



Holocaust (Return of Cultural Objects) (Amendment) Bill HL Bill 168 of 2017–19

Summary

The [Holocaust \(Return of Cultural Objects\) \(Amendment\) Bill 2017–19](#) is a private member's bill, which was introduced in the House of Commons by Theresa Villiers (Conservative MP for Chipping Barnet). The bill would remove the sunset clause contained in the Holocaust (Return of Cultural Objects) Act 2009 which would have seen the Act cease to have effect from 11 November 2019. The Act confers powers on specified national museums and galleries to return certain cultural objects on grounds relating to events during the Nazi era. The Government supports the extension of the Act's provisions and wants the legislation to apply indefinitely.¹ It prepared the bill's explanatory notes with the consent of Theresa Villiers.

The bill was introduced in the House of Commons on 13 March 2018 and completed its Commons stages on 15 March 2019. No amendments were tabled to the bill during its passage. The bill was introduced in the House of Lords on 18 March 2019, sponsored by Lord Sherbourne of Didsbury (Conservative), and is scheduled for second reading on 9 May 2019.

Operation of the Bill and Background to the Legislation

Provisions of the Bill

The bill consists of two clauses. Clause 1 would remove the sunset clause from the Holocaust (Return of Cultural Objects) Act 2009, allowing its provisions to apply indefinitely. The sunset clause (set out in section 4(7) of the Act) stated that the Act would expire after the period of ten years from the day it received royal assent. As it stands, the Act would expire on 11 November 2019, having received royal assent on 12 November 2009.

Clause 2 would apply the provisions of the bill to England, Wales and Scotland, and would set the commencement date as the date on which the bill receives royal assent.

Holocaust (Return of Cultural Objects) Act 2009

The Holocaust (Return of Cultural Objects) Act 2009 was a private member's bill sponsored by Andrew Dismore (then Labour MP for Hendon).² The Act concerns the return of cultural objects lost during the Nazi era (1933–1945) and which are now in UK collections.³ The Act gives certain national bodies listed in the Act (principally museums and galleries) the power to transfer an object in their collection to a relevant person claiming it, subject to two conditions: that the Spoliation Advisory Panel recommends the transfer; and that the Secretary of State approves the recommendation.⁴

The Act's sunset clause was initially recommended in a government consultation on the subject, published in July 2006. The clause was based on concerns it may become harder to process claims as

time passes:

The time which has passed since the end of the Nazi era is already making it difficult for claimants to provide the relevant evidence to prove their claims. The more time elapses, the harder it will become to amass sufficient evidence to decide whether a particular claim is justified or not. If museums are given a permanent power to transfer items out of their collection when the item concerned was lost during the Nazi era, it may well be necessary to decide claims made several decades from today, when the available evidence has deteriorated still further, making it impossible for the claim to be substantiated. This problem could be met by providing that any power to transfer items out of a museum's collection should only be effective for a period of, for example, ten or twenty years, after it comes into force.⁵

Andrew Dismore took up the idea of a ten-year time limit in his bill. He described the sunset clause as providing, "on the one hand, sufficient time to facilitate claims and identify objects, and, on the other, some long-term certainty for the public collections concerned".⁶

Spoliation Advisory Panel

The Spoliation Advisory Panel considers claims under the 2009 Act. It was initially established by the Labour Government in 2000 to consider claims for the return of cultural objects lost during the Nazi era which were now in UK collections. As explained in the bill's explanatory notes, the panel:

Offers advice to museums and claimants on what might be an appropriate solution in accordance with the Washington Principles on Nazi-Confiscated Art, adopted in 1998 by 44 states, including all EU member states. These principles aim to encourage the resolution of issues relating to the return of cultural objects confiscated during the Nazi era. The panel may also advise on claims for items in private ownership but only where this follows a joint request by the claimant and the owner.⁷

However, prior to the 2009 Act, the panel was unable to recommend that items be removed from UK collections and returned to the person claiming it.

In July 2017, the Government announced that the panel had advised on 20 such claims since its inception, and that 23 cultural objects had either been returned to families or they had received compensation.⁸ The panel is meant as an alternative to legislation and its recommendations are not legally binding. However, if a claimant accepts the panel's recommendation and it is then implemented, the claimant is expected to consider this as full and final settlement of their claim.⁹

House of Commons Stages

Second Reading

Introducing the bill's second reading in the House of Commons, Theresa Villiers highlighted the important work done under the 2009 Act:

The Holocaust (Return of Cultural Objects) Act 2009 was passed with cross-party support after extensive scrutiny, and a legislative consent motion has been secured for my bill from the Scottish Parliament. Examples of art returned under the 2009 Act include the Beneventan Missal, which was looted during the bombing of southern Italy in 1943, a John Constable painting stolen when the German army invaded Budapest in 1944, and three Meissen figurines seized in 1937 after the

death of Jewish German art collector Emma Budge. This legislation is targeted and limited in scope to a specific period in history, a specific set of circumstances and specific type of object. It therefore has no bearing on wider debates about the potential return of museum objects to their countries of origin. It has worked well in practice, and the museum community has widely welcomed proposals to retain it on the statute book.

She stressed that, due to the volume of objects that had been confiscated during the war, there was still a need for its provisions:

The volume of objects looted during world war two sadly means that there is still uncertainty about the full provenance of some of the cultural treasures housed in our national museums. Extensive work has been done by those institutions to check the origins and history of everything in their collections, but the task can probably never be fully and finally completed.¹⁰

She concluded that the legislation offered respect to those who had suffered and lost through the Holocaust, and should therefore be retained:

Although, sadly, there is nothing we can do to make up for the pain of losing family members in the Holocaust, the return of a book or a cultural object could provide a unique connection to one of those 6 million souls whose lives were cut short by humanity's greatest crime. Two weeks ago, we paid many tributes to Holocaust survivors in a debate to mark Holocaust Memorial Day. The respect we accord to these incredibly brave people should include restoring precious works of art stolen from them and from their families.¹¹

Speaking for the Labour Party, Tom Watson, the Shadow Secretary of State for Digital, Culture, Media and Sport and deputy leader, discussed the importance of the 2009 Act and praised the work of the Spoliation Advisory Panel.¹² Welcoming the cross-party support for the bill, he also stated the legislation continued to be important:

The bill addresses a very important subject: the return of cultural objects looted by the Nazis. During the Nazi reign of terror, millions of precious cultural objects were stolen from the Jewish community. Some have been recovered, but many thousands remain missing. As the hon. Member for Erewash (Maggie Throup) so ably noted, around 100,000 objects stolen by the Nazis are still missing today. It is estimated that 20 percent of Europe's cultural treasures were lost during world war two.

Nothing can undo the horror of that period, but we should do everything we can now to reunite cultural objects that surface with their rightful owners. More than 70 years on from world war two, there are still families who have not been reunited with heirlooms that rightly belong to them. As many survivors of the Holocaust are passing away, it is vital that their descendants have confidence that this Parliament and this Government are committed to ensuring that they get back what is rightfully theirs, and I hope this debate will assure them that we are.¹³

Mims Davies, the Parliamentary Under Secretary of State for Sport and Civil Society, also spoke about the 2009 Act's importance, stressing that it sent a strong message about the commitment to the righting of past injustices. She said it was "right to continue on our mission of returning looted art, which is no less important now than it was then". The legislation was a "perfect" way to continue doing so.¹⁴ She also noted that claimants were unlikely to pursue legal claims through the court system, and therefore "referral to the Spoliation Advisory Panel is, in nearly all cases, the sole remaining route for pursuing the return of cultural objects lost in these circumstances".¹⁵

Remaining Stages

No amendments were tabled to the bill for committee stage or report stage and the bill progressed to third reading without division. Third reading was held on 15 March 2019, with MPs welcoming the bill's progress and stressing the importance of the legislation continuing. For example, Julian Knight (Conservative MP for Solihull) said:

This bill should not be seen as a rebuke to those who drafted and passed the original Act 10 years ago. The whole point of sunset clauses is that they make us revisit previous pieces of legislation, test their underlying assumptions, and decide in the light of new evidence and experience whether and how to update the law. That is good legislative practice.

In this instance, after a decade in operation it is clear that the work of the Holocaust (Return of Cultural Objects) Act 2009 is far from done. We do not know how many more items may yet prove traceable to legitimate owners once proper provenance work has been done, and it would be perverse to make it impossible for institutions to return such items in future in order to uphold what has proved to be an arbitrary deadline. The bill provides us with an opportunity once again to renew our covenant with the Jewish people and all the victims of the Holocaust, reflect on the crimes of national socialism, and reiterate our commitment to pursuing justice for its victims.¹⁶

Concluding the debate, Theresa Villiers thanked MPs and the Government for the support given to the bill. She also thanked the sponsor of the original legislation, the former Labour MP Andrew Dismore, for his advice and for his work on the subject.¹⁷

¹ [Explanatory Notes](#), p 2. See also: UK Government website, '[UK Government Renews Its Commitment to Return Nazi-looted Art to Rightful Owners](#)', 21 July 2017.

² UK Parliament website, '[Holocaust \(Return of Cultural Objects\) \(formerly known as Holocaust \(Stolen Art\) Restitution\) Act 2009](#)', accessed 19 March 2019.

³ [Explanatory Notes](#), p 1.

⁴ Holocaust (Return of Cultural Objects) Act 2009.

⁵ Department for Culture, Media and Sport, '[Restitution of Objects Spoliated in the Nazi-Era: A Consultation Document](#)', July 2006, p 46.

⁶ [HC Hansard, 26 June 2009, col 1045](#).

⁷ [Explanatory Notes](#), p 2.

⁸ UK Government website, '[UK Government Renews Its Commitment to Return Nazi-looted Art to Rightful Owners](#)', 21 July 2017.

⁹ UK Government website, '[Spoliation Advisory Panel](#)', accessed 19 March 2019. Further details on the membership and work of the panel can also be found on this website.

¹⁰ [HC Hansard, 8 February 2019, col 557](#).

¹¹ *ibid*, col 558.

¹² *ibid*, cols 565–7.

¹³ *ibid*, col 566.

¹⁴ *ibid*, cols 568–9.

¹⁵ *ibid*, col 570.

¹⁶ [HC Hansard, 15 March 2019, col 703](#).

¹⁷ *ibid*, 711.

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