

DEPARTMENT OF JUSTICE,  
Washington.

January 16, 1905

Mrs. Elizabeth C. Hobson,  
1820 N. Street N. W.,  
Washington, D.C.

Dear Mrs. Hobson:

Permit me to acknowledge the receipt of your letter of Saturday, enclosing communication from Senator Wetmore to Mr. Loeb, relative to the bequest of pictures and historical articles belonging to the estate of Mrs. Harriet Lane Johnston. Permit me also, to say that I am decidedly of the opinion that Congressional action at this time is ill-advised, and may seriously prejudice our interests.

We have taken the position which indeed is the only position in my opinion that will save the bequest to us, now that the Corcoran Art Gallery has declined it, that the Smithsonian Institution already contained a "National Gallery of Art" within the meaning of the bequest in the will. In other words, that the bequest upon being declined by the Corcoran Art Gallery, immediately vested in the United States, because the Smithsonian Institution answers the description of the "National Gallery of Art" mention in the will. Should Congress now, by express legislation, constitute the Smithsonian Institution a "National Gallery of Art," it is obvious that the court would say that Congress at least though additional legislation necessary, which in my opinion would be fatal to our contention. Of course, if we had no "National Gallery of At" when the Corcoran Art Gallery declined the bequest, it lapsed, and it is a very serious question whether Congressional action could alter the status of the bequest.

I think the plan agreed upon with Mr. Johnson, the better one, namely, to have him petition the Supreme Court of the District of Columbia, for a construction of the bequest in the will, whereupon the Government will intervene and press the contention that the Smithsonian Institution contains a "National Gallery of Art" and fully answers the condition of the bequest.

As I wrote you before, Mr. Johnson very courteously offered to petition the court, and the moment such petition is filed, the pictures must await the determination of the court before they can be disposed of by the estate.

Very respectfully yours,

C. H. Robb,  
Assistant Attorney General.6

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