



# ***Holocaust (Return of Cultural Objects) Bill: Committee Stage Report***

**Bill No 111**

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This is a report on the House of Commons Committee stage of the *Holocaust (Return of Cultural Objects) Bill* (formerly known as the *Holocaust (Stolen Art) Restitution Bill*).

The Bill, a Private Member's Bill sponsored by Andrew Dismore, gives the trustees of various public museums in Great Britain the power to transfer any cultural objects currently held in their collections which had been misappropriated by the Nazi regime between 1939 and 1945, so that they can be restored to the lawful owners or their heirs. Such a power is necessary where the object forms part of a national collection which is prevented by statute from "de-accessioning" any part of its collection. The power would only be exercisable where return was recommended by an advisory body established by the Secretary of State and where the Secretary of State accepted the recommendation.

At second reading the Government indicated that it was prepared to back the Bill, subject to drafting changes at Committee stage. These amendments, like the Bill as a whole, have met with all-party support.

Philip Ward

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## Summary

In the summer of 2008 there had been public expectation that clauses on the restitution of art looted during the Nazi period would be included in the *Heritage Protection Bill* which was anticipated in the 2008-09 parliamentary session. In the event the *Heritage Protection Bill* was not included in the Queen's Speech in November 2008.

The *Holocaust (Return of Cultural Objects) Bill*<sup>1</sup> is a Private Member's Bill introduced in the House of Commons by Andrew Dismore. It was presented on 26 January 2009 and received its Second Reading on 15 May 2009. Mr Dismore's Bill has emerged as a legislative means to achieve the purpose unfulfilled when the *Heritage Protection Bill* was lost.

At Second Reading both Conservative and Liberal Democrat spokesmen indicated that their parties would support the Bill, although both had reservations about the "sunset clause" which provides that the Act will cease to have effect ten years after it is passed. Replying for the Government, the Minister indicated that the Government proposed to support the Bill, subject to drafting changes in Committee.

The Bill as it emerged from a single (very brief and uncontentious) Committee session on 10 June 2009 is indeed substantially different from the version originally presented. However, in the words of the Bill's sponsor, "the policy and sense of it remain unchanged". It continued to receive all-party support. The redrafting was achieved by way of amendments tabled jointly by Mr Dismore and the Minister, Barbara Follett. No amendments were tabled by Opposition parties and there were no divisions. The principal changes introduced at Committee stage were:

- The extension of the Bill to apply to other named bodies, notably the national museums and galleries of Scotland. The Bill's territorial application, originally confined to England and Wales, is now extended to Scotland, with a new role for Scottish Ministers where appropriate.
- References to "de-accessioning" were replaced with "transfer". The bill's long and short titles were changed to replace the "restitution" of "stolen art" with the "return" of "cultural objects".
- The trigger for de-accession (or transfer) is now presented in the form of two conditions: first, the transfer must be recommended by the Advisory Panel; and secondly, the Secretary of State must approve the recommendation.
- Although new clause 2 is headed "Power to return victims' property", the Bill is no longer specific as to who may be entitled to receive a returned object. The transfer may be effected once the two conditions are met.
- The definition of "advisory panel" has been tightened.

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<sup>1</sup> Originally titled the *Holocaust (Stolen Art) Restitution Bill*

## 1 Introduction

The principle is widely accepted that, where an object in the collections of a national museum or gallery is proved to have been looted from its rightful owner in countries under Nazi occupation from 1933 to 1945, it should be restored to that owner or his descendants. However, a problem arises where the object forms part of a national collection which is prevented by statute or trusteeship from “de-accessioning” any part of the collection. Museums across the UK have undertaken detailed research of their collections to identify objects with uncertain provenance between 1933 and 1945. It is estimated that there are “about twenty certainly looted items” in UK museums.<sup>2</sup>

The *Holocaust (Stolen Art) Restitution Bill*, a Private Member’s Bill introduced into the Commons by Andrew Dismore in January 2009,<sup>3</sup> aims to change the law to make restitution possible in such cases. At second reading, on 15 May 2009, the Government indicated that it was prepared to back this Bill, subject to drafting changes at Committee stage.<sup>4</sup> The Bill enjoys cross-party support. Committee stage in the Commons was on 10 June 2009.<sup>5</sup> Wording and clause-numbering were changed somewhat as a result of redrafting but the Bill’s sponsor remained confident that “the spirit and sense of it remain unchanged”.<sup>6</sup>

The Bill would give the trustees of various public museums in Britain the power of de-accession of any artefacts or cultural objects currently held in their collections which had been stolen by or on behalf of the Nazi regime between 1933 and 1945, so that these artefacts could be returned to the lawful owners or their heirs. Such a power is necessary where the object forms part of a national collection which is prevented by statute or trusteeship from “de-accessioning” any part of its collection. The Bill provides that this power could only be exercised where the return is recommended by an advisory body established by the Secretary of State and where the Secretary of State accepts that body’s recommendation. The advisory body already exists in the form of the Spoliation Advisory Panel.

In Committee an amendment was proposed and accepted that the Bill’s short title be changed to the *Holocaust (Return of Cultural Objects) Bill*.

## 2 Historical background

### 2.1 International actions

The scale of forced transfer of cultural property under the Nazi regime was unprecedented. It has been estimated that between 1933 and 1945 some 650,000 works of art were stolen from their rightful owners.<sup>7</sup> While the majority of these were not of museum quality, a small number of the most collectable items may have found their way into national museums.

In January 1943, the “Inter Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control” was issued in London. It stated unequivocally the illegality both of seizures and of transfers in occupied territories. All the allies, including the United Kingdom, were signatories to this Declaration (although it was never embodied in English law):

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<sup>2</sup> This is the figure given by Andrew Dismore at HC Deb 15 May 2009 c1168. Mr Dismore did not cite his source.

<sup>3</sup> HC 26 January 2009 c22

<sup>4</sup> [HC Deb 15 May 2009 cc1165-73](#)

<sup>5</sup> [PBC 10 June 2009](#)

<sup>6</sup> [PBC 10 June 2009 c4](#)

<sup>7</sup> Culture, Media and Sport Committee, *Cultural property: return and illicit trade*, HC 371-I 1999-2000 para 169

[The Governments] hereby issue a formal warning to all concerned, but in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practised by the Governments with which they are at war against countries and people who have been so wantonly assaulted and despoiled.

Accordingly, the Governments (...) making this Declaration reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the Governments with which they are at war, or which belong to or have belonged to persons (including juridical persons) resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.<sup>8</sup>

For almost fifty years, the implications of such depredations were neglected. Little research was done and claimants were left to continue their search alone. However, with the end of the Cold War, new archival sources became available, and the subject of “spoliated” art moved up the political agenda. In June 1998, the National Museum Directors’ Conference (NMDC) in the UK established a working group to examine issues surrounding the spoliation of art during the Nazi era and to draw up a statement of Principles and Proposed Actions. The [statement](#) was agreed in November 1998. Its recommendations included a proposal that each national museum, gallery or library should draw up an action plan setting out their planned approach to research into the issue of provenance.

The NMDC statement was in turn presented to the Washington Conference on Holocaust-Era Assets organised by the US State Department in December 1998. The [“Washington Principles”](#) agreed on that occasion included a general commitment to identify confiscated art that had not been returned, to publicise the whereabouts of such art to assist claimants, to encourage pre-war owners and their heirs to come forward and make known their claims to art confiscated by the Nazis, to seek to reach “a just and fair solution” in the event of relevant owners or their heirs being identified and to develop national processes accordingly.

## 2.2 The Spoliation Advisory Panel

One principle agreed to at the Washington Conference was that national “alternative dispute resolution mechanisms for resolving ownership issues” should be established. Accordingly, in February 2000, the then arts minister, now Lord Howarth, announced the establishment of the [Spoliation Advisory Panel](#) (SAP) under the chairmanship of former judge Sir David Hirst. The Panel’s remit was

to consider and advise on claims from anyone who lost possession of a cultural object during the Nazi era where such an object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit.<sup>9</sup>

The Panel’s membership and terms of reference were announced in April of that year. The final paragraph of the terms of reference states:

14. When advising the Secretary of State under paragraph 4(a) and/or (b), the Panel shall be free to recommend any action which they consider appropriate, and in particular may, under paragraph 4(a), direct the attention of the Secretary of State to the need for legislation to alter the powers and duties of any institution.

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<sup>8</sup> Quoted in: *Report of the Spoliation Advisory Panel in respect of a painting held by the Ashmolean Museum in Oxford*, HC 890 2005-06, p18

<sup>9</sup> HC Deb 17 February 2000 c628W

To date, the Panel has dealt with eight cases, upholding six claims and rejecting two. A list of the Panel's reports is given at Appendix 2.<sup>10</sup>

### 2.3 Culture Select Committee recommendations

In July 2000, the Culture, Media and Sport Committee considered the looting of art by the Nazis as part of its inquiry into *Cultural property: return and illicit trade*.<sup>11</sup> Their report noted that:

there are significant legal barriers to restitution by national bodies, most of which are established under statute. Trustees are only permitted to dispose of objects in very narrowly defined circumstances, none of which would permit return in the likely circumstances of a case considered by the Spoliation Advisory Panel.<sup>12</sup>

The Committee heard evidence from the British Museum that it would “not be unhappy” to see legislation passed that would enable it to return a looted item in its collection to the rightful owner.<sup>13</sup> The Committee therefore recommended that Ministers begin cross-party consultation on introducing suitable legislation.<sup>14</sup>

Returning to the issue of restitution in December 2003, the Culture, Media and Sport Committee alleged “dilatoriness” on the part of Ministers in fulfilling their commitment to reform. In the words of the Committee report,

the DCMS should not wait for a valid spoliation claim to be made (that cannot be satisfied by compensation) to start to seek a change in the law. The lead-in time is simply too long.<sup>15</sup>

In its reply, the Government commented that the SAP:

has an express power, when advising the Secretary of State in specified circumstances, to direct her attention to the need for legislation to alter the powers and duties of any institution. To date, the Panel has not exercised that power. (...) In the present circumstances, the Government has decided that it would be disproportionate to seek to legislate.<sup>16</sup>

In its third report, published in March 2005, the Panel considered the so-called “Beneventan Missal”. This is a twelfth-century manuscript now deemed to have been looted from the Cathedral City of Benevento between 1943 and 1944 which was acquired by the British Museum in good faith in 1947. It was then transferred with the British Museum Library's collections to the British Library on its foundation in 1973. The Panel recommended that legislation should be introduced to permit restitution of objects such as this falling within its terms of reference.<sup>17</sup> In the meantime, the British Library should return the missal to Benevento as soon as possible on loan.

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<sup>10</sup> It may be of interest to note that the Restitution Committee in the Netherlands, a body set up in 2002 on lines similar to the SAP, has to date received 106 applications for restitution and filed reports on 76 of these to Dutch ministers.

<sup>11</sup> [Seventh Report, HC 371-I 1999-2000](#)

<sup>12</sup> [HC 371-I 1999-2000](#) para 190

<sup>13</sup> [HC 371-II 1999-2000](#) Q639

<sup>14</sup> [HC 371-I 1999-2000](#) para 194

<sup>15</sup> Culture, Media and Sport Committee, [Cultural objects: developments since 2000](#), First Report, HC 59 2003-04, para 61

<sup>16</sup> Cm 6149, February 2004, para 27

<sup>17</sup> [HC 406 2004-05](#) para 77

At present, an *ex gratia* payment to the claimants (funded by Government) is the only form of restitution available where the object claimed is in a national museum. The fifth report of the SAP, published in April 2006, recommended such a payment (£175,000) for four old master drawings held in the British Museum. The claimants had originally sought restitution, and the British Museum had publicly affirmed its wish to retribute, but after four years and an unsuccessful High Court case brought by the British Museum seeking the power to retribute, the claimants renounced their claim and asked for an *ex gratia* payment, which was awarded. The Museum had argued in court that it was under a moral obligation to make restitution, notwithstanding the express terms of the statute restricting its powers of disposal. However, the Court ruled that no moral obligation could justify a disposition by the trustees forming part of the collections of the Museum.<sup>18</sup> Once again, the judgement pointed to a need to amend the law if objects were to be de-accessioned from a national museum.

## 2.4 Proposals for change

In July 2006, the Government launched a public consultation on how to resolve the issue.<sup>19</sup> The consultation sought comments on whether the current statutory and other legal restrictions which prevent national museums from de-accessioning works of art in their collections should be lifted to allow restitution of items which were lost during the Nazi era. It invited views on how far a power to make restitution of objects lost during this time should extend, who should be responsible for taking decisions on restitution and what continuing role the Spoliation Advisory Panel should have. A [summary of responses](#) is available online. Key findings included the following;

- A majority of respondents agreed that powers should be given to museums to dispose of items in order to meet valid claims. Of those, most took the view that such a power should be time-limited, with suggestions for the appropriate period ranging from 6 to 25 years. Two respondents suggested that the relevant period should run from the date of publication of the fact that an item had doubtful provenance.
- Most respondents took the view that the Spoliation Advisory Panel was effective in its current advisory role and should not be made into a statutory body; however, the Commission for Looted Art in Europe thought that it should. The general view was that the Panel's advice should not be binding and that the considerable moral pressure to act in accordance with that advice would ensure that museums and claimants acted in accordance with its recommendations.
- Most museums felt that the decision as to whether or not an item should be de-accessioned should ultimately be left to the discretion of the trustees. Strong opposition was expressed to the suggestion that the Secretary of State might be given the power to direct an institution to de-accession an item from its collection.

In a report of June 2007, the Culture, Media and Sport Committee endorsed the findings of the predecessor Committees and, while welcoming the public consultation, expressed regret that "DCMS has taken so long to reach what can only be a preliminary stage in dealing with a problem which has been apparent for a number of years."<sup>20</sup>

In a letter to Lord Janner, dated 18 December 2007, the then arts minister, Margaret Hodge, wrote:

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<sup>18</sup> *HM Attorney-General v Trustees of the British Museum* [2005] EWHC 1089(Ch)

<sup>19</sup> Dept for Culture, Media and Sport (DCMS), [Restitution of objects spoliated in the Nazi-era: a consultation document](#), July 2006

<sup>20</sup> Culture, Media and Sport Committee, [Caring for our collections](#), HC 176-I 2006-07, para 134

The Government is strongly persuaded by the moral argument for changing the law in this area and that seems to have been the overriding view from the consultation responses. I... have asked officials to look into options.<sup>21</sup>

The inconsistency arising from current legislation was highlighted in the Panel's eighth report of June 2008,<sup>22</sup> which concerned a claim presented by the same claimant for two pieces of porcelain, one in the British Museum and the other in the Fitzwilliam Museum, Cambridge. The Panel found in favour of the claimant and recommended that the item in the Fitzwilliam, which is able to de-accession, was returned to her and that she receive an *ex gratia* payment for the item in the British Museum, which is restricted from de-accessioning.

By the summer of 2008, there was public expectation that clauses on restitution of looted art would be included in the *Heritage Protection Bill* which was anticipated in the 2008-09 parliamentary session<sup>23</sup> (although they had not appeared in the draft Bill<sup>24</sup> published in April 2008). In the event, the *Heritage Protection Bill* was not included in the Queen's Speech in November 2008.

### 3 Statutory restrictions

The DCMS consultation paper referred to above has a section summarising the current statutory restrictions on the disposal of objects in museum collections.<sup>25</sup> In most cases, the power of disposal given to the trustees is very limited. The British Museum provides an example of such limitations. Under the *British Museum Act 1963* (section 5):

(1) The Trustees of the British Museum may sell, exchange, give away or otherwise dispose of any object vested in them and comprised in their collection if -

(a) the object is duplicate of another object, or

(b) the object appears to the Trustees to have been made not earlier than the year 1850, and substantially consists of printed matter of which a copy made by photography or a process akin to photography is held by the Trustees, or

(c) in the opinion of the Trustees the object is unfit to be retained in the collections of the Museum and can be disposed of without detriment to the interests of students:

Provided that where an object has become vested in the Trustees by virtue of a gift or bequest the powers conferred by this subsection shall not be exercisable as respects that object in a manner inconsistent with any condition attached to the gift or bequest.

(2) The Trustees may destroy or otherwise dispose of any object vested in them and comprised in their collections if satisfied that it has become useless for the purposes of the Museum by reason of damage, physical deterioration, or infestation by destructive organisms.

An exemption to these restrictions already exists. Section 47 of the *Human Tissue Act 2004* gives nine specified museums (including the British Museum) the discretionary right to de-accession human remains in their collections if it is believed that these remains were less than one thousand years old at the time the Act came into force and if it appears to the museum to be appropriate to do so for any reason.

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<sup>21</sup> Quoted at HC Deb 15 May 2009 c1167

<sup>22</sup> HC 602 2007-08

<sup>23</sup> Confirmed by the Minister at HC Deb 15 May 2009 c1171

<sup>24</sup> *Draft Heritage Protection Bill*, Cm 7349, April 2008

<sup>25</sup> Dept for Culture, Media and Sport, *Restitution of objects spoliated in the Nazi-era: a consultation document*, July 2006, pp10-17

## 4 The Bill as introduced

Having come fourteenth in the ballot, Andrew Dismore introduced a Private Member's Bill, the *Holocaust (Stolen Art) Restitution Bill*,<sup>26</sup> in January 2009. It was a short Bill, three clauses in all. In the form in which it was introduced by its sponsor, the Bill broke down as follows:

**Clause 1** gave the boards of trustees of the national museums named in the Bill a *power* to de-accession a cultural object in their collection where they received advice from an advisory body established for that purpose that the object was looted during the Nazi era and return it to its rightful owner or that person's heirs. The power was only to be exercised where the Secretary of State accepted the advisory body's recommendation. The Bill did not create a legal *obligation* on the museum to de-accession such an object or to return it: museum trustees would continue to take the final decision on whether to return an object.

The "advisory body" referred to this clause already exists, in the form of the Spoliation Advisory Panel (see above).

The clause defined "cultural object" to mean an object of "historical, architectural, cultural, archaeological or scientific interest". The power did not affect or override any trust or condition subject to which the object is held.

**Clause 2** was the list of eleven bodies to which the Bill would apply. They are all publicly funded museums, galleries and libraries established by statute and governed by boards of trustees whose powers are set out in legislation. In all cases, the legislation prohibits the trustees from disposing of items in their collections except in very limited circumstances specified in the legislation.

**Clause 3** was a "sunset clause" providing that the Act would cease to have effect ten years after it is passed. Such a limitation was canvassed by the Department for Culture, Media and Sport (DCMS) as a possibility in the 2006 consultation:

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.<sup>27</sup>

As stated above, a majority of respondents felt that the power should be time-limited. Suggestions for the appropriate period ranged from 6 to 25 years.<sup>28</sup>

## 5 Second reading debate

The Bill was given second reading in May 2009.<sup>29</sup> Both Hugh Robertson (for the Conservatives) and Paul Rowen (for the Liberal Democrats) indicated that their parties would support the Bill. Mr Robertson, commenting that he had witnessed the effects of looting while serving in the army in Sarajevo, said:

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<sup>26</sup> HC Deb 26 January 2009 c22

<sup>27</sup> DCMS, *Restitution of objects spoliated in the Nazi-era: a consultation document*, July 2006, para 3.60

<sup>28</sup> DCMS, *Summary of responses*, June 2007

<sup>29</sup> HC Deb 15 May 2009 cc1165-73

Plunder and looting are as old a part of war as war itself, and it is right that we should do everything in our power to prevent it and, if we cannot, to restore objects to their rightful place when possible.<sup>30</sup>

He affirmed his belief that the Spoliation Advisory Panel should remain an advisory body only, lest the Bill undermine the “arm’s length principle on which national museums and galleries are governed” and suggested that there might be some “small tax implications” to be gone into at a later date.<sup>31</sup>

Mr Rowen said:

Given the extreme circumstances of the holocaust and the subsequent events, (...) it is right and proper that we should establish a system to deal with what the hon. Gentleman described as a loophole in the spoliation procedure.<sup>32</sup>

However, both Members expressed reservations about the “sunset clause”, both favouring instead a “rolling period” to commence with the publication of a specific item on a statutory list of objects of doubtful provenance. In her reply the Minister, Barbara Follett, confirmed that the Government proposed to support the Bill, “subject to drafting changes in Committee”.<sup>33</sup>

## 6 The Bill in redrafted form

Prior to Committee stage a series of [amendments](#) were tabled jointly in the names of Mr Dismore and Mrs Follett.<sup>34</sup> The result is that the text of the Bill, once it received Government backing, looks somewhat different from that originally presented to the House. As Mr Dismore said in Committee:

It will be apparent to Committee members that the amendments and new clauses constitute a major redrafting of the Bill, but the policy and sense of it remain unchanged. The amendments are parliamentary counsel’s redrafting of my original text. Parliamentary counsel’s text is in plain English and may be more precise than my own—though perhaps not as elegantly drafted. Legislation needs to be precise in order to work.<sup>35</sup>

Since the amendments proposed by the sponsor and the Minister were all agreed in Committee, it will be convenient here to summarise the Bill in its later, redrafted shape:

**Clause 1** is now a list of bodies to which the Act applies. This has been extended since the original draft. The Minister explained in Committee that the Government now had confirmation from the Scottish Executive that it wished Scotland to be included in the Bill. Accordingly, the National Galleries of Scotland, the National Museums of Scotland and the National Museums of Scotland are now included.<sup>36</sup> Also added are the National Museums and Galleries on Merseyside, whose position was unclear at the time of second reading, the Natural History Museum and the Royal Botanic Gardens, Kew.

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<sup>30</sup> [HC Deb 15 May 2009 c1169](#)

<sup>31</sup> c1170

<sup>32</sup> c1170

<sup>33</sup> c1173. The Minister did not – or did not have time to – address concerns about the “sunset clause”, but see below her comments in Committee, PBC 10 June 2009 c11

<sup>34</sup> As of 3 June 2009

<sup>35</sup> [PBC 10 June 2009 c4](#)

<sup>36</sup> [PBC 10 June 2004 c7](#)

**Clause 2** is a rewording of what was previously clause 1, so that the trigger for de-accession is now presented in the form of two conditions: first, the transfer must be recommended by the Advisory Panel; and secondly, the Secretary of State must approve the recommendation (with the consent of the Scottish Ministers in appropriate cases). Note that the technical term “de-accession” has been replaced by the more familiar term “transfer”. It remains the case that the power to “transfer” does not affect any trust or condition subject to which the object is held. By use of the word “may”, the power to de-accession is recognised as a voluntary one. As the Minister said in Committee:

[M]useum trustees will continue to take decisions on whether or not to return an object. That is in keeping with the arm’s-length principle that recognises that trustees are responsible for the items in their care. It is not for the Government to tell them what to do with them.<sup>37</sup>

Although new clause 2 is headed “Power to return victims’ property”, the amended bill is no longer specific as to who may be entitled to receive a returned object. The original wording had specified that the power of de-accessioning could only be used to return an object to the original owner or that person’s heirs. Presumably, the reason for this change is that it is already within the remit of the Advisory Panel to make clear who is entitled to claim and receive restitution, and the new power can only be exercised on the recommendation of the Panel.

**Clause 3** is a new clause defining the term “advisory panel”. The Spoliation Advisory Panel is not mentioned by name, but the clause specifies that a panel qualified to give advice under the Act and so designated by the Secretary of State must meet certain criteria, one of them being that it considers claims relating to the “Nazi era” (a historical period defined in clause 3(3)).

**Clause 4** confirms the Bill’s territorial extent (England, Wales and Scotland) and preserves the “sunset clause” by which the Bill expires ten years after it is passed. There is also a change to the short title – the resultant Act will be known as *the Holocaust (Return of Cultural Objects) Act* – and a corresponding change to the long title to remove the specific attribute that objects must be deemed “stolen” in order to come within the Act.

The new power will operate in the same way as the section of the *Human Tissue Act 2004* referred to above – that is, the Bill introduces an additional power that will override the statutory restrictions on de-accessioning in relation to items lost during the Nazi era. It has not, therefore, been necessary to amend the individual statutes or to include them in the Bill.<sup>38</sup>

## 7 Committee stage

Committee proceedings were unusually brief, lasting only 39 minutes in total, and no points of contention arose. At second reading, Hugh Robertson had raised possible tax implications and speculated on what those might be.<sup>39</sup> In Committee Mr Dismore responded to this by saying:

There are not many tax implications, but the Treasury is looking at whether the tax rules need to be changed. If so, that will be done through the Finance Bill or tax rules changes rather than amendments to this Bill, which would be inappropriate.<sup>40</sup>

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<sup>37</sup> [PBC 10 June 2009 c4](#)

<sup>38</sup> This point was confirmed to me by a DCMS official, 19 June 2009

<sup>39</sup> [HC Deb 15 May 2009 c1170](#)

<sup>40</sup> [PBC 10 June 2009 c4](#)

Edward Vaizey asked why the definition of “cultural object” included in the original clause 2 had been dropped. Lembit Opik saw a potential there for legal dispute if bodies were unwilling to give up artefacts on the grounds that the objects were “not covered by the Bill”. The Minister, Barbara Follett, replied that a definition was unnecessary since there was already a definition in the legislation governing museums.<sup>41</sup> Mr Dismore reported that the British Library had wanted the Bill to make specific provision for the Benevento Missal – the subject of the Panel’s third report – but this was not practical as it would have required the Bill to have retrospective application.<sup>42</sup>

Moving the amendment to change the Bill’s short and long titles, Mr Dismore explained that the aim now was to make the Bill’s scope as wide as possible while continuing to restrict it to objects “spoliated” during the Nazi era. The redrafted titles allow for the return and transfer of items in varying circumstances:

Whatever the wording, it has to have a much broader meaning than being stolen or looted. Objects for sale but under-valued, for example, would be included by the new long title, and indeed the short title.<sup>43</sup>

The Minister informed the Committee that a legislative consent motion is being prepared for introduction to the Scottish Parliament. The Northern Ireland Assembly Government has confirmed that the power is not needed for national museums in Northern Ireland.<sup>44</sup> She also addressed the suggestions made by Conservative and Liberal Democrat spokesmen at second reading on the “sunset clause”. They had proposed a rolling period linked to the date of inclusion of an object on a published statutory list. She responded:

The Government’s view is that the proposal, though well intentioned, is not workable in the circumstances because it would involve additional costs for museums in publishing information and would be difficult to administer. Unless museums were under a duty to publish, it would not work, and if we were to impose such a duty, we would need an enforcement mechanism for non-compliance. That would remove some of the simplicity and straightforwardness of the Bill.<sup>45</sup>

## 8 Reaction to the Bill

The *Art Newspaper* reported in April:

The government’s major concern about Mr Dismore’s Private Member’s Bill is that amendments may be put to extend its scope. In particular, it will inevitably be seized upon by parliamentarians who are campaigning for the return of the Parthenon Marbles to Athens. Similar moves might be made by those calling for the return of the Benin Bronzes to Nigeria, the Rosetta Stone to Egypt or the Lewis Chessmen to Scotland. The DCMS is therefore expected to press for a clear wording that would preclude deaccessioning being extended beyond the 1933-45 period.<sup>46</sup>

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<sup>41</sup> [PBC 10 June 2009 cc5-6](#)

<sup>42</sup> [PBC 10 June 2009 c6](#)

<sup>43</sup> [PBC 10 June 2009 c9](#)

<sup>44</sup> [PBC 10 June 2009 c10](#)

<sup>45</sup> [PBC 10 June 2009 c11](#)

<sup>46</sup> “UK parliament closer to passing bill allowing museums to deaccession Nazi-looted art”, *The Art Newspaper*, 23 April 2009

In fact, Mr Dismore has another Private Member's Bill currently before the House, the *British Museum Act 1963 (Amendment) Bill*;<sup>47</sup> this has proved to be the legislative focus for moves to return the Parthenon Marbles to Greece.

Welcoming the latest developments, Lord Janner, chairman of the Holocaust Educational Trust, said:

"This bill is vitally important and long overdue. Survivors and their descendants should have the right to decide whether artwork looted from their families is returned. I am delighted that our government supports this legislation in principle."<sup>48</sup>

Anne Webber, co-chair of the [Commission for Looted Art in Europe](#), commented:

"The government committed to do this nine years ago and it has taken this long to reach this point. It is a great step forward, especially with everyone working together to make it happen. People have waited a long time for justice. The Bill's passage is very timely with a major international conference on Holocaust restitution in Prague starting on the day the Bill receives its third reading."

Jon Benjamin, chief executive of the Board of Deputies of British Jews, who has been advising on the Bill with Ms Webber, is reported in the same source as saying:

"The warm plaudits for Andrew Dismore are well deserved. This is a significant piece of legislation that, as well as its practical effects for victims of the Holocaust and their heirs, signals that some wrongs can still be righted even after so many years."<sup>49</sup>

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<sup>47</sup> Second reading debates on 15 May (adjourned) and 12 June 2009 (resumed)

<sup>48</sup> "Bid to let UK museums return Nazi-looted art", *Jewish News Online*, 2 April 2009

<sup>49</sup> "New looted art law effective "in autumn"", *Jewish Chronicle*, 12 June 2009

## Appendix 1 – Members of the Public Bill Committee

*Chairman:* Frank Cook

Bercow, John (*Buckingham*) (Con)

† Buck, Ms Karen (*Regent's Park and Kensington, North*) (Lab)

Creagh, Mary (*Wakefield*) (Lab)

† Dismore, Mr. Andrew (*Hendon*) (Lab)

† Ellman, Mrs. Louise (*Liverpool, Riverside*) (Lab/Co-op)

† Follett, Barbara (*Parliamentary Under-Secretary of State for Culture, Media and Sport*)

Foster, Mr. Don (*Bath*) (LD)

† Hamilton, Mr. Fabian (*Leeds, North-East*) (Lab)

McDonagh, Siobhain (*Mitcham and Morden*) (Lab)

† Mann, John (*Bassetlaw*) (Lab)

† Öpik, Lembit (*Montgomeryshire*) (LD)

† Pritchard, Mark (*The Wrekin*) (Con)

† Scott, Mr. Lee (*Ilford, North*) (Con)

Sharma, Mr. Virendra (*Ealing, Southall*) (Lab)

† Vaizey, Mr. Edward (*Wantage*) (Con)

† Whittingdale, Mr. John (*Maldon and East Chelmsford*) (Con)

Chris Shaw, *Committee Clerk*

† attended the Committee

## Appendix 2 – Reports of the Spoliation Advisory Panel

*Report of the Spoliation Advisory Panel in respect of a painting now in the possession of the Tate Gallery*, HC 111 2000-2001, 18 January 2001 [First Report]

*Report of the Spoliation Advisory Panel in respect of a painting now in the possession of Glasgow City Council*, HC 10 2004-5, 24 November 2004 [Second Report]

*Report of the Spoliation Advisory Panel in respect of a 12th century manuscript now in the possession of the British Library*, HC 406 2005-06, 23 March 2005 [Third Report]

*Report of the Spoliation Advisory Panel in respect of a painting held by the Ashmolean Museum in Oxford*, HC 890 2005-06, 1 March 2006 [Fourth Report]

*Report of the Spoliation Advisory Panel in respect of four drawings now in the possession of the British Museum*, HC 1052 2005-06, 27 April 2006 [Fifth Report]

*Report of the Spoliation Advisory Panel in respect of three drawings now in the possession of the Courtauld Institute of Art*, HC 200 2006-07, 24 January 2007 [Sixth Report]

*Report of the Spoliation Advisory Panel in respect of three Rubens paintings now in the possession of the Courtauld Institute of Art, London*, HC 63 2007-08, 28 November 2007 [Seventh Report]

*Report of the Spoliation Advisory Panel in respect of pieces of porcelain now in the possession of the British Museum, London, and the Fitzwilliam Museum, Cambridge*, HC 602 2007-08, 11 June 2008 [Eighth Report]