

Prime Minister cc/ga

§ 3-8 summarize

today's developments →
the latest letter from
the Baron is at Flag B.

Ref. A088/1431

PRIME MINISTER

N.L.U.

9.5

The Thyssen Collection

You asked me to put together with officials from Departments concerned a proposal to the Thyssen Trustees for the permanent location of the Thyssen Collection in this country. A meeting has been arranged under your chairmanship on Wednesday 11 May to consider this.

Should the British Government submit a proposal to the Trustees?

2. In the last few days, we have received two conflicting letters signed by Baron Thyssen. These have been circulated to Ministers. In the light of these contradictory indications, the Secretary of State for the Environment and I called on Mr Coleridge, an Executive Trustee and Baron Thyssen's personal legal adviser, today.

3. Mr Coleridge explained that the pictures were vested in a Trust under Bermudan law to protect them from Swiss inheritance tax. The 'A' pictures were irrevocably made over to the Trust, but there is a right of reversion for some of the 'B' and 'C' pictures. In making any decision, Mr Coleridge made clear that the Trustees (5 lawyers plus three 'protectors' to look after the interests of the wife and children) had the right of decision but would want to take full account of the views of the Baron. The beneficiaries of the Trust (the wife and children) would also have to agree to any long term solution.

Mr Coleridge said that the Trustees had discretionary powers but would want to proceed by agreement with the Baron and the other interests concerned and had so far succeeded in doing so.

FERB.
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briefing
as well as
Nancy morning

Flags A
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4. On the agreement signed by the Baron with the Spanish Government, Mr Coleridge said that he would not want to diminish the importance of this. It was not a document on which a lawyer would probably advise anyone to sue, but in reality the extent to which it could be unravalled was an important factor. But the difficulty which had been encountered in reaching the present stage with the Spanish might well cause the Trustees to think that a long term solution would not be found with the Spanish.

5. Mr Coleridge said that there would be a meeting of the Thyssen Foundation (which advises on the care of the pictures and would have an important influence on the Trust) in early June. There would be a meeting of the Trust in early July. If the British Government submitted a proposal, the Trust would be likely then to take a decision in principle and, if this decision was in favour of the British proposal, they would be likely then to try to unravel the agreement reached with the Spanish Government, since the Trustees were likely to recognise that they could not proceed with two parties at once.

6. Despite the difficulties and contradictions so far, Mr Coleridge said that he personally hoped that the British Government would put in a proposal and thought that it would have a chance of success. The Baron and his family (including his present wife) were all Anglophile, and the Baron had said in the past that a British location would be a reasonable compromise. Mr Coleridge also said that the Trustees would want to treat a proposal from us in confidence.

7. The first decision for Ministers, therefore, is whether they wish, against this background, to submit a proposal. If they do so, it must be assumed that it will become known at some stage, not least because those supporting the Spanish Government's bid may wish to make it known. There are clearly obstacles in the way of a British offer being accepted, but at



the same time much goodwill towards Britain and, if an offer from the British Government made a favourable impression on the Foundation and the Trustees, there is a fair chance that the Baron would be persuaded by them. However, disentangling from the Spanish would clearly be a messy business, and the Trustees might feel obliged to go ahead with loaning the pictures to the Spanish for a time, in accordance with the agreement, while a gallery was being created in Britain; and difficulties about obtaining possession could arise at a later stage.

The Proposals for an Agreement

8. The attached draft proposal and its two Annexes provide for the A and B pictures, and such other pictures as may be mutually agreed, to be made over to a new UK Foundation. In compensation for the rights which they would surrender in the pictures, the British Government would pay up to £120 million to the Trustees. The proposal also provides that the British Government should ensure the provision of a gallery, which we estimate would cost £38 million excluding site costs, and that we would provide a recurrent grant of up to £4 million for running costs and maintenance.

9. Ministers should recognise that a consequence of this is that the sum of £120 million is unrelated to the value of particular pictures or to the value of any rights which the beneficiaries of the Trust are surrendering. This is the approach recommended by Mr Coleridge. It would be defended on the basis that the sum is clearly exceeded by the value of the pictures being made over to the new Foundation.

10. The proposal provides for 5 Trustees to be appointed by Thyssen interests in addition to the Baron for as long as he wished to be Chairman, and 7 by the British Government. These proposals might well be unacceptable to the Baron who might wish the Thyssen interest to retain control, at least for as long as



he is alive. Mr Coleridge told us that other Governments' proposals have allowed for this. If Ministers wished to concede this point, the terms of operation of the Foundation would need to be more strictly defined at the outset; but the agreement might then provide for 5 Trustees to be appointed by each side, with the Baron having the casting vote during his Chairmanship, and that when he withdrew the Chairman and an additional Trustees should be subsequently appointed by the British Government to give us a majority of 2.

11. The proposals envisage that there would be negotiation leading to an agreement on these lines. If such an agreement can be reached with the Thyssen Trustees the first step thereafter should be to set up the body in which the pictures will be vested. The body could then appoint a director and supervise the provision of a building within the cost limit imposed by the Government, including any private finance raised towards it. A short Bill will be needed to set up the body and provide for its financing.

Sites

12. Annex B to the draft agreement offers two sites, reflecting the preliminary discussion with Baron Thyssen - Canary Wharf, and Centenary Square, Birmingham. The developer of Canary Wharf would make the site available free of charge and has indicated that he might be prepared to contribute to the cost of the gallery. Birmingham City Council is also prepared to donate a site.

13. Ministers will want to consider to what extent they want to exert an influence on the choice of sites. Giving the Baron a free hand may increase the chance that our offer will be acceptable and gives the Government some protection against complaints from locations not chosen. On the other hand, the location of the exhibition could, for example, contribute to the



Government's inner city policies and help to rebut criticisms from the Arts world and others that the scheme was just another example of favouring the South East.

Finance

14. It is obviously desirable that as much private finance should be attracted as possible. However, once the Government has committed itself to the acquisition of the collection and the site has been chosen, it will be difficult to attract further private finance. The approach taken in the proposal, therefore, is to set a limit on the British Government's contribution of £120 million for the pictures, and £4 million a year (which would no doubt need to be subsequently increased for inflation) for the contribution to running costs of the gallery. If private finance could be obtained to finance part of this, these sums could be reduced; or, of course, private finance could supplement them. The construction costs of the gallery are estimated at £38 million and this again could be put as the upper limit of the Government's contribution, though this figure could be reduced (if, for example, those interested in developing Canary Wharf or the Birmingham site can be persuaded to make a contribution to the construction costs as well as providing the site).

15. The timing of the payment to the Trust will need further consideration and will form part of the negotiations with the Trust. Given the possibility that the Spanish or Swiss Governments might seek to obstruct the passing of the pictures into our possession, either payment should not be made until the pictures arrive here or we will need some other form of protection against non-delivery. In any event, it looks unlikely that the £120 million would fall to be paid this financial year.

16. Ministers also need to consider provision in the public expenditure plans. The Minister for the Arts has indicated that he could only support the proposal if these funds are provided as an addition to existing provision for the Arts.

Legislation

17. The Treasury advise that legislation is needed to authorise the transaction and to cover the continuing costs of the exhibition. There would also be advantage in defining by legislation the constitution, powers and accountability of the new body. A short Bill may therefore need to be introduced next Session if agreement is reached with the Trustees.

Timetable and Handling

18. Baron Thyssen is hoping to receive a proposal from the British Government in the next two weeks.

19.

TEMPORARILY RETAINED G. Gony 28/9/2016

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OF THE PUBLIC RECORDS ACT

20. When the proposal is delivered it is most likely to be effective if it is delivered personally to Baron Thyssen by the Prime Minister. Mr Hanks-Drielsma has suggested that Baron

Thyssen would probably be willing to accept an invitation to come to London for this purpose. An alternative would be to send the proposal under a personal letter from the Prime Minister.

Presentation

21. Although the acquisition of the collection would be a coup, the commitment of up to £200 million for this purpose is bound to be criticised both by the rest of the arts world who have been pressing for funds to maintain adequately their existing collections but also by other pressure groups (eg those who have suffered from the recent changes in social security). The Director of the National Gallery, Mr Neil MacGregor, has already written, contrasting the Government's readiness to make these funds available, with its alleged neglect of existing public collections.

*Extract
from his
letter
at Flag C*

22. So far discussions with Baron Thyssen have attracted hardly any notice but, once a formal proposal is submitted, it is virtually certain that news of it will leak, if only because those who oppose it will want to alert the Spanish Government and perhaps campaign more widely. At that point, it will be necessary for the Government to confirm that discussions are taking place with Baron Thyssen and the Trustees and emphasise the uniqueness of the opportunity of acquiring this collection. Beyond that, it may be best to say as little as possible about the details during the negotiations. Those responsible for the sites under consideration would also need to be persuaded to withhold comment.

TEMPORARILY RETAINED J. Young 28/7/2016

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23.

TEMPORARILY RETAINED S. Gray 28/7/2016

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Summary

24. Ministers are invited:

- a. To decide whether to submit a proposal to the Thyssen Trustees for the acquisition of the pictures for a new Foundation in this country (paragraphs 2-7)
- b. To consider the outline of the proposals to be put to the Trustees in the attachment, particularly whether the form of the financial offer is satisfactory (paragraphs 8-9) and the control of the new Foundation (paragraph 10)
- c. To consider whether they wish to express a preference to the Baron between the two sites in our proposal (paragraph 13).
- d. To consider whether the costs should be additional to existing provision for the arts (paragraph 16).
- e. To note that, if agreement is reached with the Trustees, a short Bill will be needed in the 1988-89 Session (paragraph 17).
- f. To consider the points of timing, handling and presentation (paragraphs 18-22).

g.

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25. I am copying this minute to the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Secretary of State for the Environment, the Attorney General and the Minister for the Arts.

R.B.

ROBIN BUTLER

9 May 1988

THE THYSSEN COLLECTION

Her Majesty's Government is interested in negotiating arrangements under which the Thyssen Collection could be given a permanent home in the United Kingdom. This note sets out the Government's view on the form that such arrangements should take.

2. HMG understands that the Collection, which is owned by the Thyssen-Bornemisza Art Collections Trust, at present comprises 1365 pictures, as follows:

	A	B+	B-	C	Totals
Old Masters	127	218	127	56	528
Modern Masters	100	278	316	143	837
	<hr/>				
	227	496	443	199	1365

3. The main features of the arrangements would be:

a. All the 227 'A' pictures, at present on loan to the Thyssen Foundation in Lugano, should be made over in perpetuity to a new Foundation, to be set up as soon as possible in the UK for the specific purpose of owning, caring for and exhibiting the Collection to the public. Further proposals for the constitution and powers of the new Trust are at Annex A.

b. The best of the 'B' pictures (about 500) would also be made over to the new Foundation, together with such other pictures from the Collection as may be mutually agreed.

c. HMG would be prepared to ask Parliament to grant up to a maximum of £120m which it would pay to the Trustees in compensation for the rights surrendered in (a) and (b).

d. Subject to any necessary Parliamentary approval, HMG would ensure the provision of a Gallery on a site to be agreed with Baron Thyssen, constructed and fitted out in such a way that the Collection can be cared for and exhibited at a high standard and be accessible to the public. Further proposals for the site, reflecting preliminary discussions with Baron Thyssen, are at Annex B. HMG would expect the construction cost of such a Gallery to be around £38m, excluding site costs.

e. The Gallery should be named "The Thyssen Gallery". In addition to the storage and exhibition of the pictures, it should make provision for conservation, and have other facilities, eg for education and scholarship, appropriate to a major public gallery.

f. HMG would seek Parliamentary approval to make a contribution of up to £4m towards the maintenance and running costs of the Gallery; the Foundation would be responsible for raising any additional sums that were necessary for these purposes, eg by charging for admission.

4. The next step should be the holding of negotiations between HMG and the Thyssen interests in order to arrive at a detailed and binding agreement. While these negotiations are in progress, no other negotiations would take place between the Thyssen interests and any other Government or interested party over the future of the Collection; and no new loans of pictures from the Collection would be made without full consultation with HMG.

5. It is proposed that the agreement to be negotiated should take a form in which:

- i. the first step would be to set up the new Foundation, appoint its Trustees and enable it to employ a Director and such other staff as are needed to carry out preliminary work;
- ii. decisions would then be taken about which 'B' and (if any) 'C' pictures would be acquired by the Foundation;
- iii. appropriate arrangements would be made for the vesting of the pictures in the Foundation and for their physical delivery to the Trustees in the UK; and for the timing of payments by HMG under paragraph 3(c) above;
- iv. prior to the taking of decisions on acquisition by the Foundation, facilities for inspecting and verifying the authenticity, condition, title and deliverability of the pictures concerned would be extended to experts nominated by HMG for this purpose;
- v. the Trustees would be responsible for obtaining the necessary planning consents, drawing up the brief for the new building and ensuring its construction within cost limits laid down by HMG.

THE THYSSEN FOUNDATION IN THE UNITED KINGDOM

1. The Collection and the Gallery would be vested in an independent body of Trustees set up by legislation or otherwise under English law.
2. Baron Thyssen would be the first Chairman for as long as he wishes to serve, with the right to nominate his own successor subject to the consent of HMG. Thereafter the Trustees would elect their own Chairman, again subject to the consent of HMG.
3. In addition to the Chairman, there should be 12 Trustees, 5 appointed by the Thyssen interests and 7 by HMG. All Trustees (with the exception of Baron Thyssen as first Chairman) to serve for a period of 5 years, capable of renewal. An appropriate definition of the Thyssen interests would be needed for incorporation in the founding legislation or other instrument.
4. The Trustees should be equipped with the necessary powers to
 - (a) appoint and employ a Director and staff;
 - (b) care for, preserve and add to the objects in their Collection;
 - (c) exhibit the objects to the public and provide access to them for the purposes of study and research;
 - (d) generally promote enjoyment and understanding of the fine arts.

(e) carry out all the managerial and administrative functions required for the fulfilment of the above objects.

5. Since the "A" and the best "B" pictures are to be transferred under a condition of perpetuity, the Trustees would not have powers to dispose of them. They would however be empowered to dispose of other items in the Collection, subject to the approval of HMG. The proceeds of any such disposal may be applied by the Trustees to the purposes of the Gallery as they see fit.

6. The Trustees would obtain the consent of HMG before disposing of any land or buildings.

7. The Trustees may loan items from the Collection for exhibition elsewhere in the UK or abroad, subject to suitable arrangements for ensuring that an appropriate proportion of the "A" pictures is always on exhibition in the UK.

8. The Trustees would appoint a Director of the Gallery with the consent of HMG. They may also appoint other employees.

9. Within the limits of their annual income, the Trustees would be free to pay to their employees such remuneration and allowances and to appoint them on such other terms and conditions as the Trustees may determine. The salary of the Director would be subject to approval by HMG.

10. There would be an appropriate requirement for the minimum number of days in the year on which the Gallery would be open to the public.

11. The Trustees would appoint their own professionally qualified auditors. The Comptroller and Auditor General would have access to their books and records.



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T Woolley Esq
Cabinet Office
Whitehall
London SW1 OAA

6 May 1988

Dear Trevor,

THYSSEN COLLECTION

At Sir Robin Butler's meeting yesterday, I was asked to prepare, in consultation with TSol, a section on legislation for inclusion in Sir Robin's draft minute to the Prime Minister. This I now attach: it has been agreed with Mrs Dayer, and Mr Anson has approved it.

2. I was also asked to check whether the Duchy of Cornwall had the powers to contribute to the cost of acquiring the Collection. Our view, which again has been agreed with TSol, is that the Duchy does not have the powers to give money for the general benefit of the nation in this way. Under the Duchy of Cornwall Management Act 1863, sales and dispositions of Duchy property and revenue have to be made under powers conferred by statute; and we can identify no powers which would be relevant for this purpose. Duchy funds could only be used for the acquisition of pictures if the Duchy acquired title to them. That requirement would not be adequately met by, for example, giving the Duchy the right to nominate trustees of the body which owned the pictures. We have therefore concluded that there is no point in pursuing the idea of a Duchy contribution, and will be so advising the Chancellor.

3. I am copying this letter to Nigel Wicks, Richard Wilding, and Penny Dayer, and to John Anson here.

Yours sincerely

T J Burr

T J Burr

ccbf.

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Legislation

Under the 1932 Concordat between the Treasury and the Public Accounts Committee, it was agreed that express Parliamentary authority would normally be sought in main legislation for any continuing services financed from voted monies. This would clearly apply to the continuing expenditure on the recurrent costs of the Gallery. But the purchase of the pictures would effectively commit the Government to continuing expenditure on accommodating them and, as a matter of propriety, expenditure on their acquisition could hardly be excluded from the requirement for explicit statutory authority.

There are also wider reasons for establishing the Trust on a statutory basis. Although such a body could be established without legislation by the creation of a private charitable trust, the size and the nature of the investment of public money in the body makes it more appropriate for its establishment and constitution to be provided for by Parliament. Legislation would also provide the most effective means for accountability to Parliament for the use of that public money, and for safeguards and control on the exercise of the body's powers. Parliament would retain direct control over the extent of the powers and the constitution of the body and control any subsequent proposals for variation.

Given the likely need for early progress, legislation in the next Session of Parliament would be needed before substantial payments need to be made.