

Bernard Carter & Sons
Attorneys and Counsellors [sic] at Law

Nov. 9, 1905

In the matter of proper disposal of pictures,
etc., of Mrs. Henry E. Johnston.

Miss Mary Speer,

Friendship Hill,

New Geneva,

Fayette Co., Pa.

My dear Miss Speer: --

I have your letter of the 6th inst. upon this subject, and believe that great consideration should be given by the Harriet Lane Home to the fact that Miss Kennedy and you, the two most intimate friend of Mrs. Johnston, believe that her real wishes would be carried out by allowing the pictures to become the property of the United States, and to form part of the possessions of the Smithsonian Institute [sic].

In your letter you say that if Mrs. Johnston had known of the provision for pictures at the Smithsonian you felt sure she would have specially mentioned that Institute in her Will, as the Institute to receive the pictures, if those in charge of the Corcoran Gallery did not receive her bequest. Have you any facts in your possession which cause you to believe that Mrs. Johnston did not know of the provisions made for pictures at the Smithsonian Institute? You say that she felt doubtful about the acceptance of the bequest by the Corcoran Gallery, but was indifferent to its acceptance, because she really preferred having them go to a National Gallery.

But the only provision in her Codicil upon this subject is, that if a National Gallery should be established by the United States, then the Corcoran Gallery must transfer the bequest to such National Gallery. This provision therefore assumes an acceptance of the pictures by the Corcoran Gallery in the first instance, as the preliminary to their going to a National Gallery; and she expressly declared that the pictures shall be sold if the Corcoran Gallery refuses to accept them; or, if for any reason, the bequest fails. Judging her intentions only from what appears on the face of the Will, it seems to me clear that she had in mind as the final depository of the pictures a National Gallery to be established after her death; and that, therefore, as the Smithsonian Institute, which so far as it can in any way be considered as a National Gallery established by the United States, was such at the time of the making of her Codicil of April 21, 1902 (which is the Codicil in which she



above mentioned provisions are made) it could not have been the Institute which she had in mind.

In referenace to your belief of her aversion to a sale of the pictures, it is to be remembered that she expressly provides for this sale if the Corcoran Gallery refuses to accept them.

In view of the foregoing, I do not feel, that I, as counsel for the Home, have the right to surrender its claim to these pictures. But, of course, as it is its duty to endeavor to have carried out, as far as it can ascertain them, the real intentions of Mrs. Johnston, and as Miss Kennedy and you are strongly persuaded that such intention would be carried out by allowing the Smithsonian Institute to become the possessor of the pictures, I think that a meeting of the Trustees of the Home should be called, the whole matter presented to them, and that they should instruct me as to the course I shall pursue in the matter in the pending case in Washington in the Supreme Court of the District of Columbia.

I have sent a copy of this letter to Miss Kennedy, who is the President of the Home, asking her to call a meeting at such time as will suit her convenience, not earlier than the 27th of November, because my engagements in Court will be before that date that I would not be able to attend the meeting of the trustees. I send also a copy of a letter received to-day from Miss Kennedy, which is in the line of your own letter.

Very truly yours,

Bernard Carter

