

by the State. The design of the Constitution is that preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere, which itself is promised freedom to pursue that mission. . . .

Our decisions in *Engel v. Vitale* [370 U.S. 421 (1962) [forbidding a State Regent's prayer in public school] and *School Dist. of Abington v. Schempp*, 374 U.S. 203 (1963) [forbidding mandated reading from the Bible or recitation of the Lord's Prayer or both] recognize, among other things, that prayer exercises in public schools carry a particular risk of indirect coercion. The concern may not be limited to the context of schools, but it is most pronounced there . . . What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy. . . . The undeniable fact is that the school district's supervision and control of a high school graduation ceremony places public pressure, as well as peer pressure, on attending students to stand as a group, or, at least, maintain respectful silence during the invocation and benediction. This pressure, though subtle and indirect, can be as real as any overt compulsion. . . .

We do not address whether that choice is acceptable if the affected citizens are mature adults, but we think the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position. Research in psychology supports the common assumption that adolescents are often susceptible to pressure from their peers towards conformity, and that the influence is strongest in matters of social convention. . . . And to say a teenage student has a real choice not to attend her high school graduation is formalistic in the extreme. True, Deborah could elect not to attend commencement without renouncing her diploma; but we shall not allow the case to turn on this point. Everyone knows that in our society and in our culture high school graduation is one of life's most significant occasions. . . . The Constitution forbids the State to exact religious conformity from a student as the price of attending her own high school graduation. This is the calculus the Constitution commands. . . .

The sole question presented is whether a religious exercise may be conducted at a graduation ceremony in circumstances where, as we have found,

young graduates who object are induced to conform. No holding by this Court suggests that a school can persuade or compel a student to participate in a religious exercise. That is being done here, and it is forbidden by the Establishment Clause of the First Amendment.

For the reasons we have stated, the judgment of the Court of Appeals is Affirmed.

SANTA FE INDEPENDENT SCHOOL DISTRICT V. DOE, 530 U.S. 290 (2000)

[Prior to 1995, this Texas public school district directed the High School student council chaplain to deliver a prayer over the public address system before each home football game. This and other practices were challenged by students and parents who believed the practices violated the Establishment Clause. Lengthy proceedings before the local United States District Court approved a policy that allowed the School District officials to approve a plan by which the student body voted on whether to engage in some form of invocation before football games. A subsequent vote would then select one student to serve as the invoker for all games during the season, subject to School District and Court approved conditions. One Court condition was that the invocation be nonsectarian and nonproselytizing. The Court of Appeals struck down what the Supreme Court called “the football prayer policy.” The Supreme Court granted review on the question: “Whether [the School District’s] policy permitting student-led, student-initiated prayer at football games violates the Establishment Clause [?]”

JUSTICE STEVENS delivered the opinion of the Court.

In *Lee v. Weisman* . . . we held that a prayer delivered by a rabbi at a middle school graduation ceremony violated that Clause. Although this case involves student prayer at a different type of school function, our analysis is properly guided by the principles that we endorsed in *Lee*. . . . These invocations are authorized by a government policy and take place on government property at government-sponsored school-related events. Of course, not every message delivered under such circumstances is the government’s own. We have held, for example, that an individual’s contribution to a government-created forum was not government speech. See *Rosenberger v. Rector*, 515 U.S. 819 (1995). Although the District relies heavily on *Rosenberger* and similar cases involving such forums, it is clear that the pregame ceremony is not the type of forum discussed in those cases . . . [T]he school allows only one student, the same student for the entire season, to give the invocation. The statement or invocation, moreover, is subject to particular regulations that confine the contents and topic of the student’s message. . . . Contrary to the District’s repeated assertions that it has adopted a “hands-off” approach to the pregame invocation, the realities of the situation plainly reveal that its policy involves both perceived and actual endorsement of religion.

Thus, the expressed purposes of the policy encourage the selection of a religious message, and that is precisely how the students understand the policy. The results of the elections described in the parties' stipulation make it clear that the students understood that the central question before them was whether prayer should be a part of the pregame ceremony. . . . The actual or perceived endorsement of the message, moreover, is established by factors beyond just the text of the policy. Once the student speaker is selected and the message composed, the invocation is then delivered to a large audience assembled as part of a regularly scheduled, school-sponsored function conducted on school property. The message is broadcast over the school's public address system, which remains subject to the control of school officials. . . . In this context the members of the listening audience must perceive the pregame message as a public expression of the views of the majority of the student body delivered with the approval of the school administration. . . . Regardless of the listener's support for, or objection to, the message, an objective Santa Fe High School student will unquestionably perceive the inevitable pregame prayer as stamped with her school's seal of approval. . . .

Most striking to us is the evolution of the current policy from the long-sanctioned office of "student Chaplain" to the candidly titled "Prayer at Football Games" regulation. This history indicates that the District intended to preserve the practice of prayer before football games. . . .

The District next argues that its football policy is distinguishable from the graduation prayer in *Lee* because it does not coerce students to participate in religious observances. Its argument has two parts: first, that there is no impermissible government coercion because the pregame messages are the product of student choices; and second, that there is really no coercion at all because attendance at an extra-curricular event, unlike a graduation ceremony, is voluntary. . . .

The election mechanism, when considered in light of the history in which the policy in question evolved, reflects a device the District put in place that determines whether religious messages will be delivered at home football games. The mechanism encourages divisiveness along religious lines in a public school setting, a result at odds with the Establishment Clause. . . .

The District further argues that attendance at the commencement ceremonies at issue in *Lee* "differs dramatically" from attendance at high school football games, which it contends "are of no more than passing interest

to many students” and are “decidedly extracurricular,” thus dissipating any coercion There are some students, however, such as cheerleaders, members of the band, and, of course, the team members themselves, for whom seasonal commitments mandate their attendance, sometimes for class credit To assert that high school students do not feel immense social pressure, or have a truly genuine desire, to be involved in the extracurricular event that is American high school football is “formalistic in the extreme.” . . . Even if we regard every high school student’s decision to attend a home football game as purely voluntary, we are nevertheless persuaded that the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship

Thus, nothing in the Constitution as interpreted by this Court prohibits any public school student from voluntarily praying at any time before, during, or after the school day. But the religious liberty protected by the Constitution is abridged when the State affirmatively sponsors the particular religious practice of prayer

The policy is invalid on its face because it establishes an improper majoritarian election on religion, and unquestionably has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events.

The judgment of the Court of Appeals is, accordingly, affirmed.

UNIVERSITY OF KATAHDIN REGULATIONS

Chapter 26 – Use of University Buildings and Facilities

- 26.1 The primary use of University buildings, facilities, and grounds is for the teaching, research, and service missions of the University. These uses take precedence over any other uses.
- 26.4 Members of the University community (faculty, staff, and students) and members of the general public may make use of University buildings, facilities, and grounds in ways that do not conflict with section 26.1. University policy is to open facilities, with University approval, to individuals and groups for any purposes that are consistent with state and federal law and UK Trustees' policies. The University makes clear that in pursuing this policy of open access, it does not endorse the individuals or groups using the facilities or the causes that they represent or advocate.
- 26.5 Use by members of the University community (faculty, staff, and students). All requests for use shall be presented to the UK Department of Buildings and Grounds which shall set conditions for use. No charge shall be made for use of buildings or other facilities that would normally be open at the time requested. The University may require reimbursement of the cost of services or other expenses. Groups are classified as members of the University community when more than half of the expected participants at a function are students, faculty, or staff of the UK.
- 26.6 Use by Members of the General Public. All requests shall be presented to the UK Department of Buildings and Grounds which shall set conditions for use. The University may impose a charge for any such use in the University's discretion. Among factors that may be considered are the closeness of the activity to core University missions, the availability of other facilities for the activity, and the ability to pay of the sponsoring organization.

You have digested the file. Before you begin to write your opinion letter, here are some things to consider.

The litigation chapters will introduce you, or reintroduce you, to basic litigation writing. These writings are often precisely prescribed by statute or court rule. You have little opportunity to “try something new.” For example, a civil action starts with a written complaint filed in court. You are not free to take a newspaper ad or announce your complaint on television and assume you have begun a legal action. Likewise, an appellate court may require briefs to have a certain format with limits on length (it is called a brief for a reason). Deviation can invite court sanctions, or, at least, displeasure.

Transactional legal writing allows greater freedom. Typically, there is no mandated format for the kinds of letters and memoranda that you will write. The checklist that follows is worth considering point by point as you do your initial transactional writing. Shortly, its wisdom should become instinctive. Note that in the points listed below, there are both technical and strategic elements.

- 1.** What is the objective(s) of the writing? If you don't have an answer to that question, it may be important NOT to write. This is particularly true of the message written in anger. I suspect we all have written such messages in a business or social context. The writing itself may be a useful purging of angry feelings. The sending, however, is another matter. Follow the old rule. When mad, count to ten. When very angry, sleep on it.
- 2.** Even if anger isn't involved, be sure that your written message has strategic value. Would a phone call or a personal visit be more appropriate? They are less likely to leave a paper trail. They are also less likely to suggest a matter of importance than a letter would. Think strategically. What do you want to accomplish?
- 3.** What legal authority mandates or guides your writing? In many cases, you have no choice but to write. A statute or regulation may require a “written response” to assert your rights. A personal conversation or phone message may be a useful preliminary. But, you need the writing in the end. The legal authority also may be quite specific about what is to be included in the writing. Where you have such guidance, you are well advised to follow it item by item. For example, statutes and regulations explain how an injured citizen may file a claim against a unit of government for damages caused by the government's employee(s). If the claims statute asks for “name of claimant, date and place of incident, government employees involved,

and damages to the claimant,” follow that list in writing your claim. The omission of an item could be fatal to your success.

- 4.** Has your office developed a standard form for the writing? The partner or senior associate assigning you the problem should be keen enough to advise you: “We do dozens of these letters each year. Check the files under “Debt Collection.” In case you aren’t provided that advice up front, ask when you receive the assignment: “Do we have a form or form letter for this?” One virtue of a standardized writing is that it may already have satisfied both legal (e.g., a state appellate court opinion may have approved your debt collection letter as consistent with statutory protections against debtor harassment) and marketplace review (e.g., the letter has a good history of encouraging debtor payment without resort to lawsuit). Deviation from the form not only costs money, but it damages your strategic approach to the matter.
- 5.** Obviously, there will be reasons for deviation from standard writings. Most obviously, names, places, and dates need to be changed from the last use of the writing. More importantly, substantive matters that should have been in the earlier writing may not be satisfactory in this case. You need to proofread the final product with care and with emphasis on the strategic objectives of this proceeding.
- 6.** If there is no standard format, you want to start by identifying all the strategic objectives of your writing. Let’s continue the example of the debt collection letter mentioned above. Assume that your client (the creditor-business) has already tried several times to collect the debt. The debtor is unresponsive. The client has turned the matter over to your law firm. Your letter may want to accomplish all of the following: (a) encourage the prompt settlement of the claim in full; (b) encourage a response and eventual opportunity for settlement from debtors who cannot afford to pay the full amount immediately; (c) avoid any risk of litigation or unfavorable publicity for being too debtor harassing and (d) generally portray your client, the creditor, in a sympathetic manner.
- 7.** Who is the primary audience for your writing? Is this intended for another lawyer or a court? Is the recipient not a law-trained individual? Is the recipient a sophisticated professional or a person who may never have dealt with a lawyer or the law before? You will need to draft different writings to convey the same message to different recipients.

- 8.** Who are your potential secondary audiences? Some writings are clearly only for the recipient. If necessary, the attorney-client privilege may control undesired uses of the writing. Other writings are likely to have a wider circulation than you may have intended. You and your client may not want a letter to be read by anyone other than the recipient. Your internal memorandum may have been intended just for insiders. However, the recipient or a whistleblower may be happy to give greater exposure to the writing. This may become the smoking gun in civil or criminal litigation or before a legislative or administrative hearing. This may be the crux of a story on the evening news or the morning paper. The old rule of thumb is valuable: “Always assume this could end up on the front page of tomorrow’s paper.” In some cases, that may caution against putting ANYTHING in writing. In other cases, it may caution against intemperate language that adds little to the substance of your legal argument. For example, the same facts and law may support either the client’s statement: “The mayor’s response to our request has been half-assed” or “The mayor’s response to our request has been ill-considered.” If you were a newsperson considering a story, which is more likely to attract your attention? If you were the mayor, which would make you better disposed to the client the next time she seeks your help?
- 9.** What do you want from the recipient of the writing? Is this purely passing on information for its own sake? Or are there certain actions that you desire or do not desire? Have you been clear about the response desired? Or is your strategic goal(s) aided by some ambiguity on the part of the recipient? “What do they mean by take all possible legal action? Are they thinking of contacting the prosecuting attorney?”
- 10.** Who has the final authority to issue the writing? As a young attorney, you will often be preparing writings for someone else’s signature (senior partner, client, etc.). If that is so, best to err on the side of caution in using slang or overly expressive language. Does the senior partner use language like “take no prisoners” or “screw you to the wall”? In the best of worlds, the signatory author will read your draft with microscopic care and change undesired phrasings. In the second best world, proofing by the signatory to the writing may be perfunctory or nonexistent.

With these thoughts in mind, start to shape your response to the president’s request. And, to answer Point 1, yes, she does want a response in writing.

CHAPTER TWO

How to Draft a Complaint

Your first litigation assignment is to draft a Complaint to recover a sculpture that has been “missing” for sixty years. The cause of action is the ancient writ of replevin. You are an Assistant U.S. Attorney in Portland, Maine, and your client is the United States of America and its agency, the U.S. Department of Labor. Your assignment arrives in the form of the following memo from the Chief of the Civil Division.

MEMORANDUM

To: Assistant U.S. Attorney, Civil Division
Fr: Bill Browder, Civil Chief
Re: *United States v. Melody Richardson*

I recently received a phone call from the U.S. Department of Labor that we need to stop the sale of a sculpture that is about to be auctioned in Portland. The sculpture is “Boothbay Falcon” by William Summers. Its estimated value is \$50,000.

The Chief of the Labor Department’s Fine Arts Program, Alicia Diebenkorn, says that the sculpture belongs to the federal government and that the seller is not the rightful owner. It’s your job to recover the sculpture on behalf of the federal government. I want you to draft a Complaint right away.

Alicia discovered the sculpture when she saw it listed in an auction catalog. The catalog represents that the sculpture includes a label that refers to the “Labor Department Art Project.” According to Alicia, that label means the sculpture was originally commissioned by the federal government back in the Franklin Roosevelt administration. Alicia did some research at the National Archives in Washington and found documents from the 1930s that indicate that this particular sculpture was indeed commissioned by the federal government as part of something called the “Labor Department Art Project.” Attached is Alicia’s declaration¹ together with all of the documents we have.

¹ If you wonder why the attached declarations are not notarized, consider 28 U.S.C. § 1746, which allows for the use of unsworn declarations under penalty of perjury, as follows:

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form. . . .

... If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)”

After reviewing the documents, I called the gallery and explained the problem. The gallery gave me the phone number for Melody Richardson, the woman who claims to own the sculpture. Attached is my declaration confirming what was said in those phone conversations.

In terms of the applicable law, the federal government has a stronger claim to property than would a private person in the same situation. Generally speaking, the federal government retains title to property virtually forever, unless there is a legislatively authorized transfer of title. The U.S. Constitution (Article 4, Section 3, Clause 2) provides Congress with the exclusive authority to acquire and dispose of federal property. *See also, Allegheny County v. United States*, 322 U.S. 174 (1944). “It is well settled that title to property of the United States cannot be divested by negligence, delay, laches, mistake, or unauthorized actions by subordinate officials.” *United States v. Steinmetz*, 763 F. Supp. 1293, 1298 (D.N.J. 1991), *aff’d*. 973 F.2d 212 (3d Cir. 1992). Furthermore, inactivity, neglect, or unauthorized intentional conduct on the part of government officials will not divest the United States of ownership interest in property. *Kern Copters, Inc. v. Allied Helicopter Serv., Inc.*, 277 F.2d 308 (9th Cir. 1960); *United States v. City of Columbus*, 180 F. Supp. 775 (S.D. Ohio 1959). In general, the federal government cannot abandon property. *Steinmetz*, 763 F. Supp. at 1298.

I want you to draft a Complaint to recover the sculpture on behalf of the federal government. The cause of action is replevin. Here are the elements I would like you to include:

1. Use the same caption that appears in the attached Browder and Diebenkorn declarations.
2. Off to the right of the caption, a couple of lines under the Civil Number, put the phrase “**JURY DEMANDED.**”
3. Center the following heading: “**COMPLAINT.**”
4. Under that heading, begin with a sentence like this: “**NOW COMES** the United States of America, by undersigned counsel, and hereby asserts the following as its Complaint.”²
5. The next heading should be: “**INTRODUCTION.**”

² I realize the phrase “NOW COMES” is rather archaic, but it accomplishes the goal of immediately identifying the party filing the document. As long as you accomplish that goal, I don’t mind if you use another formulation. For example: “The United States, by undersigned counsel, asserts the following as its Complaint.”

6. Under that heading, summarize the Complaint in three to four sentences. The introduction should quickly summarize what this case is about and emphasize the strength of the government's position.
7. Do not number the introductory paragraph. However, after that paragraph, every sentence should be separately numbered sequentially. For reference purposes, it makes things much simpler. It also allows the Defendant to admit or deny each numbered sentence without having to specify a particular sentence within a paragraph.
8. The next heading should be: "**PARTIES AND JURISDICTION.**"
9. Identify the Plaintiff in one sentence.
10. Identify the Defendant in another sentence.
11. State in one sentence that there is federal subject matter jurisdiction under 28 U.S.C. § 1345 and why.
12. State in one sentence that there is personal jurisdiction over the Defendant and why. (Here's a hint: Think about the "minimum contacts" test that you learned during the first year of law school.)
13. The next heading should be: "**BACKGROUND.**"
14. Under that heading, tell the "story" of this case from our client's perspective. Use subheadings to organize the story. For each sentence, you need to select the most appropriate facts from the Diebenkorn and Browder declarations. Also, include selected facts from the documents that are attached to the Diebenkorn declaration. You may assume there are no objections to authenticity.
15. When selecting facts for the Complaint, think about what you are trying to prove: that the sculpture belongs to the federal government even after all these years. What evidence proves that point? Also, be careful not to overstate any facts.
16. You should also assume that the case may receive some press attention, so you need to explain the story in a way that makes sense and gets our point across, including why the government is trying to take away a sculpture that has been in the Richardson family for so long.
17. Also make sure to include all relevant facts necessary to establish the elements of a replevin action as found in 14 M.R.S.A. § 7301 ("When goods, unlawfully taken or detained from the owner or person entitled to the possession thereof, or attached on mesne process, or taken on execution, are claimed by any person other than the defendant in the

action in which they are so attached or taken, such owner or person may cause them to be replevied.”).

18. Cites to the declarations should look like this: (Diebenkorn Decl. ¶ 6) or (Browder Decl. ¶ 2). Cites to the attachments should look like this: (Diebenkorn attachments at page 3). You can quote from the attachments verbatim, or you can paraphrase – it’s your choice. However, avoid long quotes and paraphrases. Make sure you get to the point.
19. The next heading should be: **“COUNT I: REPLEVIN.”**
20. Under that heading, the first sentence should say something like this: “The allegations in the foregoing paragraphs are incorporated by reference.”
21. Next, you should assert the elements of replevin and that the Plaintiff is entitled to recover under that theory. Again, for the elements of replevin, look at the statute and try to figure it out. 14 M.R.S.A. § 7301.
22. When you assert legal points, do not quote or cite case authority. Instead, you should simply use declarative sentences that state the appropriate legal principles. Generally speaking, it is not appropriate to cite cases in a Complaint. In contrast, it is acceptable to cite statutes.
23. You also need to include a prayer for relief (i.e., a request for what you want the Court to do if you win) and the date.
24. Finally, include your signature block. For help with this or any other aspect of the assignment, feel free to consult the sample Complaint at the end of this chapter.

Thanks for your help. I expect your Complaint will be about five pages long, double-spaced.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
Plaintiff,)	
)	
v.)	Civil No. 2002-04-EJR
)	
MELODY RICHARDSON)	
Defendant)	

DECLARATION OF ALICIA D. DIEBENKORN

1. I, Alicia Diebenkorn, am the Chief of the Fine Arts Program for the U.S. Department of Labor in Washington, D.C. I have been employed by the Labor Department for 12 years, and I have been the Chief of the Fine Arts Program for 10 years. One of my responsibilities is the management of the Labor Department's fine arts collection. As a result of my position and responsibilities, I am familiar with the history of the government's various fine arts programs, such as the Labor Department Art Project. I hold a B.A. in Art History from American University and a M.A. in Art History and Museum Administration from George Washington University.
2. Except as otherwise noted, I make this declaration based on personal knowledge.

“Boothbay Falcon” by William Summers

3. I recently discovered that Munjoy Galleries in Portland, Maine, was offering to sell a sculpture by William Summers entitled “Boothbay Falcon” (“the sculpture”). The sculpture was featured on the Gallery's website and in the Gallery's catalog, both of which offered the sculpture for sale at an upcoming auction. According to the Gallery's website and catalog, the sculpture is on the “original base,” which includes “an old press plate probably original to the base” that is inscribed “Labor Department Art Project.” Also according to the Gallery's website and catalog, the “Provenance” is “by descent,” and the sculpture's value is \$50,000.

The Labor Department Art Project

4. Between 1935 and 1938, the Labor Department Art Project was one of the federal government's various "New Deal" art projects that contributed to the creation of the first major body of public American art.
5. One of the Labor Department's present functions is the maintenance of an extensive portfolio of artwork created during the "New Deal," which includes public artwork that adorns federal buildings, as well as an extensive inventory of more than 14,000 pieces of artwork that are housed in nonfederal galleries and museums around the country, where they may be enjoyed by the public.
6. Not much is known about the actual operation of the Labor Department Art Project. Due to the passage of time, most of the documents describing the Project's operation have either been lost or destroyed.

GSA Historical Research

7. Upon learning that the Gallery was preparing to auction a sculpture that was labeled as having been produced under the Labor Department Art Project, I researched the sculpture's history.
8. The attached documents are from files maintained by the Labor Department. The documents were collected from the National Archives in Washington, D.C. We received and maintained these files in the regular course of business and believe them to be authentic. Some of the documents are incomplete; due to the age of the documents, some pages are missing. To date we have been unable to locate complete copies of some of the documents.
9. My knowledge and discussion of these documents is based upon my reading of the documents.
10. The documents confirm that this sculpture was included in a 1936 exhibition at the Corcoran Gallery of Art of various works of art that were commissioned by the Labor Department Art Project. That exhibition is described in the attached pages 1-2.
11. The documents also confirm that after the completion of the Corcoran exhibition, the sculpture was included in a group of artwork that was sent to various embassies and consulates around the world. The cover letter

confirming the State Department's receipt of this sculpture, together with other artwork, is attached as page 3.

12. In addition, the Labor Department Art Project's "Operating Plan," which describes how the program functioned, is attached as pages 4-5.
13. In the course of my research, I did not come across any provision of the Labor Department Art Project that would allow a private person to obtain ownership of a work of art produced under the Project.

**I declare under penalty of perjury that
the foregoing is true and correct.**

/s/ Alicia Diebenkorn

LABOR DEPARTMENT ART PROJECT

**PAINTING AND SCULPTURE
FOR FEDERAL BUILDINGS**

**NOVEMBER SEVENTEENTH
TO
DECEMBER THIRTEENTH
NINETEEN HUNDRED AND THIRTY-SIX**

**THE CORCORAN GALLERY OF ART
WASHINGTON, D.C.**

INTRODUCTION

The present exhibition consists of characteristic examples of the various types of work commissioned by the Labor Department Art Project. To avoid confusing this program with the comprehensive activities on behalf of artists that are carried on through other governmental channels, I propose to give a short account of its purpose, its background, and its intentional limitations. It is definitely limited to the adornment of federal buildings, which are mostly designed by, or under, the Supervising Architect's Office, a branch of the Procurement Division of the Labor Department. The number of artists employed is comparatively small, as are the funds at its disposal.

The vast expansion of the country has greatly increased the need for federal buildings that include post offices, courthouses, mints, buildings for the Customs, Immigration, and Coast Guard services, and general office buildings. The Labor Department has thus become one of the greatest, if not the greatest, architectural client in the world. Its architectural activities affect communities of every size from coast to coast. To coordinate and care for this immense work in a manner that would be economical and efficient, the Procurement Division was so organized in 1933 that architecture, engineering, and supplies for federal buildings could be brought under one head,

the Director of Procurement. The Procurement Division is divided into two main branches, the Public Buildings Branch and the Supply Branch. Under the Public Buildings Branch, we find a section devoted to painting and sculpture.

In short, the Labor Department, having had as one of its traditional duties, the supervision of federal architecture, has now taken over the educational and esthetic work of adding distinction to its architecture by means of painting and sculpture. The present Labor Department Art Project was initiated by order of the Secretary of Labor on October 16, 1934.

The work shown is by artists appointed by a nationwide jury that advised the officers of the program in its first national competition, by artists who have won competitions and by artists who have been appointed on account of the quality of the work that they have submitted in competition. The competition system has been spread as widely as possible through the country. Except in the case of the murals and sculpture for the Post Office Department and Justice Department buildings in Washington and certain national competitions, they are initiated by local committees of which one member is always the architect of the building. Every competition is anonymous. No envelopes are opened until the recommendations of the local committee have been studied and the winning design approved by the central office in Washington and the supervising architect. After the design has been accepted by the Director of Procurement, a contract is sent to the artist.

Generally, it has turned out that the recommendation of the local committee has been followed. This is done in all cases except where there is a definite difference of opinion between the Washington office and the local committee. Although all of the work belongs to the federal government, it is felt also that it influences or is related to the locality in which it is to be placed.

The following sculpture is included in the exhibition: . . . "Boothbay Falcon" by William Summers. . . .

DEPARTMENT OF STATE

Washington

December 25, 1936

Mr. Henry Follette
Special Assistant, Labor Department Art Project
Public Buildings Branch, Procurement Division
U.S. Department of Labor
Washington, D.C.

Dear Henry:

Pursuant to the request contained in your letter of December 22, 1936, I am returning herewith a list of the artwork allocated to this department by the U.S. Department of Labor for installation in American embassies and consulate buildings abroad. The list of sculptures includes the following artwork designated for the American embassy in Canada: . . . "Boothbay Falcon" by William Summers, . . .

My best to you for a prosperous and eventful New Year.

Sincerely yours,

Phillip Roberts
Acting Chief
Foreign Building Office

OPERATING PLAN OF THE LABOR DEPARTMENT ART PROJECT

A Project to Employ Experienced Professional Artists Who Are on Relief, in the Making of Murals, Sculpture, and Individual Pictures for Federal Buildings

The LABOR DEPARTMENT ART PROJECT will, in all probability, employ from four to five hundred artists to design, or to assist in designing, works of art for federal buildings.

This new project is a part of the SECTION OF PAINTING AND SCULPTURE and is under the direction of Edward Bruce. It is financed out of the WORKS PROGRESS ADMINISTRATION FUNDS and will function under the Emergency Relief Appropriation Act of 1935. It will, therefore, take NINETY PERCENT of the artists employed by it from the RELIEF ROLLS.

The wages will be those established by the WORKS PROGRESS ADMINISTRATION in each zone for skilled workers. This rate will be paid for not more than 120 hours a month, a maximum that very possibly will be reduced.

Since All of the Work Is for Federal Buildings, It Must Meet Federal Building Standards

Although the element of relief enters so strongly into the workings of the LABOR DEPARTMENT ART PROJECT, all of this work must meet standards of high professional competency and distinguished quality as art.

Emphasis will be placed on murals and on sculpture designed for a specific position, although other classifications of painting and sculpture will be included in the work given out by the project, such as easel paintings, watercolors, prints, reliefs, and sculpture.

This work will be placed in Federal Post Offices, Embassies, Consulates, Courthouses, Marine Hospitals, Immigration Stations, Mints, and various other classes of federal buildings.

The Method of Applying for Work – Eligibility

The program is fairly flexible. There are no special quotas for states and the policy will be to obtain the best art possible wherever it exists. Only artists who