

June 5, 1946

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General J. H. Hildring  
Assistant Secretary of State  
Department of State  
Washington, D. C.

Sir:

The Commission on European Jewish Cultural Reconstruction begs leave to submit to you a plan for the preservation and ultimate disposition of the Jewish religious and cultural treasures which are still to be found in Germany and Austria.

The Commission is composed of American Jewish religious leaders, scholars and educators. Other Jewish organizations, which together include in their membership or represent the entire American Jewish community, share the Commission's concern about these objects and are collaborating with the Commission's efforts to save them for mankind in general and the Jewish people in particular. If you wish to know precisely who we are, we refer you to the list of our members of the reverse side of this page.

I

For more than a thousand years Europe was the center of Jewish cultural and religious life. European Jews and especially those of Germany and Poland developed famous religious, scientific and other cultural institutions which, with their rich libraries and museums, directly or indirectly served Jews everywhere spiritually and were in turn supported by them materially. Consider, for example, the Jewish Theological Seminary of Vienna, by no means the foremost Jewish cultural institution of pre-Hitler Europe. It recruited its faculty and student body from all Europe; its graduates served Jewish communities not only throughout Europe but in Palestine, the United States, the British Commonwealth of Nations, and other countries; prior to 1914 it was supported by Jews of the various Austro-Hungarian provinces, most of which are no longer Austrian, and after 1918, by the Jews of the United States, South Africa, and other countries.

Thus the Jewish spirit was nourished and kept alive and vigorous in spite of the dispersion of the Jewish people throughout the world. The instrumentalities, the tangible products, and the physical embodiment of this long, devoted, and often heroic spiritual and intellectual activity were books, manuscripts, Torah scrolls and other religious and cultural objects which constitute a priceless heritage and one of the proudest possessions of the Jewish people. In order to indicate to you the number and

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the nature of these cultural treasures we enclose a tentative list of them and of their former locations and owners, prepared by the Commission's research staff.

As you, Sir, undoubtedly know, after the Nazis began to govern Germany in 1933 they established there a number of so-called research institutes for the study of what they were pleased to call the Jewish problem. Of these, the largest and best known was the Institut zur Erforschung der Judenfrage, which the Nazi Party established at Frankfurt a.M. under the direction of the notorious Alfred Rosenberg. It was the function of these institutes to provide a pseudo-scientific basis for the virulent anti-Semitic propaganda which constituted one of the major political weapons of the Nazi Party and by which they sought, all too successfully, to turn not only the German people but all peoples against the Jews. But in order to conduct their specious studies these institutes wanted, so that they might distort and falsify, Jewish books and other products of the Jewish spirit and mind. And so, by one of the great and ironical paradoxes of human history, at the same time that the Nazis were exterminating the Jews of Europe they were carefully and methodically collecting and preserving Jewish religious and cultural objects and employing them as a means to Jewish annihilation. From 1938 to the end of the recent war, the German Government and the Nazi Party confiscated and transferred to these research institutes the libraries of individual Jews and of Jewish institutions and communities within "Greater Germany" and the countries occupied by the German armies, and numerous, valuable collections of Hebraica and Judaica from the Jewish Divisions of German libraries--municipal, university and others--many of which had been endowed by Jews.

When the Allied Armies occupied Germany, they found parts of these expropriated libraries in huge caches in the vicinity of Frankfurt a.M. and other parts at various places, notably Berlin. The Office of Military Government of the United States seized and has stored these books and other religious and cultural treasures in a depot which it established in Offenbach a.M. They constitute a very large proportion of all the religious and cultural treasures which are the objects of our solicitude.

## II

We are concerned about these treasures for two chief reasons:

- (1) We are anxious about their safety.

We are informed that they are now stored under such conditions that they are in grave danger of physical deterioration, and that the policy of restoring to the occupied countries the loot taken from them by the Germans, is being so administered that they are also in serious danger of dispersion. These hazards to which these cultural treasures are exposed are not the results of

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official indifference or neglect but of inadequate resources-- physical and human. They can be protected against deterioration and dispersion only if they are kept in appropriate structures and placed in the custody and under the control of specialists who are competent to identify and catalogue them and to evaluate claims to them by whomsoever made, whether governments or individuals.

(2) We are troubled about their ultimate disposition.

It seems very clear to us and we hope, Sir, that it will seem equally clear to you that justice and the welfare of the world require that they be so disposed of as to serve two purposes--the one negative and the other positive.

They must, in the first place, be so disposed of that they can never again be misused to make war upon the Jews, by processes of distortion and falsification, and thus to disturb the tranquillity of the world.

This implies that to the extent that they exceed the religious and cultural needs of the Jews who may continue to reside in the countries of their origin, they must be removed therefrom. In view of the unregenerateness of European anti-Semites, especially the Nazis, there is grave danger that they will again misuse Jewish religious and cultural treasures, to the prejudice of the Jews and of mankind, if these are permitted to remain in countries in which intense anti-Semitism is rampant.

These objects must, in the second place, be so disposed of that they can be used, as the Jews who created them and the Jews who throughout the centuries lovingly collected and cared for them intended that they should be used, to serve the spiritual and religious needs of European Jews, of the Jewish people as a whole, and of all mankind.

This, too, implies that to the extent that they exceed the religious and cultural needs of the Jews who may continue to reside in Central Europe, they must be removed therefrom. That they greatly exceed such needs, actual and prospective, there can be no doubt. The attempt of the Nazis and of their anti-Semitic accomplices simultaneously to destroy the Jews of Europe and to preserve their religious and cultural treasures has resulted in an enormous disproportion between the number of Jews and the number of these treasures that still remain in Europe, a disproportion which emigration can be expected to increase. Whereas in 1933 there were approximately 6,500,000 Jews in Europe, exclusive of Russia and the British Isles, today there are only about 1,250,000. Whereas in 1933 there were approximately 560,000 Jews in Germany and in 1938 there were more than 200,000 in Austria, today there are only about 5,000 in Austria. Whereas in 1939 there were 3,300,000 Jews in Poland, 850,000 in Rumania and 700,000 in Hungary, today there are only 165,000 in Poland, only 370,000 in Rumania and only 200,000 in Hungary. You will observe, Sir, that the disproportion of which we have spoken is greatest in the case of those Jewish religious and

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cultural objects which had their situs in Poland, Germany and Austria.

To the extent that these objects exceed the religious and cultural needs of the Jews who still reside and are likely to continue to reside in those countries or elsewhere in Central Europe, they must be removed therefrom for two reasons. The first is that in no other way can they be made to serve the needs of all surviving Polish, German and Austrian Jews. As the result of normal emigration and of abnormal flight from the Nazi terror there are many, many more such Jews living abroad than in Europe. Obviously, they cannot enjoy the religious and cultural treasures of the Jewries of their native lands, even vicariously, unless they, their religious leaders, scholars and educators, can have access to them. Obviously, too, their interest in these objects is no less than that of their less fortunate brothers who, largely against their will, still live in Europe. Any disposition of these objects which did not give full recognition to their interest in them would surely be inequitable.

The second reason why the excess of these objects must be taken from Europe is that in no other way can they be made to serve the religious and cultural needs of the Jewish people as a whole. As the result of the annihilation of millions of European Jews, including most of their religious leaders, scholars and teachers, and of the dispersion of the survivors, Europe is no longer, and it is very unlikely that it can again become, a center of Jewish spiritual and cultural activity. The great centers of such activity are now, and will continue to be, Palestine and the United States, where so many thousands of the survivors of European Jews have found refuge. Consequently, not only must the excess of these Jewish religious and cultural treasures be removed from Europe, but they must also be so distributed among Jewish communities throughout the world as best to serve the spiritual and cultural needs of the Jewish people as a whole. This implies that their restitution cannot be and should not be governed by narrow legalistic conceptions of title. Such conceptions may be entirely appropriate in the case of property having only economic value but are wholly inappropriate in the case of these treasures whose value in money, while large, is wholly incommensurate with their sentimental value. It is as a symbol of the potentialities of the human mind and spirit and as an instrumentality of their further development that these objects have their real and incalculable value.

### III

In the light of the foregoing considerations we wish to propose to you the policies by which the ultimate disposition of Jewish religious and cultural objects in the American Zone of Occupation should be governed. If they are approved by our Government, we urge that it endeavor to persuade the British, French and Soviet Governments to adopt them for the zones which they respectively occupy.

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When confiscated, these objects were differently situated and differently owned. Some of them were in Germany, or Austria, or other enemy countries; others were in the friendly countries which the Germans occupied. Some of them were owned by individual Jews, others by Jewish communities, and still others by Jewish philanthropic or cultural institutions which took the form of corporations or associations or trusts. But wherever situated and however owned, these objects should be so disposed of as to respect both the interests of their former owners and the interests of the Jewish people in them. However, this basic principle will be misapplied if ownership is mechanically identified with legal title and if equitable interests are ignored. Individual ownership was both legal and beneficial, but communal and institutional ownership was only legal. The beneficial owners of communal and institutional property were the members of the community or the Jews whom the institution was created to serve, either the Jews of a region or all Jews. It is these beneficial interests and not dry legal title which must be respected in the disposition of these objects.

For example, in 1933 the Jewish community of Berlin, which then numbered 160,000 persons, owned a library of more than 80,000 volumes, and in 1938 the Jewish community of Vienna, which then numbered 180,000 persons, owned a library of 34,000 volumes. These libraries contained many rare items and were used not only by members of these communities but by Jewish and other scholars of the entire world. Today the Jewish communities in Berlin and Vienna number respectively 6,000 and 4,000 persons, some of whom were, but many of whom were not, members of the old communities. Even if it be assumed that under German and Austrian law these new ghost communities are the legal owners of the property of the old communities, it would, nevertheless, be most unwise and unfair to restore these libraries to them--unwise because the almost certain result would be their dissipation, and unfair because the interests of the much larger number of members of the old communities who now live abroad and of the Jewish people would be sacrificed on the altar of legal title.

This basic policy of respecting both the beneficial ownership of Jewish religious and cultural property and the interest of the Jewish people in them should be applied in the following manner:

- I In the case of objects which had their situs in Germany or Austria:
1. Objects which can be adequately identified as having been individually owned should be restored to their former owners or to their legal successors upon satisfactory proof of ownership, but objects falling within this category which are ownerless or which are unclaimed or the claims to which are not satisfactorily established, should be disposed of as hereinafter provided in sub-paragraph I-4.
  2. Objects which can be adequately identified as having been owned by a German or Austrian Jewish community which has

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survived or been reconstituted, should be restored to the community, upon satisfactory proof of ownership, in proportion to the prospective religious and cultural needs of the community and its capacity to retain, to care for, and to use them for the religious and cultural purposes for which they were intended. Objects falling within this category which are ownerless or which are unclaimed or the conditions of whose restoration to their owner are not satisfied, should be disposed of as herinafter provided in sub-paragraph I-4.

3. Objects which can be adequately identified as having been owned by a German or Austrian Jewish philanthropic or cultural institution should be restored to the institution, if it still exists, upon satisfactory proof of ownership, provided that the claimant clearly establishes that it needs and will hold and use the objects which it claims for the philanthropic, educational, scientific or other cultural purpose for which they were intended or some similar purpose. Objects falling within this category which are ownerless or which are unclaimed or the conditions of whose restoration are not satisfied, should be disposed of as herinafter provided in sub-paragraph I-4.
4. All objects which cannot be adequately identified as falling within any of the above categories and all objects which can be so identified but which are ownerless or unclaimed or the conditions of whose restitution are not satisfied should be distributed among Jewish religious and cultural institutions upon and in accordance with the recommendations of the group of Jewish religious leaders, scholars, educators, constituting the Board of Advisors hereinafter referred to, who will be guided in making such recommendations by the religious and cultural needs of the Jewish people and especially of the surviving victims of Nazi persecution and also by the desire of the Jewish people to pay tribute to those victims who did not survive, as, for example, by establishing a library in the Hebrew University in Palestine as a memorial to these martyrs for their faith.

II In the case of objects which had their situs in Rumania, Hungary, or Italy:

The same policies should be applied, but the results of their application to these objects and to those which had their situs in Germany or Austria will differ in degree. A much larger proportion of the former than of the latter will be restored to their owners, whether individuals, communities or institutions. While, as we have pointed out, only about 15,000 Jews now live in Germany and only about 5,000 in Austria, there are still about 370,000 in Rumania, about 200,000 in Hungary, and about 40,000 in Italy. Moreover, a much larger proportion of the Jewish communities and of the Jewish cultural institutions of those countries have escaped destruction and are either

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performing their normal functions or capable of resuming their performance under more fortunate conditions.

III In the case of objects which had their situs in Poland or in one of the Baltic States:

The same policies should be applied, but their application to these objects is conditioned upon the consent of the Polish and Soviet Governments. We urge that our Government try to obtain their consent. We especially urge that insofar as these objects exceed the religious and cultural needs of the vanishing Polish Jewish population, our Government also try to induce the Polish Government to renounce its rights to have the excess returned to Poland.

IV

We also wish to suggest to you the manner in which these policies should be implemented and administered.

1. The Office of Military Government of the United States should declare that it or some other official agency holds Jewish religious and cultural objects in the American Zone of Occupation as trustee for their former owners and for the Jewish people. If, however, the United States and the other occupying powers should subsequently recognize some Jewish body as the trustee of Jewish property in general and as the agency for restitution and indemnification, these cultural treasures should also in that event be included in its trusteeship.

2. The Office of Military Government of the United States should create a Board of Advisers to assist it in the execution of its trust. It should be the function of the Board to assist the Trustee in all matters relating to the salvaging, safeguarding and disposition of these objects. The members of the Board should be appointed by the Trustee upon the nomination of the Commission on European Jewish Cultural Reconstruction, the Hebrew University, and the Synagogue Council of America. For the reasons stated by Dr. Magnes in his letter to you, dated June 4, 1946, it is appropriate and, indeed, imperative that the University should be included among the organizations which will nominate the members of the Advisory Board. The inclusion of the Council is fitting because it is the organization most representative of Jewish religious interests in the United States.

The creation of this Board will recognize the special and exclusive interest of the Jewish people in these objects and will provide the Trustee with the specialized knowledge both of the objects themselves and of the religious and cultural needs of the Jewish people without which the Trustee will find it difficult, if not impossible, to execute the trust.

3. The Trustee should delegate to the Library of Congress the task of classifying and cataloguing these objects and of

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...ning their former situs and owners. Cataloguing will greatly facilitate the safeguarding and ultimate disposition of these objects, and it is a task which only librarians, bibliographers, and other experts can perform.

4. The Trustee should ascertain what Jewish religious and cultural objects of especial value have been lost, destroyed or irreparably damaged since their confiscation, and should require that they be replaced by similar objects of comparable value, if such can be found in German or Austrian libraries, archives and museums.

5. The Trustee should create appropriate tribunals to pass upon claims to these objects. A German or Austrian tribunal is not an appropriate one. On April 27, 1946, it was announced by the Office of Military Government that it proposed to return the control of "property which was the subject of ..... wrongful acts of confiscation, dispossession, or spoliation" to the German land governments which are to assume responsibility for its restitution. We protest as emphatically as we can against the inclusion of Jewish religious and cultural objects in this program. To entrust the disposition of these objects to the German land governments or other German agencies is to desecrate them and gratuitously to offend deeply the Jewish people.

6. The Trustee should dispose of these objects in accordance with the policies hereinabove set forth, and the recommendations of the Board of Advisers.

I should be glad to discuss these matters with you if you so desire.

Respectfully,

The Commission on European Jewish  
Cultural Reconstruction

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JEROME MICHAEL,  
ACTING CHAIRMAN.

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