

The Museum of Modern Art attempted to enter pieces of sculpture (see attached list) under paragraph 1807 (see below) of the U.S. Customs Tariff. These pieces were rejected under this paragraph because the Customs Inspector declared the sculpture did not represent either animal or human form.

Many of these pieces of sculpture were also refused entrance as works of art under paragraph 1547A (see below) because the Customs Inspector said they were not works of art of any kind. In order to exhibit a considerable number of these pieces in its Exhibition of Cubism and "Abstract" Art which is scheduled to open Tuesday, March 3, the Museum will be compelled to enter these sculptures only by putting up a bond (Paragraph 1809).

As difficulties of this nature frequently arise in reference to works of art, particularly modern works of art, brought from abroad for exhibition in this country the Museum feels that an attempt should be made to clarify the issue not only for its own benefit and that of other museums but also as a helpful means of facilitating the work of customs inspection.

The President of the Museum of Modern Art, Mr. A. Conger Goodyear, has addressed a letter to museums throughout the country requesting that they cooperate with the Museum of Modern Art in securing a reconsideration of the Tariff in this regard. Mr. Goodyear's letter follows: "The Museum of Modern Art has become engaged in a controversy with United States Customs officials here over the status of certain works of art which the Museum has borrowed from museums and collectors abroad to be included in the Comprehensive Exhibition of Abstract Art which is to be put on public view in our galleries on March 4th.

"According to the provisions of an act of Congress covering the importation of works of art, and under a definition of the term "works of art" contained in a decision handed down by the courts, it is held that a work of art -----.

"The issue in which the Museum of Modern Art and all similar institutions are really interested is whether the Government is to determine by law what is art. In this instance there is no question as to the "moral" character of the objects under consideration. They are denied admission, duty free, on the sole ground that they do not completely meet the requirements established by the existing law and court decisions for "works of art". The judgment of acknowledged experts is given no weight or consideration.

"A work of sculpture must represent human or animal form. Such a restriction, if applied to acknowledged masterpieces of the past would remove from the field of art all paintings of landscape only, a large part of the work of the Gothic sculptors, and many other important sections of the whole field of art.

"We believe the Act of Congress which makes this situation possible must be amended and that a determination of what constitutes a work of art be left to those who are qualified to pass judgment. We ask for your cooperation to this end."

UNITED STATES CUSTOMS TARIFF

1547. (a) Works of art, including (1) paintings in oil or water colors, pastels, pen and ink drawings, and copies, replicas, or reproductions of any of the same, (2) statuary, sculptures, or copies, replicas, or reproductions thereof, valued at not less than \$2.50, and (3) etchings and engravings, all the foregoing not specially provided for, 20 per centum ad valorem.

1807. Original paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches in pen, ink, pencil, or water colors, artists' proof etchings unbound, and engravings and wood-cuts unbound, original sculptures or statuary, including not more than two replicas or reproductions of the same; but the terms "sculpture" and "statuary" as used in this paragraph shall be understood to include professional productions of sculptors only, whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal, or whether cut, carved, or otherwise wrought by hand from the solid block of mass of marble, stone, or alabaster, or from metal, or cast in bronze or other metal or substance, or from wax or plaster, made as the professional productions of sculptors only; and the words "painting," "drawing," "sketch," "sculpture," and "statuary," as used in this paragraph shall not be understood to include any articles of utility or for industrial use,....etc.