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PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

June 8, 1983

Colonel William Ryan
Director, Operations and Finance
American Battle Monuments Commission
20 Massachusetts Avenue
Washington, D.C. 20314

Dear Colonel Ryan:

I am pleased to enclose material from the Department of State concerning the assumption of title of Pershing Hall by the American Battle Monuments Commission. The State Department's lawyer has apparently concluded that there is no legal bar in France to this specific responsibility being assumed by the ABMC. The memo concludes that the French government should be consulted to confirm that the ABMC legal status will not be impaired.

As you will note, the State Department has taken steps to formally notify the French government of our tentative proposal on the future of Pershing Hall. Of course, I assume that you will want to confirm the agreement of the French government directly with the officials of the Veterans Affairs Ministry. No doubt it will take some time for the legal opinion to percolate from the Foreign Ministry to the people you deal with. If they do have any questions, please let me know.

Let me repeat our assurance to the members of the American Battle Monuments Commission that our primary concern is the continued effective operation of the ABMC. We expect that the limited role of the ABMC in holding title to Pershing Hall would not adversely affect your operations in the slightest.

- 2 -

You have indicated to me that you intend to discuss briefly this subject at your Commission meeting tomorrow. If, despite the efforts of the State and Justice Departments to address your concerns, there continues to be significant reluctance about assuming title to Pershing Hall, I have a suggestion to make. Perhaps we could eliminate your reservations by deleting specific mention of the ABMC in the legislation we will propose to Congress. Instead, we would state that the President would designate later the Federal agency that would assume title. This will give some additional time to satisfy your concerns. If after discussion at the Commission meeting, this suggestion is considered to be a significant improvement, then I am prepared to recommend it to the agencies involved.

In closing, let me thank you and General Adams for taking your time to work constructively with us on this matter. If the ABMC does ultimately assume responsibility for the future of Pershing Hall, I am sure you will do an outstanding job.

Sincerely,



Bruce I. Selfon
Deputy Director

Enclosures

cc: Thomas Tracy
Stuart Schiffer
Michael Dolan
Morton Blackwell ✓



JUN - 8

United States Department of State

*Assistant Secretary of State
for Administration*

Washington, D. C. 20520

June 8, 1983

Dear Bruce:

I have enclosed a copy of the legal opinion on American Battle Monuments Commission (ABMC) proposed supervision of Pershing Hall.

Our attorney has concluded that there is no French law which would be contravened if the ABMC were to assume responsibility for the management and supervision of Pershing Hall. In addition, our attorney could foresee no legal obstacle either in the ABMC status in France, or in the existing agreements between the United States and France, or in French law, to the ABMC's assuming responsibility for Pershing Hall. In fact, the opinion goes on to state that the French Government is likely to find it highly appropriate that the ABMC assumes this role.

The Department has instructed the Embassy to contact the Government of France and inform them of the United States Government's intention to have the ABMC take responsibility for Pershing Hall.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,


Thomas M. Tracy

Enclosure:

As Stated.

Mr. Bruce I. Selfon
Deputy Director, Property Review Board
17th & Pennsylvania Ave., N.W.
Washington, D. C. 20500

DEPARTMENT OF STATE ACTION COPY

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UNCLAS SECTION 01 OF 04 PARIS 20945

FBO FOR SHENWICK

E.O. 12356: N/A
TAGS: ABLD
SUBJECT: PERSHING HALL

1. THE FOLLOWING IS THE LEGAL OPINION REQUESTED
CONCERNING ABMC'S PROPOSED SUPERVISION OF PERSHING
HALL. IT WAS PREPARED BY CARL F. SALANS OF
SALANS, HERTZFELD, HEILBRONN, BEARDSLEY AND VAN RIEL,
1 AVE. FRANKLIN D. ROOSEVELT, 75008 PARIS, TEL.
561-9542. IN ADDITION TO BEING AN ATTORNEY
QUALIFIED TO PRACTICE BOTH IN PARIS AND WASHINGTON,
MR. SALANS ALSO SERVED AS DEPUTY LEGAL ADVISER
IN THE STATE DEPARTMENT.

2. QUOTE: 3 JUNE 1983

- - - MEMORANDUM

THIS MEMORANDUM EXAMINES THE ISSUE OF WHETHER THE
AMERICAN BATTLE MONUMENTS COMMISSION MAY, CONSISTENT
WITH ITS LEGAL STATUS IN FRANCE, UNDERTAKE RESPONSIBILITY
FOR THE MANAGEMENT AND SUPERVISION OF PERSHING HALL IN
PARIS. THE MEMORANDUM IS BASED UPON INTERVIEWS WITH AND
INFORMATION SUPPLIED BY REPRESENTATIVES OF THE ABMC AND
THE AMERICAN EMBASSY IN FRANCE AS WELL AS UPON RESEARCH
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DONE BY THIS OFFICE.

THE MEMORANDUM REVIEWS, FIRST, THE LEGAL STATUS OF THE ABMC IN FRANCE. SECOND, IT DESCRIBES THE CHARACTER AND STATUS OF PERSHING HALL. THERE THEN FOLLOWS A THIRD SECTION DISCUSSING THE LEGAL ISSUES INVOLVED. THE CONCLUSIONS AND RECOMMENDATIONS OF THIS OFFICE ARE FOUND IN SECTION FOUR OF THE MEMORANDUM.

I - THE AMERICAN BATTLE MONUMENTS COMMISSION: STATUS IN FRANCE

THE AMERICAN BATTLE MONUMENTS COMMISSION (ABMC) WAS CREATED BY THE UNITED STATES CONGRESS IN 1923 (36 USC 121 ET. SEQ.). IT IS AN AGENCY OF THE UNITED STATES AS THIS TERM IS DEFINED IN 5 USC 104 AND 105.

SECTION 125(B) OF TITLE 36 OF THE UNITED STATES CODE AUTHORIZES THE ABMC:

"... IN ITS DISCRETION, TO ASSUME RESPONSIBILITY FOR THE CONTROL, ADMINISTRATION, AND MAINTENANCE OF ANY WAR MEMORIAL ERECTED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION OUTSIDE THE UNITED STATES BY AN AMERICAN CITIZEN, A STATE, A POLITICAL SUBDIVISION OF A STATE, ANY OTHER NON-FEDERAL GOVERNMENTAL AGENCY, FOREIGN AGENCY OR PRIVATE ASSOCIATION TO COMMEMORATE THE SERVICES OF ANY OF THE AMERICAN ARMED FORCES IN HOSTILITIES OCCURRING SINCE APRIL 6, 1917, IF (A) THE MEMORIAL IS NOT ERECTED ON THE TERRITORY OF THE FORMER ENEMY CONCERNED, AND (B) THE SPONSORS OF THE MEMORIAL CONSENT TO THE COMMISSION ASSUMING SUCH RESPONSIBILITY AND TRANSFER TO THE COMMISSION ALL THEIR RIGHT, TITLE, AND

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INTEREST IN THE MEMORIAL. IF REASONABLE EFFORT FAILS TO LOCATE THE SPONSORS OF THE MEMORIAL, THE COMMISSION MAY ASSUME RESPONSIBILITY THEREFOR UNDER THIS SUBSECTION BY AGREEMENT WITH THE APPROPRIATE FOREIGN AUTHORITIES. A DECISION OF THE COMMISSION TO ASSUME RESPONSIBILITY FOR ANY WAR MEMORIAL UNDER THIS SUBSECTION IS FINAL.

IT IS OUTSIDE THE SCOPE OF THIS MEMORANDUM TO DETERMINE WHETHER MANAGEMENT OF PERSHING HALL FALLS WITHIN THE SCOPE OF THE ABMC'S LEGISLATIVE MANDATE, AS DESCRIBED IN THE ABOVE-QUOTED SECTION 125(B).

THERE ARE A SERIES OF AGREEMENTS BETWEEN THE UNITED STATES AND FRANCE AUTHORIZING THE U.S. TO MAINTAIN

AGREEMENT OF JULY 27, 1922 RELATES TO FOUR CEMETERIES, FOR WHICH THE FRENCH GOVERNMENT ACQUIRED TITLE TO THE LAND IN QUESTION AND GRANTED TO THE UNITED STATES THE FREE AND PERPETUAL USE OF THE GROUNDS SO ACQUIRED FOR CEMETERIES. THE AGREEMENT PROVIDES THAT THE GROUNDS WILL BE FREE FROM DUTIES AND TAXES. NO MENTION OF THE ABMC IS MADE IN THIS AGREEMENT.

A SECOND AGREEMENT, SIGNED ON AUGUST 29, 1927 (T.S. 757), PROVIDED FOR THE ACQUISITION BY THE FRENCH GOVERNMENT OF REAL ESTATE FOR THE PURPOSE OF THE ERECTION BY THE AMERICAN BATTLE MONUMENTS COMMISSION OF MEMORIALS COMMEMORATING THE SERVICES OF AMERICAN SOLDIERS IN EUROPE. FRANCE GRANTS TO THE U.S. WITHOUT COST AND IN PERPETUITY THE USE AND FREE DISPOSAL OF THE LANDS INTENDED FOR THE ERECTION OF SUCH MEMORIALS. THE AGREEMENT PROVIDES THAT FRENCH GOVERNMENT AUTHORIZATION MUST BE SOUGHT FOR EACH SUCH MEMORIAL TO BE ERECTED.

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UNCLAS SECTION 02 OF 04 PARIS 20945

FBO FOR SHENWICK

E.O. 12356: N/A
TAGS: ABLD
SUBJECT: PERSHING HALL

THE LAND SO ACQUIRED IS EXEMPT FROM ALL TAXES.

THE NEXT AGREEMENT, DATED OCTOBER 1, 1947, (T.I.A.S.1720), GRANTS TO THE UNITED STATES GOVERNMENT GRATIS AND IN PERPETUITY, THE FREE DISPOSITION OF LANDS USED FOR PERMANENT CEMETERIES OR FOR THE CONSTRUCTION OF MONUMENTS COMMEMORATIVE OF THE U.S. ARMED FORCES DURING WORLD WAR II. THE AGREEMENT STATES THAT THE LANDS IN QUESTION ARE TO REMAIN THE PROPERTY OF THE FRENCH STATE. THE LOCATION OF THE CEMETERIES AND MONUMENTS IS MADE SUBJECT TO THE PRIOR APPROVAL OF THE FRENCH GOVERNMENT. THE PROVISIONS OF THE AGREEMENT ARE MADE APPLICABLE TO THE CEMETERIES AND MONUMENTS OF WORLD WAR I AS WELL. FINALLY, AN AGREEMENT SIGNED ON MARCH 19, 1956 (T.I.A.S. 3537) IMPLEMENTS AND COMPLETES THE 1947 ACCORD. THE AGREEMENT PROVIDES THAT WITH RESPECT TO LANDS LISTED IN AN ANNEX TO THE AGREEMENT FRANCE GRANTS TO THE U.S.A., WITH A VIEW TO THE CREATION OF AMERICAN MILITARY CEMETERIES OF WORLD WAR II OR THE CONSTRUCTION OF WAR MEMORIALS, FREE DISPOSAL WITHOUT LIMITATION OF

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PAGE 02

PARIS 20945 02 OF 04 031719Z

DURATION. THE LANDS SO DESIGNATED ARE EXONERATED FROM ALL TAXES. ALL QUESTIONS CONCERNING THE EXTENSION OR MODIFICATION OF THE LANDS IN QUESTION, OR THE ADDITION OF NEW SITES, ARE TO BE SUBJECT TO AGREEMENT BETWEEN THE AMERICAN BATTLE MONUMENTS COMMISSION AND THE COMPETENT FRENCH MINISTRY.

WITH RESPECT TO ALL OF THE FOREGOING AGREEMENTS, IT IS THE ABMC WHICH ADMINISTERS AND SUPERVISES THE ERECTION AND MAINTENANCE OF WAR MEMORIALS IN FRANCE ON BEHALF OF THE UNITED STATES GOVERNMENT.

WE ARE INFORMED BY THE ABMC IN FRANCE THAT AT LEAST TWO ADDITIONAL AGREEMENTS, ONE ALREADY SIGNED, ANOTHER ABOUT TO BE SIGNED, BETWEEN THE GOVERNMENTS ADD MEMORIAL SITES TO THOSE COVERED BY THE 1956 AND 1947 AGREEMENTS:

FURTHER AS REGARDS THE STATUS OF THE AMERICAN BATTLE MONUMENTS COMMISSION IN FRANCE, IT SHOULD BE NOTED THAT, AS AN AGENCY OF THE U.S. GOVERNMENT, THE ABMC IS ACCORDED BY FRANCE A NUMBER OF DIPLOMATIC PRIVILEGES AND IMMUNITIES. THE ABMC FORMS PART OF THE DIPLOMATIC MISSION OF THE U.S.A. THE HEAD OF THE COMMISSION HAS DIPLOMATIC STATUS. THE AMERICAN STAFF MEMBERS OF THE COMMISSION HAVE DIPLOMATIC STAFF STATUS. ABMC AUTOMOBILES CARRY DIPLOMATIC LICENSE PLATES.
II - PERSHING HALL. ITS CURRENT STATUS

PERSHING HALL, A BUILDING LOCATED AT 49, RUE PIERRE CHARRON, 75008 PARIS, IS OWNED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA PURSUANT TO P.L. 171 (74TH CONGRESS), APPROVED JUNE 28, 1935. THAT LEGISLATION DESCRIBES THE BUILDING AS "...A MEMORIAL ALREADY

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PAGE 03

PARIS 20945 02 OF 04 031719Z

ERECTED IN PARIS, FRANCE, UNDER THE AUSPICES OF THE AMERICAN LEGION, INC., TO THE COMMANDER IN CHIEF, OFFICERS, MEN AND AUXILIARY SERVICES OF THE AMERICAN EXPEDITIONARY FORCES ... THE ACT GOES ON TO SAY THAT THE BUILDING SHALL BECOME THE PROPERTY OF THE UNITED STATES GOVERNMENT "FOR THE USE AND BENEFIT OF ALL AMERICAN OFFICERS AND ENLISTED MEN OF THE WORLD WAR." (HOUSE REPORT 1197 OF JUNE 13, 1935 AIDS THAT "THESE FACILITIES ARE AVAILABLE TO ANY AMERICAN ACTIVITY OR PATRIOTIC ORGANIZATION.")

THERE IS NO INTER-GOVERNMENTAL AGREEMENT BETWEEN THE UNITED STATES AND FRANCE CREATING A SPECIAL STATUS FOR PERSHING HALL. THE BUILDING WAS ORIGINALLY MANAGED BY

THE DEPARTMENT OF FRANCE, THE AMERICAN LEGION (U.S.A.), AND PARIS POST NO. 1, THE LATTER TWO PARTIES UNDERTOOK THE RESPONSIBILITY FOR THE DAY TO DAY OPERATION, MAINTENANCE AND/OR PERPETUATION OF PERSHING HALL AND THE PRESERVATION OF THE MEMORIALS THEREIN. A STANDING COMMITTEE, KNOWN AS THE PERSHING HALL OPERATING COMMITTEE, WAS APPOINTED PURSUANT TO THAT AGREEMENT BY THE NATIONAL COMMANDER OF THE AMERICAN LEGION TO SUPERVISE THE CARRYING OUT OF THE FOREGOING RESPONSIBILITIES. THE COMMITTEE IS COMPOSED OF A NUMBER OF AMERICAN CITIZENS RESIDING IN FRANCE. ON MAY 6, 1982, THE AMERICAN LEGION NOTIFIED PARIS POST NO. 1 THAT IT WAS TERMINATING THE 1960 PERSHING HALL OPERATING AGREEMENT AS OF JULY 5, 1982. SINCE THAT TIME, THE MANAGEMENT OF PERSHING HALL HAS BEEN ASSUMED BY THE PERSHING HALL OPERATING

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UNCLAS SECTION 03 OF 04 PARIS 20945

FBO FOR SHENWICK

E.O. 12356: N/A
TAGS: ABLD
SUBJECT: PERSHING HALL

COMMITTEE. A PERSHING HALL MEMORIAL BUILDING FOUNDATION HAS BEEN FORMED AND REGISTERED IN DELAWARE ON MAY 28, 1982 AS A NON-PROFIT, TAX EXEMPT ORGANIZATION. LEGISLATION HAS BEEN INTRODUCED IN CONGRESS (H.R. 6997, 97TH CONGRESS) TO AUTHORIZE THE FOUNDATION TO OPERATE THE BUILDING, BUT APPARENTLY NO ACTION HAS BEEN TAKEN ON THIS BILL.

THE BUILDING IS PRESENTLY BEING USED FOR THE FOLLOWING PURPOSES: 1) AMERICAN LEGION POST 1 HEADQUARTERS; 2) U.S.O. LOUNGE; 3) OFFICE SPACE FOR SEVERAL AMERICAN NON-PROFIT ORGANIZATIONS (E.G. ASSOCIATION OF AMERICANS RESIDENT OVERSEAS); PRIVATE RESTAURANT AND BAR; MEETING ROOMS; BALL ROOM; OFFICE SPACE RENTED TO PARIS MATCH, A FRENCH WEEKLY MAGAZINE (SIMILAR TO LIFE MAGAZINE IN THE U.S.A.). THE BUILDING SERVES AS AN AMERICAN COMMUNITY CENTER.

A PROPOS OF THE USE OF PART OF THE BUILDING FOR COMMERCIAL PURPOSES BY PARIS MATCH, THE TAX AUTHORITIES

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PAGE 02 PARIS 20945 03 OF 04 031720Z

OF THE FRENCH MINISTRY OF FINANCE WROTE TO THE AMERICAN LEGION IN 1956 TO THE EFFECT THAT RECEIPT BY THE LEGION OF RENTAL PAYMENTS FROM THE MAGAZINE WOULD NOT GIVE RISE TO ANY INCOME TAX FOR THE LEGION, WHICH ITSELF IS A NON-PROFIT, TAX-EXEMPT ASSOCIATION UNDER FRENCH LAW.

IT IS OUR UNDERSTANDING THAT NORMAL REAL ESTATE TAXES AND LEVIES ARE IMPOSED BY THE FRENCH GOVERNMENT ON PERSHING HALL.

III - LEGAL ISSUES

THE QUESTION WHICH THIS MEMORANDUM IS INTENDED TO ADDRESS IS WHETHER ABMC'S MANAGEMENT AND SUPERVISION OF PERSHING HALL WOULD BE (A) INCONSISTENT WITH OR IN ANY WAY JEOPARDIZE THE ABMC'S STATUS IN FRANCE, AGREEMENTS DESCRIBED ABOVE OR (C) WOULD VIOLATE FRENCH LAW.

A. THE ABMC HAS NO SPECIAL STATUS IN FRANCE BY VIRTUE OF THE INTERGOVERNMENTAL AGREEMENTS CITED EARLIER IN THIS MEMORANDUM. THE ABMC IS, HOWEVER, PART OF THE DIPLOMATIC MISSION OF THE UNITED STATES IN FRANCE. AS SUCH, IT AND ITS STAFF ENJOY DIPLOMATIC PRIVILEGES AND IMMUNITIES ACCORDED PURSUANT TO THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS (T.I.A.S. 7502, TO WHICH FRANCE IS A PARTY. THUS, FOR EXAMPLE, THE FRENCH COURTS HAVE HELD THAT THE ABMC ENJOYS IMMUNITY FROM JURISDICTION FOR PURPOSES OF A SUIT BROUGHT BY INDIVIDUALS FOR MONEY DAMAGES OR MONIES DUE. (COUR DE PARIS, 1ERE CH. 28 FEBRUARY 1936) (THE COURT HELD THAT THE ABMC WAS AN AGENCY OF THE UNITED STATES AND THAT ITS ACTIVITIES WERE NOT OF A COMMERCIAL CHARACTER.) AS AN AGENCY OR INSTRUMENTALITY OF THE U.S. GOVERNMENT, THE ABMC WOULD HAVE THE SAME POWERS AS THE EMBASSY

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PAGE 03 PARIS 20945 03 OF 04 031720Z

ITSELF TO MANAGE A BUILDING OWNED BY THE UNITED STATES GOVERNMENT. THERE IS NOTHING ABOUT ITS STATUS IN FRANCE WHICH WOULD IMPEDE ITS ASSUMING THIS FUNCTION.

THE FACT THAT PERSHING HALL IS USED, IN PART, FOR COMMERCIAL PURPOSES COULD AFFECT THE IMMUNITIES OF THE ABMC AND ITS PERSONNEL INsofar AS THEY RELATE TO THE MANAGEMENT AND OPERATION OF THE BUILDING. THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS PROVIDES THAT IMMUNITIES WILL NOT EXTEND TO ANY COMMERCIAL ACTIVITY EXERCISED BY THE DIPLOMATIC AGENT OUTSIDE HIS OFFICIAL FUNCTIONS. PRESUMABLY THE MANAGEMENT OF PERSHING HALL WOULD BECOME AN OFFICIAL FUNCTION OF THE ABMC;

ATTENTION.

F. THE AGREEMENTS BETWEEN THE UNITED STATES AND FRANCE DO NOT DEFINE THE AUTHORITY OR RESPONSIBILITIES OF THE ABMC IN FRANCE. THEY DO, HOWEVER, AUTHORIZE THE ERECTION AND MAINTENANCE OF AMERICAN WAR MEMORIALS IN FRANCE, AND THE FRENCH GOVERNMENT IS AWARE THAT IT IS THE ABMC WHICH OPERATES AND MAINTAINS THESE MEMORIALS. THE 1927 AND 1956 AGREEMENTS REFERRED TO ABOVE SPECIFICALLY MENTION THE ABMC. IT IS OUR UNDERSTANDING THAT ALL AMERICAN WAR MEMORIALS MAINTAINED BY THE ABMC IN FRANCE ARE COVERED BY ONE OR ANOTHER OF THE INTER-GOVERNMENTAL AGREEMENTS REFERRED TO ABOVE.

PERSHING HALL HAS BEEN DEDICATED AS A MEMORIAL IN HONOR OF THE AMERICAN FORCES WHO FOUGHT IN THE WORLD

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UNCLAS SECTION 04 OF 04 PARIS 20945

FBO FOR SHENWICK

E.O. 12356: N/A
TAGS: ABLP
SUBJECT: PERSHING HALL

WAR IN FRANCE. YET THERE IS NO INTERGOVERNMENTAL
SIMILAR TO THE AGREEMENTS GOVERNING OTHER MEMORIALS
FOR WHICH THE ABMC HAS RESPONSIBILITY. WHILE AS A
STRICTLY LEGAL MATTER THERE WOULD SEEM TO BE NO NEED
FOR SUCH AN AGREEMENT AT THIS STAGE, THE ISSUE, NEVER-
THELESS, ARISES AS TO WHETHER -- IN LIGHT OF PAST
PRACTICE WITH RESPECT TO OTHER WAR MEMORIALS -- THE
UNITED STATES GOVERNMENT SHOULD CONSULT THE FRENCH
GOVERNMENT AND/OR OBTAIN ITS APPROVAL BEFORE GIVING
THE ABMC RESPONSIBILITY FOR MANAGEMENT OF PERSHING HALL.

C. WE KNOW OF NO FRENCH LAW WHICH WOULD BE CONTRAVENED
IF THE ABMC WERE TO ASSUME RESPONSIBILITY FOR
MANAGEMENT AND SUPERVISION OF PERSHING HALL. HOWEVER,
WE RAISE AGAIN THE QUESTION WHETHER, AS PART OF THE
DIPLOMATIC MISSION OF THE UNITED STATES, THE PERSONNEL
OF THE ABMC MIGHT, PURSUANT TO THE VIENNA CONVENTION
ON DIPLOMATIC RELATIONS BE DEPRIVED OF THEIR IMMUNITIES
WITH RESPECT TO THE MAINTENANCE AND SUPERVISION OF
PERSHING HALL, TO THE EXTENT THAT THE LATTER IS USED

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FOR COMMERCIAL PURPOSES.

IV - CONCLUSIONS AND RECOMMENDATIONS

WE SEE NO LEGAL OBSTACLE EITHER IN THE ABMC STATUS IN FRANCE, IN THE EXISTING AGREEMENTS BETWEEN THE U.S. AND FRANCE OR IN FRENCH LAW TO THE ABMC'S UNDERTAKING RESPONSIBILITY FOR THE MAINTENANCE AND SUPERVISION OF PERSHING HALL. ON THE CONTRARY, GIVEN PERSHING HALL'S STATUS AS A GOVERNMENT OWNED BUILDING DEDICATED AS A MEMORIAL TO AMERICAN SERVICEMEN, THE FRENCH GOVERNMENT IS LIKELY TO FIND IT HIGHLY APPROPRIATE THAT THE ABMC SHOULD PLAY SUCH A ROLE.

HOWEVER, THERE IS A PATTERN OF PAST BEHAVIOR BETWEEN THE TWO GOVERNMENTS OF ENTERING INTO AGREEMENTS WHEN THE ABMC WAS TO UNDERTAKE RESPONSIBILITY FOR A WAR MEMORIAL IN FRANCE. MOREOVER THERE IS THE FACTOR HERE OF THE COMMERCIAL USE TO WHICH A PART OF PERSHING HALL IS PUT -- WHICH IN TURN RAISES A QUESTION AS TO THE IMPACT ON THE DIPLOMATIC IMMUNITY OF ABMC PERSONNEL. GIVEN THESE ELEMENTS, IT WOULD SEEM ADVISABLE, IF NOT ABSOLUTELY NECESSARY AS A MATTER OF LAW, TO CONSULT FIRST WITH THE FRENCH GOVERNMENT REGARDING THE U.S.'S INTENTION TO TURN THIS RESPONSIBILITY OVER TO THE ABMC.
SIGNED CARL F. SALANS. UNQUOTE
GALBRAITH

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The American Legion

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N. W. ★ WASHINGTON, D. C. 20005



OFFICE OF THE
NATIONAL ADJUTANT

May 24, 1983

Mr. Bruce I. Selfon
Deputy Director
Property Review Board
17th & Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Selfon:

Thank you for your letter of May 18, 1983 with which you enclosed a copy of a rough proposal for the transfer of Pershing Hall, and solicit our comments.

Our position with regard to Pershing Hall is contained in our letter to Mr. Joshua Muss, dated February 23, 1983, copy enclosed.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Robert W. Spangle", with a stylized flourish at the end.

ROBERT W. SPANGLE
National Adjutant

Enc.

cc: Morton Blackwell ✓

The American Legion

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N. W. ★ WASHINGTON, D. C. 20006 ★



OFFICE OF THE
NATIONAL COMMANDER

February 23, 1983

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Mr. Joshua Muss
Executive Director
Property Review Board
Old Executive Office Building
Room 497
Washington, D.C. 20503

Dear Mr. Muss:

This letter will supplement our telegram to you of January 26, 1983, and constitutes formal notice by The American Legion that, effective immediately, it will no longer be responsible for the operation and maintenance of Pershing Hall, located in Paris, France.

You are further advised that The American Legion respectfully declines your invitation to share in the active management responsibility of Pershing Hall.

Sincerely,

A handwritten signature in cursive script, reading "Al Keller, Jr.".

AL KELLER, Jr.
National Commander

cc: William French Smith, Attorney General
of the United States
George P. Shultz, Secretary of State
John O. Marsh, Jr., Secretary of the
Department of the Army



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

May 18, 1983

General J. Milnor Roberts
Executive Director
Reserve Officers Association
of the United States
Minute Man Memorial Building
1 Constitution Avenue, N.E.
Washington, D.C. 20002

Dear General Roberts:

Attached you will find a rough draft of a legislative proposal for a transfer of Pershing Hall. This draft is presently being reviewed by the agencies of the Federal Government for possible use. I am providing this copy to you for your preliminary comments.

We hope to conclude work on this draft within the next few days. Thank you again for your cooperation in our efforts to provide for the future of Pershing Hall in Paris.

Sincerely,

Bruce I. Selfon
Deputy Director

Enclosure

cc: Mr. Morton Blackwell



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

May 18, 1983

Mr. Cooper T. Holt
Executive Director
Veterans of Foreign Wars
of the United States
VFW Memorial Building
200 Maryland Avenue, N.E.
Washington, D.C. 20002

Dear Mr. ~~Holt~~ *Perone*:

Attached you will find a rough draft of a legislative proposal for a transfer of Pershing Hall. This draft is presently being reviewed by the agencies of the Federal Government for possible use. I am providing this copy to you for your preliminary comments.

We hope to conclude work on this draft within the next few days. Thank you again for your cooperation in our efforts to provide for the future of Pershing Hall in Paris.

Sincerely,

Bruce I. Selfon
Deputy Director

Enclosure

cc: Mr. Morton Blackwell



PROPERTY REVIEW BOARD
17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

May 18, 1983

Mr. Mylio Kraja
Executive Director
The American Legion
1608 K Street, N.W.
Washington, D.C. 20006

Dear Mylio:

I am attaching for your information a copy of a rough proposal for the transfer of Pershing Hall. I would appreciate any informal comments you may have on the provisions that affect The American Legion.

We hope to reach a consensus on a proposal that will resolve the issue. I hope, and expect, this solution will meet the objectives of The American Legion.

Sincerely,

Bruce I. Selfon
Deputy Director

Enclosure
cc: Mr. Morton Blackwell

A BILL

To transfer custodianship and operating responsibility for Pershing Hall in Paris, France, and provide for its administration as a memorial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,

Sec. 1. The American Battle Monuments Commission shall have custody and accountability for the real property known as Pershing Hall, located at 49 Rue Pierre Charron, Paris, France, title to which was acquired by the United States of America pursuant to the Acts of June 28, 1935 and August 12, 1935.

Sec. 2. The American Battle Monuments Commission is empowered to enter into a written agreement with the Reserve Officers Association of the United States (ROA) and the Veterans of Foreign Wars of the United States (VFW). Under this agreement, the ROA and VFW shall agree to assume responsibility for the administration and maintenance of Pershing Hall, and the trophies, memorials and other memorabilia it may contain as to which legal title is in the United States government and which are located in Pershing Hall on the effective date of this Act. The ROA and VFW shall agree to maintain Pershing Hall as a memorial to the memory of General of the Armies of the United States, John J. Pershing, and

the officers and men of the American Expeditionary Forces of World War I. The use and benefit of this property shall be for all veterans who served honorably in the United States armed forces.

Sec. 3. The agreement between the American Battle Monuments Commission and the Reserve Officers Association and the Veterans of Foreign Wars shall assure access to the premises at all times by representatives of the American Battle Monuments Commission; require that the ROA and VFW annually submit certified financial statements to the Commission concerning their administration of Pershing Hall; contain such provisions holding the Commission and the United States harmless from any liabilities arising from the maintenance or operation of Pershing Hall as the Commission shall deem appropriate; and other terms and conditions as the Commission shall deem appropriate.

Sec. 4. The Reserve Officers Association and the Veterans of Foreign Wars are authorized, with the prior approval of the American Battle Monuments Commission, to enter into a written contract with a nonprofit foundation to provide for the operation and maintenance of Pershing Hall as a memorial, pursuant to the provisions of this Act.

Sec. 5. The Secretary of the Treasury is authorized, with prior approval of the Commission, upon the request of the ROA and the VFW, to pay to those organizations jointly, from time to time, any part of the earnings upon the Pershing Hall Memorial Fund, created by section 2 of the Act of June 28, 1935, for use in the maintenance and/or perpetuation of Pershing Hall.

Sec. 6. The responsibility of the American Legion, Inc. for the maintenance of Pershing Hall shall terminate upon signature of the written agreement authorized by section 2 of this Act.



PROPERTY REVIEW BOARD
17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

April 22, 1983

MEMORANDUM FOR THOMAS TRACY
ASSISTANT SECRETARY OF STATE FOR
ADMINISTRATION

STUART SCHIFFER
DEPUTY ASSISTANT ATTORNEY GENERAL,
CIVIL DIVISION

MICHAEL W. DOLAN
DEPUTY ASSISTANT ATTORNEY GENERAL,
LEGISLATIVE DIVISION

FROM: BRUCE I. SELFON *B*
DEPUTY DIRECTOR

SUBJECT: Pershing Hall

Along with John Cooney of the Office of Management and Budget, I met this afternoon with Colonel William E. Ryan, Jr., Director of Operations and Finance of the American Battle Monuments Commission (ABMC). General Adams, Secretary of the ABMC, telephoned to express continued reservations about assuming the role of titleholder of Pershing Hall in Paris. The primary concern is that its management of a building with commercial operations would jeopardize its special status under French law and impair the ABMC's ability to discharge its primary mission. ABMC also is concerned that it would have to respond to future allegations of impropriety involving the individuals that occupy the building. The ABMC does not have any full-time lawyers, and Colonel Ryan was concerned about workload.

I advised Colonel Ryan that we would request the Department of State to seek suitable assurances from the French government that ABMC's assuming title to the building would not affect its current legal status in France. I also indicated that I would ask Justice to agree to help handle any future correspondence about alleged improprieties. Of course, we all expect the new management of Pershing Hall will operate the building with the highest standards of conduct.

However, the ABMC has resisted taking over this building, according to Colonel Ryan, for twenty years. Apparently, some of the Commissioners have been briefed about our legislative proposal, but based on an inaccurate notion of the exact role of the ABMC. Thus, to also help allay ABMC's concerns, Josh Muss will send ABMC a letter describing precisely the limited role ABMC would have under the proposed legislation.

Colonel Ryan said that he would relay our efforts to meet ABMC's concerns to General Adams. I will meet with General Adams on Tuesday. In the event the assumption of title to Pershing Hall proves to be incompatible with the principal responsibilities of the ABMC, we may need to find another agency to replace them in the proposed legislation. At this point, I think we can respond to their concerns.

cc: Jim Jenkins
Morton Blackwell
John Cooney

roa



1 Constitution Avenue, N.E., Washington, D.C. 20002 • (202) 479-2200

Contact: Herbert M. Hart
(202) 479-2258

FOR RELEASE AT 10 a.m.
THURSDAY, MARCH 17, 1983

**'SERIOUS DEFICIENCIES' IN COAST GUARD
CITED TO CONGRESSIONAL COMMITTEE BY ROA**

WASHINGTON, March 17. - Serious deficiencies in the Coast Guard continue to exist with little administration support to correct them, a Congressional subcommittee was told today, according to the prepared text submitted to the subcommittee.

Testifying before the House Subcommittee on Coast Guard and Navigation, retired Major General J. Milnor Roberts said, "Concern remains about the readiness of the Coast Guard to carry out effectively its wartime mission."

The executive director of the Reserve Officers Association of the United States added that recent military mobilization exercises "have repeatedly shown serious deficiencies in Coast Guard Personnel, equipment and training capabilities" with no "significant budgetary measures" apparently being initiated to remedy these short comings.

He said that the ROA Mid-Winter Conference here last month voted a resolution urging the Secretary of Transportation to "request and allocate resources to the Coast Guard budget to promptly eliminate the military readiness deficiencies" and "to present a time-phased plan to Congress to implement the necessary changes and adjustments to the size, organization and structure of the Coast Guard."

Comparing the 1984 budget request with so-called inadequate submissions of the past two years, Roberts described it as "a significant improvement" but "it still is a reduction." He noted that the administration had asked for \$68.4 million for a military readiness training and \$23 million for cutter modernization versus the Coast Guard request for \$71.7 million and \$111 million respectively. He urged the subcommittee to support the Coast Guard's submission.

Roberts expressed three concerns based on the experience that "historically, support for the Coast Guard at the Department of Transportation and the Office of Management and Budget has not been strong."

He was critical that key persons remain at Transportation and OMB "who have consistently attempted to reduce the Coast Guard to an eventual state of impotency."

He said that even though the Department of Transportation is second only to Defense with its programs of national security impact, the department devotes little attention to national security matters.

Roberts extended his criticism to include the Coast Guard Reserve. He deplored the failure of the Department of Transportation to follow the lead of Defense in bringing the reserve to 100 per cent of mobilization strength by 1987. He said that the Coast Guard Reserve's strength of 12,000 "represents only 55 per cent of its wartime requirement" compared to an average of 90 per cent in the other services.

The budget submission requested no increase for the Coast Guard Reserve. ROA called for an increase to 13,200 in the 1984 budget and to 16,500 by 1986, representing 75 per cent of requirements. The Coast Guard had requested a 500 person increase but this was deleted by the administration.

Accompanied by Coast Guard Reserve Captain Bennett S. Sparks, ROA president, Roberts was scheduled to follow the Commandant of the Coast Guard, Admiral James Gracey, before the subcommittee. Praising Gracey's efforts in his first six months heading the service, Roberts commented, "Through his leadership a corner has been turned. Lack of enthusiastic support at DOT and OMB, however, has prevented any real build-up of headway...therefore we must ask you, the Congress to act."

ROA was founded in 1922 at the suggestion of General of the Armies John J. Pershing to support an adequate national security. Its 125,000 members represent officers of all military services, reserve and regular.



Reserve Officers Association of the United States

National Headquarters • MINUTE MAN MEMORIAL BUILDING
1 CONSTITUTION AVENUE, N.E., WASHINGTON, D.C. 20002
TELEPHONE 202/479-2200

ARMY ★ NAVY ★ AIR FORCE ★ MARINE CORPS ★ COAST GUARD ★ PUBLIC HEALTH SERVICE ★ NOAA

24 March 1983

MEMORANDUM

SUBJECT: 22 March 1983 Meeting concerning Pershing Memorial Hall

TO: Veterans of Foreign Wars, Property Review Board,
Executive Office of the President (Morton Blackwell)

1. The meeting was attended by representatives of the above organizations as well as the Department of Justice and OMB.
2. The proposed legislation will include the following provisions along with other details:
 - a. Title to the property will be specifically vested in the American Battle Monuments Commission which will be the agent of the United States government holding the title.
 - b. The Reserve Officers Association of the U.S. and the Veterans of Foreign Wars will be jointly responsible for the operation of Pershing Memorial Hall and will provide annual reports as currently required in the 1935 law.
 - c. VFW and ROA will appoint a non-profit foundation or other entity to be the operator of Pershing Memorial Hall, and that organization will include representatives of other veterans groups. Paris based groups such as American clubs may also be included.
 - d. ROA and VFW will assume the task of developing appropriate legislation and will present the proposed bill to all interested parties as soon as it is available. ROA and VFW will also coordinate this activity with the Veterans Affairs Committees of both House and Senate. The House Governmental Operations Committee will also be advised.
 - e. It is presumed that the proposed legislation will have the approval of the required congressional committees and consequently public hearings will not be necessary.

J. Milnor Roberts
Major General, AUS (Ret.)



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

March 22, 1983

MEMORANDUM FOR ED HARPER

FROM: JOSHUA A. MUSS

SUBJECT: PERSHING HALL

What should be the final meeting concerning Pershing Hall was held today. Attendees included representatives of the VFW and Reserve Officers Association. It was agreed that the two Veterans organizations would arrange for legislation to be introduced which would create a new operating agreement between an agency of the Federal government as titleholder for the building (tentatively identified as the American Battle Monument Commission) and the VFW and ROA. These organizations, which are to remain ultimately responsible for the proper operation of the memorial, intend to delegate the day-to-day management to a foundation which includes in its membership the Pershing Hall Operating Committee.

PHOC is purportedly a reconstituted, sanitized and respectable version of the previous operator and has been running the memorial in a legitimate manner for some two years. The Justice Department has agreed to review the legislation and ancillary documentation prior to introduction and to support the bill at hearings.

cc: Morton Blackwell ✓
Michael Dolan



PROPERTY REVIEW BOARD
17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

February 18, 1983

MEMORANDUM FOR MICHAEL DOLAN
DEPUTY ASSISTANT ATTORNEY GENERAL
LEGISLATIVE DIVISION

FROM: BRUCE I. SELFON 
DEPUTY DIRECTOR

SUBJECT: Legislative Proposal on Pershing Hall

Thank you for taking the time to share your thoughts on an effective legislative strategy for a bill to update the statute that sets up the Pershing Hall Memorial Building, P.L. 74-171. You asked me to outline what I consider to be the major elements in a new bill. I am happy to do so, with your understanding that the other participants in our efforts may have somewhat different ideas:

1. Title to the building will remain in the name of the United States. A Federal agency will be identified as the U.S. Government custodian of the present Pershing Hall Memorial Building. The leading candidate is the American Battle Monuments Commission. We have not yet discussed this with them.
2. This agency will be empowered to enter into a written agreement with the Reserve Officers Association, the Veterans of Foreign Wars, and, if they decide to participate, the American Legion. This agreement would place overall responsibility for the supervision of the building in the hands of the Veterans' groups.
3. The bill would allow the Veterans' groups to establish, or contract with, a non-profit foundation or similar organization to actually operate and maintain Pershing Hall.
4. The proceeds of the existing Pershing Hall Memorial Fund would continue to support the maintenance and perpetuation of the Hall. These monies could be paid by Treasury directly to the Veterans' groups or pass through the custodial agency.

5. Other than for the necessary responsibilities of the custodial agency, no new funds would be appropriated for the operation and maintenance of Pershing Hall. This means that the building will need to be self-supporting, except for the small contribution by the Fund. Therefore, legislative authority to engage in some commercial activity and collect rents, etc., may be required.

There are a variety of other minor, but important, points that will need to be covered in the agreement between the custodial agency and the Veterans' groups and their agreement with the foundation. These may include: hold-harmless clauses for the Government; proscribing certain activities on the premises; assuring access to the premises by the Government; financial reports; limits on membership in the foundation or tenancy in the building; etc.; etc.

I do not believe it will be wise to include such points in a bill. However, the Veterans' groups and any Administration witnesses should be prepared to address these points before Congress, if a hearing is held.

We have informed the Veterans' groups that a meeting will be scheduled to discuss this legislation during the first week in March. At that meeting I hope that we can get an agreement in principle by the Veterans' groups to initiate a satisfactory legislation proposal. If you have particular comments on these ideas, please let me know.

In closing, let me thank you again for your personal participation in these efforts.

cc: Morton Blackwell
Stuart Schiffer
Tom Tracy
John Cooney



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 25, 1983

MEMORANDUM FOR MORTON BLACKWELL

FROM: JOSHUA A. MUSS

SUBJECT: Pershing Hall

I have just received the attached. Apparently, the American Legion has declined to participate in the future management of Pershing Hall. I think you should inform the other veterans groups that we will, therefore, meet with them to discuss the legislative proposal in the first week of March.

Attachment

The
American
Legion



OFFICE OF THE
NATIONAL COMMANDER

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N. W. ★ WASHINGTON, D. C. 20006 ★

February 23, 1983

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Mr. Joshua Muss
Executive Director
Property Review Board
Old Executive Office Building
Room 497
Washington, D. C. 20503

Dear Mr. Muss:

This letter will supplement our telegram to you of January 26, 1983, and constitutes formal notice by The American Legion that, effective immediately, it will no longer be responsible for the operation and maintenance of Pershing Hall, located in Paris, France.

You are further advised that The American Legion respectfully declines your invitation to share in the active management responsibility of Pershing Hall.

Sincerely,

AL KELLER, JR.
National Commander

cc: William French Smith, Attorney General
of the United States
George P. Shultz, Secretary of State
John O. Marsh, Jr., Secretary of the
Department of the Army

Copy
to
Copy
to



PROPERTY REVIEW BOARD
17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

February 15, 1983

Mr. Cooper T. Holt
Executive Director
Veterans of Foreign Wars
of the United States
VFW Memorial Building
200 Maryland Avenue, N.E.
Washington, D.C. 20002

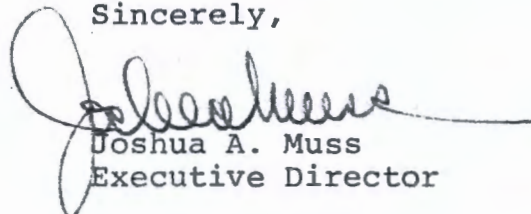
Dear Mr. Holt:

Thank you for your recent letter regarding Pershing Hall Memorial Building in Paris. We greatly appreciate the willingness of your organization to participate in the future management of Pershing Hall. The next step will be to develop a satisfactory legislative vehicle that will revise the existing statute.

I am advised that the American Legion will formally consider, by the end of this month, whether they intend to participate. Therefore, we intend to delay holding a meeting with you on the legislative proposal until the first week of March. Morton Blackwell will be in touch with you about details as soon as we have a date arranged.

Again, in closing, let me express my appreciation for your cooperation in this effort to assure the future of a suitable memorial to General Pershing in Paris.

Sincerely,



Joshua A. Muss
Executive Director

cc: Mr. Morton Blackwell



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 15, 1983

Major General J. Milnor Roberts, AUS (Ret.)
Executive Director
Reserve Officers Association of
the United States
Minute Man Memorial Building
1 Constitution Avenue, N.E.
Washington, D.C. 20002

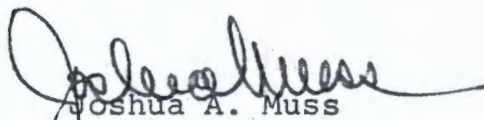
Dear General Roberts:

Thank you for your recent letter regarding Pershing Hall Memorial Building in Paris. We greatly appreciate the willingness of your organization to participate in the future management of Pershing Hall. The next step will be to develop a satisfactory legislative vehicle that will revise the existing statute.

I am advised that the American Legion will formally consider, by the end of this month, whether they intend to participate. Therefore, we intend to delay holding a meeting with you on the legislative proposal until the first week of March. Morton Blackwell will be in touch with you about details as soon as we have a date arranged.

Again, in closing, let me express my appreciation for your cooperation in this effort to assure the future of a suitable memorial to General Pershing in Paris.

Sincerely,


Joshua A. Muss
Executive Director

cc: Mr. Morton Blackwell

VETERANS OF FOREIGN WARS OF THE UNITED STATES *p.60*



THE EXECUTIVE DIRECTOR

February 9, 1983

Joshua A. Muss, Executive Director
Property Review Board
17th and Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Dear Mr. Muss:

Thank you for your letter of January 27 requesting the formal participation of the Veterans of Foreign Wars in the future management of the Pershing Hall Memorial Building in Paris.

I am delighted to advise you the Veterans of Foreign Wars of the United States will be honored to participate in assuming management of that property.

It is my understanding, from previous discussions, that a Foundation will be established to conduct the operations and business affairs of Pershing Hall under the auspices of the VFW and one or more other major veterans organizations. I also understand other groups presently using the Hall may be asked to join the Foundation Board with the approval of the primary sponsors.

Our organization will be prepared to assist in necessary legislation required to carry out the operation plan for Pershing Hall. I know the Foundation will serve the best interest of the American community in Paris, as well as maintain proper recognition of General Pershing.

Sincerely yours,

COOPER T. HOLT
Executive Director

CTH:nlp

cc: Morton Blackwell (2/14/83)



PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 2, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD
FROM: JOSHUA A. MUSS *J. A. Muss*
SUBJECT: Pershing Hall

The Reserve Officers Association and the Veterans of Foreign Wars have agreed to participate in the management of a Foundation organized for the purpose of managing Pershing Hall. Morton Blackwell will contact the American Legion to determine their interest in participation in the Foundation.

After we receive the Legion's reply, the Justice Department will draft appropriate legislation to vest title to the building in some Federal agency (probably the Battlefield Monument Commission) and to designate the Foundation as managing/operating agent for the building.

cc: Morton Blackwell

called Feb 3, 1983