considered as an asset if the beneficiary could dispose of the often quite large monetary sums needed to make use of it. When one remembered that the Paris Agreement compelled Custodians to exercise the options which they had vested, it became evident that, more often than not, Custodians would not be in the possession of the necessary funds to do so. This aspect of the question had escaped the attention of the drafters

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of the Paris Agreement, and therefore Custodians must try to find a solution which, while enabling their Governments to respect the international engagements which they had signed, would not involve them in financial expenditure which they were not prepared to incur.

The note submitted to the Conference suggested a solution in which the Custodians first vested the option and then renounced it; this, according to the note, would prevent the German enemy from subsequently asserting his rights.

The success of this double legal operation evidently depended on the legislation in matters of Custodianship in force in the various signatory countries.

Custodians present should therefore indicate whether their national legislation compelled the vesting of options belonging to German enemies, whether they were personally of the opinion that such options should be renounced once they had been vested, and whether they felt that this procedure would prevent the German enemy from subsequently asserting his rights.

The REPRESENTATIVE OF THE UNITED STATES said that his country's policy in this matter depended on the kind of option in question. If the option was of a fictitious character intended solely to cloak the German origin of an asset, the Custodian vested and liquidated the right of option together with the asset in question. If, on the other hand, the option was of the kind normally granted in current commercial operations, the option was duly vested. It should be stressed, however, that the United States Custodian had never met with a single case in which there would have been any advantage in exercising the option; each time, therefore, he had let it expire.

The REPRESENTATIVE OF FRANCE stated that, in his country, a large number of options had proved to be fictitious transactions intended to cloak a German interest, both in the case of options for purchase and those for sale with right to re-purchase. The assets involved in such transactions were therefore regarded as enemy owned and were vested by the Custodian.

But when the option in question was a normal commercial one, there was no reason why the Government concerned should refrain from reaping benefit from it. If it did not have sufficient financial means to exercise it, there should be no objection to transferring it to a reliable third party.

The REPRESENTATIVE OF THE UNITED KINGDOM recalled that the paper prepared by the Secretariat made a distinction between two kinds of options: options for purchase of property, and options for the furnishing of technical information. In the United Kingdom there existed a legal doctrine, that of "Frustration of Contracts", whereby any contract involving the continuation in wartime of relations with the enemy was considered contrary to the public interest and was declared null and void from the date of the opening of hostilities. Options of this kind had, therefore, ceased to exist and had not even been vested. When, on the other hand, the option was a normal commercial one involving the purchase of goods, each case was judged separately. Where it had been found that there was a danger that at a later date a German might make a claim, the practice followed by the British Custodian was to sell the option at the same time as the German enemy interest, although in this case the value of the option had made little or no difference when determining the price.

After the REPRESENTATIVE OF FRANCE had further specified certain types of "cloaking" options, the CHAIRMAN pointed out that it was generally agreed that options should be vested, and that when the option contract was a normal commercial one and not a cloaking operation, there was no reason why the Custodian should not transfer it to a third party, thereby increasing the total pool of reparation.

The next question was whether the vesting of the option, when followed by a renunciation, effectively prevented the German enemy from asserting his rights.

The REPRESENTATIVE OF THE UNITED STATES said that any option vested in virtue of American legislation on trading with the enemy automatically became the property of the Government of the United States, and that it was quite impossible for the former German owner to assert his rights, whether the option had been exercised, declared null and void, or renounced.

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The REPRESENTATIVE OF THE UNITED KINGDOM said that this was also the case in his country.

The REPRESENTATIVE OF FRANCE pointed out that under the wartime legislation in force in France all dealings with enemy nationals were forbidden, as a result of which the carrying out of contracts in hand was suspended. But since the Paris Agreement had transferred to the Custodian all the rights and interests which German nationals might have had in the territories of Member Countries, especially as regards the profits accruing from contracts, the Custodian's Department considered it was justified in deriving financial profits from these contracts.

The REPRESENTATIVE OF CZECHOSLOVAKIA explained that Czechoslovak legislation provided for the confiscation of all assets, physical or intangible, belonging to Germans. Consequently, it was impossible for a German to assert his rights under an option since the latter had become completely and definitely the property of the State.

The CHAIRMAN noted that the Conference seemed unanimous in considering that an option was cancelled (even if the Custodian decided to renounce it) from the simple fact of its seizure.

The REPRESENTATIVE OF THE UNITED KINGDOM made express reservations regarding the conclusion arrived at by the Chairman so far as his country was concerned. For his part, he could not see what might be the advantages, the effects or the consequences of a seizure followed by renunciation.

The CHAIRMAN explained that the laws on vesting in force in their various countries differed on an essential point. Under the legislation of certain countries, seizure resulted in a transfer of the assets to the State. In this case the option fell under State ownership and the question was settled. In other countries, such as Belgium, although vesting deprived the owner of his right of disposing of or administering the asset, it did not affect the right of ownership itself. It was only when the asset was liquidated that the right of ownership was transferred from the former German owner to the new owner. Thus, in this case, renunciation of the option by the Custodian would not be sufficient to avert the danger of a claim by the former German enemy owner of the option in question. It was in the interest of all Custodians to find a solution which would meet this danger.

The REPRESENTATIVE OF EGYPT stated that the purpose of Custodial legislation in his country was to protect persons who had acquired vested enemy assets from any possible claim by the former owners. This legislation also applied to options.

In reply to a question by the Representative of India, the CHAIRMAN explained that, in his opinion, when the Custodian of a Member Country vested an option belonging to a national of another Member Country, whom he considered as having acted as a cloak for a German enemy, the Government of the latter country was entitled to protest, through diplomatic channels, if it was of the opinion that the seizure was unjustified.

Item 7 on the Agenda: Situation at the end of the Accounting Period

The REPRESENTATIVE OF THE UNITED KINGDOM reminded the Conference that, under Article 1 F of the Paris Agreement, each Signatory Government at the end of 1950 would be obliged to submit its final accounts of all the German assets within its jurisdiction. Now, while the accounts submitted every year by the Signatory Governments were, to some extent, definite in so far as they concerned liquidations which had taken place, they were, to a larger extent, merely approximate in regard to assets which had not been liquidated. In view of the difficulties of prompt liquidation, due in part to the nature of the assets, and in part to changed economic conditions which affected markets, and also, in some measure, to existing intercustodial conflicts, it was probable that at the end of the accounting period many countries would not be able to submit precise and final accounts. Moreover, the existence of very necessary security provisions slowed down the process of liquidation. In any case, the United Kingdom's final account in 1950 would not be able to represent all the properties as sold and turned into cash. A large amount of property would still remain, the value of which would have to be estimated.

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JRSO

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received from Mr. Kagan

RESTITUTION OF JEWISH HEIRLESS PROPERTY IN THE FRENCH ZONE

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The policy of France with respect to the heirless property of Jewish victims of Nazism is paradoxical. When examining in international conference with other nations the question of heirless Jewish property remaining in neutral countries, France gave leadership which resulted in a policy of justice, sympathy and equity to the surviving Jewish victims of Nazi oppression, yet when dealing with the same question in the French Zone of Germany, France has neglected to give recognition to the same policy which she has urged for the neutral powers. In the French Zone, unless remedial steps are taken, the property of heirless Jews who were wiped out by the Nazis, is in jeopardy of falling to the very state or people who destroyed these Jews rather instead of going to the surviving Jewish victims.

I. France's policy in dealing with heirless Jewish property found in neutral countries.

France was the Co-sponsor of the Five Power Agreement concluded by the United States, France, Great Britain, Czechoslovakia and Yugoslavia in June 1946.

Under that agreement, "in the interest of Justice, the French Government on behalf of the Five Governments are making representations to the neutral powers to make available all assets of victims of Nazi action who died without heirs". France jointly with the U.S. prepared as a policy for the neutral powers that the surviving Jewish victims should be aided with the heirless property, the preponderance of which France and the other signatory powers recognized had belonged to Jews destroyed by Nazi action. Article E of the agreements sponsored by France says:

".... the conclusion that ninety-five percent of the 'heirless funds' thus made available should be allocated for the rehabilitation and resettlement of Jewish victims takes cognizance of the fact that these funds are overwhelmingly Jewish in origin, and the five percent made available for non-Jewish victims is based upon a liberal presumption of 'heirless funds' non-Jewish origin. The 'heirless funds' to be used for the rehabilitation and resettlement of Jewish victims of Nazi action should be made available to appropriate field organizations"

Thus, France proposed to all the neutral powers that ninety five percent of the heirless Jewish property found in those countries and belonging to Jewish victims of Nazi actions should go for the rehabilitation and resettlement of the surviving Jewish victims. The proposal went further. It provided that the heirless funds intended for surviving Jewish victims of Nazi action "should be made available to appropriate field organiza-

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tions." Thus the policy provided that the proceeds "should be made available directly and jointly to the American Jewish Joint Distribution Committee and the Jewish Agency of Palestine, organizations best fitted to use these funds for the rehabilitation and resettlement of Jewish victims of German action". The funds made available as a result of the Five Power Agreement for the benefit of Jews is still being turned over to these Jewish organizations for use in the projects established. Hence, world-wide representative Jewish organizations were untrusted to use the proceeds of the agreement for the benefit of Jewish victims of German action.

II. What France has done in the German Zone under her administration.

A more obscure policy is being pursued in the French Zone of Germany than was proposed to the neutral powers. In November 1947, the French Commander in Chief in Germany issued ordinance 120, concerning the restitution of destroyed property, for the French Zone of occupation. The provision was made to make available Jewish heirless property for the surviving Jewish victims of nazism, but instead this property is intended to go into "a common fund (to be created) in each land for the indemnification of victims of nazism." While on one hand France recognized that the preponderance of heirless property was of Jewish origin in neutral countries and that 5% granted to be of non-Jewish origin was a liberal presumption, yet on the other hand in the French Zone France fails to recognize the same principle though the same facts exist there. For the neutral countries, France vigorously and correctly contends that Jewish survivors should be the beneficiaries of Jewish heirless property but in the French Zone of Germany, the policy is ambiguous. Who then are the "victims of nazism" in the French Zone of Germany where the Jews either have been wiped out as elsewhere in Germany, or the few survivors are emigrating? Non-Jewish victims are not properly the beneficiaries of this Jewish heirless property, nor are there such numbers of them in the French Zone as to warrant a division of even 5%, such as was made in the Five Power Agreement let alone the preponderance of heirless property. Hence, the policy ultimately will leave only the German land as the recipients of heirless Jewish property, very much contrary to the "justice and morality" which were the foundation of the Five Power Agreement. Moreover, the body to administer the common fund is not conceived under the French Law as to place responsibility in the hands of the surviving victims or a representative "organization best fitted to use these funds for the rehabilitation and resettlement of Jewish victims of German action." The French Zone law places primary emphasis of administration upon an organization to be "created or empowered for the purpose by the Land Government". It can hardly be assumed that the Land Government would have greater concern for the victims of nazism than it has for itself especially where to pursue a less vigorous interest will leave the Land itself as the beneficiary of the heirless Jewish property. This fact must have been recognized, by France when considering the Five Power Agreement and deciding to empower representative Jewish bodies with the responsibility. The same consideration is warranted in the French Zone.

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III. What has been done in the other zones of Germany.

In the American Zone of Germany, Law 59, issued in November 1947, provides for a Successor Organization to be appointed by the Military Government and not by the German Land. This Successor Agency is to be entitled to the heirless property. (Article 10). "Neither the State nor any of its subdivisions nor a political self-governing body will be appointed as Successor Organization." In June 1948 the American Military Government appointed the Jewish Restitution Successor Organization, a non-profit membership corporation of representative Jewish Organization as the Successor Organization to receive the entire estate of all heirless Jewish property. Thus in keeping with the policy first set down in the Five Power Agreement, Jewish heirless property in the American Zone is vested in a representative Jewish Organization to be used for the benefit of surviving Jewish victims.

In the British Zone, a draft restitution law is presently under consideration and copies of it have been circulated by the authorities to representative Jewish Organizations. It follows largely the pattern of the American Zone Law. Provision is made for one or more "trust corporations" to be formed in the British Zone for the purpose of claiming unclaimed and heirless property. (Article VIII). The British Draft Restitution Law also provides for regulation to be issued by the Military Government for the establishment, composition and scope of the Trust Corporation. There is no indication in the British Zone Draft Law that the Land will be the administrators of heirless property in the Trust Corporations and it is anticipated that the British Regulations dealing with Trust Corporations will enable the formation of a Jewish Trust Corporation to be established in the British Zone to succeed to an unclaimed and heirless Jewish property for the relief and rehabilitation of surviving Jewish victims. Provision for more than one Trust Corporation under the British Draft permits such interpretation as reasonable. There is ground then to assume that the British Zone in term is coming to the principles set down in the Five Power Agreement.

It remains for France to modify the Restitution Law of the French Zone to bring it fully into harmony with the principles of the Five Power Agreement which France sponsored and which her Western partners in Germany are undertaking to apply in their zones of occupation.

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JRSO
 Article 70

AG 383.3 (PD)

25 April 1949

SUBJECT: Filing of Petitions by Jewish Restitution Successor Organization (JRSO) after 31 December 1948, pursuant to Article 70 Military Government Law No. 59

TO : The Military Governor

THRU : The Chief of Staff

1. Article 70 of Military Government Law No. 59 (attached at TAB A) provides that in certain circumstances the Public Prosecutor at the seat of the Restitution Chamber may file on or before 30 June 1949 a petition on behalf of a successor organization where no petition for the restitution of confiscated property has been filed by 31 December 1948.

2. On 28 February 1949 this headquarters sent to the Land Directors of Military Government, Letter AG OLO.6 (PD), subject: Petitions by the Public Prosecutor: Military Government Law No. 59 (Restitution of Identifiable Property) (TAB B), setting forth a statement of the policy of Military Government with reference to the application of Article 70, the procedure to be followed pursuant thereto and the circumstances under which petitions may be filed under that Article. Among other things, the letter stated that Article 70 was not intended to serve as an extension of the filing period prescribed by Law 59, but rather was designed to permit Military Government to facilitate acceptance of petitions in extraordinary and meritorious cases, during a period of six months after the closing of the general filing period.

3. Article 73 of Law 59 (TAB C) requires persons possessing or having possessed, at any time since it was transferred by or taken from a persecuted person, any property which he knows or should know under the circumstances is confiscated or presumed to be confiscated property, to report that fact in writing to the Central Filing Agency by 15 May 1948. Military Government, through Amendment No. 1 to M.G. Law 59 (TAB D) extended this period until 15 August 1948; and by cable V-36452 dated 26 October 1948 (TAB E) gave financial institutions until 1 December 1948 to comply with the provisions of Article 73. However, these institutions have not in all cases been able to comply, even by the end of 1948, and many reports by them have reached the Central Filing Agency in 1949. The Jewish Restitution Successor Organization (JRSO) was authorized by Military Government Authorization No. 1 to JRSO (TAB F), in paragraph 7 (a) to examine these reports.

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AG 383.3 (PD)

Filing of Petitions by Jewish Restitution Successor Organization (JRSO) after 31 December 1948, pursuant to Article 70, MG Law No. 59

4. JRSO has orally advised Property Division that it plans to submit in the near future, bulk petitions, numbering over 2,000 on 15 April, which contain more than 60,000 individual claims, based upon information contained in Article 73 reports, on the ground that the information on which the petitions are based was not available to JRSO at the end of the general filing period, and that therefore the claims are of an extraordinary and meritorious nature. Their argument is that they have been deprived of information essential to a timely filing through failure of persons subject to Article 73 to make a timely compliance therewith.

5. JRSO admits that it has not examined the merits of individual claims contained in the 60,000 above-mentioned, nor has it been determined that the former owners of the claimed property are in each case, Jewish. The AG letter at TAB B, as well as the Appointment of JRSO specifies that property claimed by the successor organization must fall within the scope of its appointment. In most of the cases the petition would be submitted only because a late report has been filed, without further investigation of the merits.

6. In carrying out its plan for the submission of petitions under Article 70, JRSO contemplates the use of prepared forms appearing at TAB G, to be presented to the Public Prosecutors and, if approval is recommended, passed on after signature to the Property Control and External Assets Branch, Property Division, OMBUS. Although it is not yet known what examination will be made by the Public Prosecutor of the representations of JRSO, as briefly stated in the prepared forms, it is believed that the Prosecutors may merely forward the petitions to OMBUS, and not examine them individually. We say this because of the sketchy information furnished, the large number of claims involved, and the shortage of time before 30 June 1949.

7. It is appreciated that JRSO could not have submitted petitions based upon the Article 73 reports in those cases where the latter were filed only after 1 January 1949, and that the failure of financial institutions to comply with Article 73 has worked a hardship on JRSO. It is, however, believed that the proposed broad plan of JRSO in effect amounts to an extension of the filing period for JRSO alone, since it is the only successor organization appointed by Military Government. JRSO is understood to have informed the Military Governor that it would not request an extension of the filing period under Law 59. Although a denial of the right to file may result in no restitution, it was never contemplated that there would necessarily be 100 percent restitution in Germany.

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Filing of Petitions by Jewish Restitution Successor Organization (JRSO) after 31 December 1948, pursuant to Article 70, MG Law No. 59

8. JRSO, by filing blanket petitions without individual examination, may be claiming non-Jewish property, property of living persons, who themselves may have filed claims under Law 59, or may duplicate their own claims previously filed as the basis of reports already filed by other persons under Article 73. In view of the fact that many other potential claimants under Law 59 have had their rights cut off with the end of the filing period, it is felt that allowance of petitions on the basis proposed would constitute discrimination in favor of JRSO. Since the end of the filing period, many individual claims have been received by the Central Filing Agency, many of which do not fall within Regulation No. 5 which protects those claimants who mailed their claims before the deadline, but all of which it has forwarded with notation that they were received or filed after the deadline. Many of such claimants, if the JRSO petitions are allowed, would have reason to argue similarly that their petitions should be validated.

9. This matter is brought to your attention since it is believed that JRSO will probably exert strong pressure in this matter either here or in Washington, to force recognition of the late claims. It is felt that the filing period for the main body of JRSO claims is fixed with sufficient clarity in Article 11 of Law 59, paragraph 1 of which reads:

"If within six months after the effective date of this Law no petition for restitution has been filed with respect to confiscated property, a successor organization appointed pursuant to Article 10 may file such a petition on or before 31 December 1948 and apply for all measures necessary to safeguard the property." (Underlining supplied)

10. IT IS RECOMMENDED that Military Government should not take favorable action on any claims submitted to it pursuant to Article 70 unless

- a. each claim submitted shows evidence of individual analysis and is reasonably well documented, and
- b. evidence appears, to support the conclusion that the claim is well founded; and
- c. evidence appears that the former owner falls within the class represented by the claiming successor organization; and
- d. evidence to establish the claim as extraordinary and meritorious, should consist of facts other than proof that the claim is merely late.

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Filing of Petitions by Jewish Restitution Successor Organization (JRSO) after 31 December 1948, pursuant to Article 70, MG Law No. 59

11. Since JRSO had six months within which to claim property formerly owned by Jews, and made liberal use of that privilege in the filing of more than 163,000 claims, often on a blanket basis, and since it enjoyed broad privileges of examination of records, it is recommended that the deadline prescribed in Article 11 above, be observed, and that mass claims submitted under Article 70 be not favorably considered.

CONCURRENCE:

Legal Division ()

PHILLIPS HAWKINS
 Director

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