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Taken

The Theft and Recovery of the Quedlinburg Treasures and Surrounding Legal Issues

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Dr. Hicks

Research Seminar

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As the town of Quedlinburg, Germany was besieged, people fled, hiding their precious belongings in remote places. U.S. soldiers occupied the city, and just when the situation seemed to be stabilizing, one of the greatest art thefts of the twentieth century occurred. Joe Tom Meador, a 29-year old American soldier stationed in Germany, stole the Quedlinburg “treasures,” a series of medieval art pieces hidden in a cave outside the town. The theft remained unsolved for 45 years.¹ Over that span of time, debate over cultural property increased, sparked by World War II looting.

Valuable pieces of art vanished from their homelands, causing a significant question to rise from the clamor: How can one determine whether art stolen in wartime is considered a “spoil of war” that may be kept by the claimant, or cultural property that should be repatriated? The Quedlinburg art affair illustrates the most common answer to this question. The conclusion of this tumultuous series of events, which spanned several decades, demonstrates that the Quedlinburg treasures are considered cultural property wrongfully taken during World War II. On a grander scale, in the *Spoil of War v. Cultural Property* debate, stolen art is more likely to be considered “cultural property” and returned to its nation of origin.

According to Anne Bromberg, research curator for the Dallas Museum of Art, Henry I was “the first German ruler to assemble church treasures at Quedlinburg.”² These treasures, originally belonging to Henry, included a jewel-encrusted ivory comb and a wood and ivory reliquary box depicting Christ and the Apostles in a gilt inlay.

¹ William Honan, “A Trove of Medieval Art Turns Up in Texas,” *The New York Times*, June 14, 1990, Late Edition (East Coast) edition, sec. A.

² Anne Bromberg, *The Quedlinburg Treasury* (Dallas: Dallas Museum of Art, 1991), 13.

Henry chose his favorite town, Quedlinburg, to house his treasures because its position on the eastern German frontier symbolized the Christian German victory over the pagans, establishing Henry's rule. Over the next couple of centuries, the treasury at the Quedlinburg Cathedral expanded to include several reliquary flasks and the highlights of the collection: *Evangelistar* and the *Samuhel Gospel*. The *Samuhel Gospel* is a manuscript written entirely in gold ink that dates back to mid-9th century. Its ornamental cover is embedded with semi-precious stones and



Fig. 2, *Evangelistar*, courtesy of Dallas Museum of Art

Byzantine ivory reliefs as depicted in Figure 1. *Evangelistar* is a 16th century Gospel and one of the first-ever printed books. Its

valuable wooden cover features a gilt inlay, which may be seen in Figure 2. The treasures, valued at over \$200 million,³ rested safely at Quedlinburg Cathedral for many years, until their abrupt removal by a rogue soldier in 1945.



Fig. 1, *Samuhel Gospel*, courtesy of Dallas Museum of Art

Joe Tom Meador's parents met at Ouachita Baptist University, where his mother, Maybelle, taught art and his father, Claude, had been a student. Maybelle and Claude married at First Baptist Church of Arkadelphia and gave birth to Joe shortly before moving to the small, north Texas town of Whitewright, where Claude established a hardware and farm equipment store.⁴ Joe attended North Texas State University, where he obtained a Bachelor of Arts degree in 1938. A first lieutenant in the 87th Armored

³ William Honan, "3 Are Indicted in Sale of German Art Stolen by a G.I.," *The New York Times*, January 5, 1996, Late Edition (East Coast) edition, sec. A.

⁴ Ray Granade, "Local Boy Makes Good?," *Clark County Historical Journal* 1 (2007): 47-48.

Field Artillery Battalion, Joe was part of the Normandy landings before being stationed in Quedlinburg.⁵

As World War II tore through Germany, people began removing their valuables, including art, from the cities and hiding them in more isolated areas. The people of Quedlinburg hid the treasures in a cave outside the town. Shortly after, U.S. Army units attached to the Fourth Cavalry Group occupied Quedlinburg. According to an unofficial history of the 87th Armored Field Artillery Battalion, an unidentified “intoxicated soldier” discovered the cave’s secret, and before long, the 87th Armored Field Artillery Battalion began guarding the cave and its contents.⁶ Though it remains unknown exactly how Joe Meador took the items, he managed to send them through military mail to his hometown of Whitewright. In a letter to his parents written in June of 1945, Joe asks “if my packages are getting home.”⁷ The Quedlinburg Cathedral noticed the disappearance and reported it to the U.S. forces. According to William Honan, a New York Times journalist who chronicled the recovery of the treasures, “The loss of the artworks was investigated by the United States Army, but the effort was dropped in 1949, when Quedlinburg became part of East Germany”.⁸

Joe returned from war and led a quiet life running his father’s hardware store in Whitewright. He cultivated orchids behind his house and was known for having a deep appreciation of beauty.⁹ For 35 years, he kept his secret. Following Joe’s death from

⁵ Honan, “A Trove of Medieval Art Turns Up in Texas”.

⁶ Ibid.

⁷ Bartee Haile, "Army Officer Helps Himself to Priceless Art Treasures," The Courier of Montgomery County, http://www.yourhoustonnews.com/courier/opinion/army-officer-helps-himself-to-priceless-art-treasures/article_6fb7fa99-1a02-52ec-91f9-7493157cd7a1.html?TNNoMobile

⁸ Honan, “A Trove of Medieval Art Turns Up in Texas”

⁹ David Grogan, "A Quiet Texan, Dead 10 Years, Is Suddenly the Prime Suspect in a WW II Theft of Priceless Medieval Art," People.com. <http://www.people.com/people/article/0,,20118111,00.html>

prostate cancer in 1980, his brother, Jack Meador, and sister, Jane Cook, as heirs to Joe's estate, began auctioning the manuscripts and relics. It is unknown whether or not Meador and Cook originally recognized they were committing a crime by selling the pilfered treasures, but they soon realized their lawlessness after speaking with a Dallas appraiser in 1983 who informed them that the collection was worth millions.¹⁰ They hired unscrupulous Houston attorney John Torigian to assist them in selling the *Samuhel Gospel*, risking arrest and possible imprisonment. Working with an expert in medieval manuscripts, Jacques Quentin, of Geneva, Switzerland, Torigian arranged for the *Gospel* to be sold to a Bavarian book dealer who would deposit money into a Swiss bank account before receiving the book in 1990.¹¹ The manuscript changed hands a couple of times more before making its way into the possession of London art dealer Sam Fogg. Other parties learned of this dealing, and finally, after so many decades, the treasures surfaced and were discovered by Willi Korte the same year. Korte, known as the "Sherlock Holmes of the art world," is a German attorney specializing in the recovery of missing artifacts, and played a vital role in tracing the Quedlinburg treasures to Whitewright. Korte is also responsible for contacting journalist William Honan and attorney Thomas Kline about the case.

In his article "Search for the Treasures," Korte thoroughly describes the events of the recovery. At the time, he was working for the National Archives in Washington, D.C. Initially, the Quedlinburg case was not part of his official assignment, as the Cold War left relations between the U.S. and East Germany hostile—and Quedlinburg sat

¹⁰ Haile, "Army Officer Helps Himself to Priceless Art Treasures."

¹¹ *United States of America v. Jack Manning Meador, Jane Meador Cook, John Stephen Torigian*, 97-40022, (5th Cir 1998) (Higginbotham)

unfortunately in the eastern, USSR-occupied zone. Korte researched U.S. Army records and spent countless hours in the National Archives studying anything he could find relating to the still-missing art, and eventually discovering the questionable dealing of the *Samuhel Gospel*. According to Korte, “In October 1988, [Fogg] offered the *Samuhel Gospels*, part of the long-lost Quedlinburg treasures, for \$9 million to the Foundation for Prussian Cultural Heritage (*Stiftung Preußischer Kulturbesitz*) in Berlin.”¹² In March of 1990, Korte received information from Roland Folter, a New York manuscript dealer, that *Evangelistar* was also being sold at auction. Korte was able to piece the story together and match prewar photographs of the stolen art to the newly-surfaced manuscripts. He traced them to the First National Bank of Whitewright, where they had been placed by Meador and Cook.

Kline requested a temporary restraining order from the Court to prevent the art from being moved and sold or harmed. They were kept in the vault of the First National Bank of Whitewright until Korte and Kline were able to oversee their removal. According to Kline in a private phone interview, “the Court granted [the order] so we would be able to make sense out of how the law would interact with these objects.”¹³ Eventually, the treasures were transported to the Dallas Museum of Art for safekeeping, where they were displayed to the public.

On June 18, 1990, *Stiftskirche-Domgemeinde* of Quedlinburg filed suit on Jack Meador and Jane Cook in the U.S. District Court, Northern District of Texas.

¹² Willi Korte, “Search for the Treasures” In *The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance, and Recovery of Cultural Property* (New York: H.N. Abrams in association with the Bard Graduate Center for Studies in the Decorative Arts, 1997), 150-152.

¹³ Thomas Kline, interview by author, phone interview, Arkadelphia, October 31, 2013.

Representing the Quedlinburg Cathedral, Kline claimed that Joe Meador took the treasures from the cave without the consent of the Cathedral or authority of United States military law or allied agreement. He claimed that the Cathedral was diligent in its endeavors to locate its property. Finally, Kline claimed that Meador and Cook “unlawfully exercised dominion and control over the Quedlinburg Treasures.”¹⁴ The legal battle waged for several years before the Meador family settled, agreeing to return the treasures to Germany.

A criminal suit was filed after the settlement, but was not as publicized as the civil case. This matter, which was decided in favor of the prosecution both originally and upon appeal, dealt primarily with tax evasion and the criminal acts of John Torigian. The ordeal was not finalized until April of 1998, signifying the close of the curtain in the Quedlinburg drama.

The Quedlinburg art affair illustrates a struggle in both the legal and art worlds: The Meador family attempted to retain possession of the treasures, presumably believing them to be spoils of war, while the Quedlinburg Cathedral claimed that the treasures were cultural property to be released back into their ownership. This begs the question: How can one determine whether art stole during wartime is considered a spoil of war or cultural property that may be returned to its home country? According to Kline, a key distinction is the item’s usefulness. He stated, “the invading army can seize booty and weapons, but they cannot seize cultural property... things not useful,” and so cultural property taken during wartime should be repatriated.

¹⁴ Ibid.

Therefore, one must ask: What precisely is cultural property and repatriation? According to *Merriam-Webster's Dictionary*, "repatriate" simply means "to restore or return to the country of origin, allegiance, or citizenship."¹⁵ Cultural property, on the other hand, is best defined in Chapter 1, Article I of the 1954 Hague Convention:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centers containing monuments'.¹⁶

Though held following World War II, the Hague Convention of 1954 established international rules regarding the protection of cultural property during wartime. It contains four chapters that specify what the Convention protects, duties of the signers to protect the art or buildings, and the means of distinguishing the property by marking them with a symbol established within the articles. The agreement was signed and ratified by over 125 parties on May 14, 1954.

This is an official document serving as a contract between many nations in order to protect their historic, artistic, and otherwise cultural property in times of military

¹⁵ Merriam-Webster. "Repatriate." Merriam-Webster. <http://www.merriam-webster.com/dictionary/repatriation?show=0&t=1386389660>.

¹⁶ *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954*

conflict. However, because there is no international government, compliance is voluntary. The Convention articles appear to be balanced and not biased toward a particular nation or people group. This document helps to establish the international guidelines that were in place shortly after the theft and during the time of the recovery.

Why should a country desire to protect its cultural property? According to George Stout, former director of the Isabella Stewart Gardner Museum in Boston, Massachusetts, "To safeguard these things will show respect for the beliefs and customs of all men and will bear witness that these things belong not only to a particular people but also to the heritage of mankind."¹⁷ In her thesis entitled "The Protection and Preservation of Cultural Property," Karol Lawson states that certain inducements exist for nations to protect cultural heritage, the first being the *monetary value* of the property. In addition to being collectors' items, cultural works of art generate revenue when put on display in museums. The key inducement, however, is *nationalism*. The art produced by a country, the architecture of its buildings, and the stories behind its monuments all display the character of a nation to the rest of the world.¹⁸ For the United States, this may include Norman Rockwell paintings, the Empire State Building, and the Lincoln Memorial. These are symbols of national pride that instill patriotism in U.S. citizens, while at the same time giving other nations a picture of American life. Correspondingly, the Quedlinburg treasures represent the rich history of Germany.

¹⁷ Jennifer Mollick, "The Fate of Cultural Property in Wartime: Why it Matters and What Should Be Done," Carnegie Council for Ethics in International Affairs, http://www.carnegiecouncil.org/publications/ethics_online/0085

¹⁸ Karol Lawson, "The Protection and Preservation of Cultural Property," Senior Honors Thesis, Sweet Briar College, 1981.

Though few scholarly articles have been written specifically linking the Quedlinburg art affair to the treatment of cultural property, many explore other aspects of the scandal. "Local Boy Makes Good? Joe Tom Meador, the Quedlinburg Hoard, and the Source of Virtue" is an article by Dr. Ray Granade published in the 2007 Clark County Historical Journal. It focuses on Meador's background, including his unlikely ties to Arkadelphia, Arkansas and Ouachita Baptist University. Granade discusses the "virtue" of American life—the way that Americans have typically assigned a virtuous quality to rural settings, Protestantism, and education—and implies that Arkadelphia assumes these qualities. He compares and contrasts Arkadelphia to Quedlinburg, and then begins a narrative of Joe Meador's life: how his parents—Claude and Maybelle—met through Ouachita and attended First Baptist Church; Joe's birth in Arkadelphia and early childhood in Whitewright, Texas; and his education at North Texas State University prior to joining the U.S. Army. The rest of the article deals with the theft, recovery, and lawsuit. This article is recent, and offers insight into the life of Joe Meador.¹⁹

A symposium sponsored by the Bard Graduate Center for Studies in the Decorative Arts produced several scholarly articles pertaining to World War II art thefts and repatriation. These articles were assembled into a book entitled *The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance, and Recovery of Cultural Property*. One article, by Ely Maurer, is about the State Department's position on national and private claims on stolen cultural property. He argues that the State Department was in favor of the restitution of stolen property for three basic principles:

¹⁹ Granade, "Local Boy Makes Good?"

morality, good foreign relations, and self-interest. He points out the Department's powers and inabilities, and then goes into detail about the different methods of compensating for cultural property thefts. He gives the Quedlinburg case as an example of violating Estate Tax Law, allowing the Internal Revenue Service to charge for the violation.

The article is focused more on restitution and does not deal directly with the repatriation of art. It may be a weakness that the author applies a dollar value to cultural property, going against the principle that cultural property has an intrinsic, irreplaceable value. The Quedlinburg issue is mentioned briefly by the author, but the theme of the article gives a broader background for the actions taken by the Cathedral after the treasures were discovered in Whitewright.²⁰

William Honan wrote a series of articles for the New York Times about the case. Honan's first article, "A Trove of Medieval Art Turns Up in Texas," depicts the discovery of the treasures at the First National Bank. Joe Meador's background is also briefly described. This article is only one of many articles written by Honan throughout the 1990s about the Quedlinburg art scandal. *Treasure Hunt* is a book—a "story behind the stories"—written by Honan chronicling his experience reporting on the case. It was published after the Quedlinburg matter was settled, and is designed to offer readers an inside look at the story which Honan may not have been able to disclose in his articles.

Thomas Kline is currently of counsel for Andrews Kurth LLP, a Texas-based law firm, and specializes in art and cultural property litigation and advice. He submitted an

²⁰ Ely Maurer, "The Role of The State Department Regarding National and Private Claims for The Restitution of Stolen Cultural Property." In *The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance, and Recovery of Cultural Property* (New York: H.N. Abrams in association with the Bard Graduate Center for Studies in the Decorative Arts, 1997), 142-144.

article entitled “Legal Issues Relating to the Recovery of the Quedlinburg Treasures” to a “spoils of war” symposium sponsored by the Bard Graduate Center for Studies in the Decorative Arts. He wrote it to provide a new (or rather, more developed) angle on the Quedlinburg matter.

His article carefully explains the legal issues that surrounded the recovery of the Quedlinburg treasures. Kline describes the initial steps taken to secure the objects upon their discovery, and briefly explains the reasons why the Quedlinburg Cathedral ended up litigating the issue. The body of the article narrates the legal proceedings and settlement. Kline compares the Quedlinburg issue to past art thefts, such as drawings stolen from the Bremen Kunsthalle at the end of World War II. Finally, he addresses the legal claims and defenses, including proof of theft, statutes of limitations, the defense of laches, and differing laws among the U.S. states.

In his article “Laws in Force at the Dawn of World War II: International Conventions and National Laws,” Author Lawrence Kaye sheds light on the purposes of the Hague conventions and other international agreements put in place to protect cultural property. He discusses the oversights of the Hague Convention of 1899, which only expressly protected buildings and monuments, but states that “the principles reflected by the [1954] Convention served as the basis for the repatriation of cultural property that occurred after the war.”²¹ Kaye also elucidates the implications of international law, saying that international laws are abided by voluntarily because there

²¹ Kaye, “Laws in Force at the Dawn of World War II,” In *The Spoils of War: World War II and Its Aftermath: The Loss, Reappearance, and Recovery of Cultural Property* (New York: H.N. Abrams in association with the Bard Graduate Center for Studies in the Decorative Arts, 1997), 104.

is no overarching world government.²² This was confirmed by Thomas Kline during a phone interview. Kline stated that “it’s well-established that cultural property should not be considered spoils of war,”²³ regardless of the fact that the U.S. Senate did not ratify the 1954 Hague Convention treaty until 2008.

Another issue in the cultural property realm is that of the statute of limitations. This problem is amplified when an international dispute occurs. According to Kline, “the statute of limitations does not give or take away title... It wipes out a claim.”²⁴ The Quedlinburg case is rooted in the theft of cultural property, and so the statute of limitations, while important, is overridden by the fact that the treasures are not considered spoils of war, but cultural treasures.

The Quedlinburg matter exemplifies the answer to the question of whether or not cultural property may be kept by the plunderer, but an earlier case titled *Menzel v. List*, filed in New York in 1966, supports the claim that cultural property stolen during wartime should be repatriated even when the current possessor of the property is not at fault. In March, 1941, Plaintiff Erna Menzel was forced to flee her Brussels apartment upon the Nazi invasion of Belgium, leaving behind a Marc Chagall painting. The painting was taken by the Nazis and disappeared for two decades. In 1962, after diligent searching, Menzel discovered that the painting was in the possession of renowned art collector Albert List. List had purchased the painting in good faith from Perls Galleries, a reputable art dealer. The verdict was found in favor of the Plaintiff, and after an appeal

²² Ibid.

²³ Kline, phone interview

²⁴ Ibid.

eventually driving the case to the New York Supreme Court, List was ordered to return the painting to Menzel.²⁵

One known exception to the precedents set by *Menzel v. List* and *Quedlinburg v. Meador* is the *Matter of Flamenbaum* filed in the New York Surrogate's Court in 2010. This case, according to Thomas Kline, "ends an unbroken string of court victories and settlements going back to recovery of the Quedlinburg Treasures in 1991."²⁶ In this matter, a gold tablet was reportedly stolen by Soviet troops from the Vorderasiatisches Museum Berlin during World War II and discovered among the estate of deceased New York resident Riven Flamenbaum following his death. The Museum reported the loss, but was not diligent in seeking the return of the object. For this reason, the Court ruled in favor of the estate, and the tablet was not repatriated.

As previously stated, *Flamenbaum* is the exception to the rule. Since *Menzel v. List* and through the Quedlinburg litigation, time has demonstrated that in the eyes of the law, non-useful items taken during periods of military conflict are deemed cultural property and must be repatriated. Though it took several decades to resolve, the Quedlinburg art scandal evidences that in cultural property matters, justice most frequently prevails, allowing the return of precious goods to their homelands. It demonstrates that the cultural heritage of a nation should be valued and secured, and that by preserving cultural property, we preserve history.

²⁵ John Stevenson, "Menzel v. List. 49 Misc. 2d 300." *The American Journal of International Law* 60, no. 4 (1966): 851.

²⁶ Thomas Kline, "Vorderasiatisches Museum Berlin Loses World War II Trophy Art Case in New York," *Kunst und Recht: Journal für Kunstrecht, Urheberrecht und Kulturpolitik* 2 (2010): 61.

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