

Art, law and politics: the Vermeegeren forgeries

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This article is based on a contribution to the Art & Law Symposium held at the Dunedin School of Art at Otago Polytechnic, New Zealand on 29 October, 2010. This symposium was jointly organized by the Dunedin School of Art and the Law Faculty at the University of Otago in Dunedin, New Zealand. The aims of the symposium were, for example, focused on highlighting the many interfaces between art and law as systems in which social values are embedded and reflected; to present examples of works of art in which the concerns of the law find manifestation; to consider copyright law in relation to the visual arts; to consider the roles of the law in establishing and protecting cultural traditions; to view art as a context for critical dialogue about law; art as a critique of law; art as a broad arena wherein the struggle for rights in law take place; art and law as both creating worlds – *fare mundi* – or frameworks for us to live in; law and art engaging in an hermetics which often questions the very grounds of interpretation in any given context. The symposium found that art and law are not hermetically sealed areas of activity; they are interconnected in many and often surprising ways. The case of the Vermeegeren Forgeries can be seen as an exemplar of such interconnectedness. Exploring this case as an interface between art, law and politics touches on some of the above-mentioned ways in which art and law intersect.

Key words: art, law, politics, forgery, copyright, social values, copy, technology

Kuns, regte en die politiek: die Vermeegeren vervalsings

Hierdie artikel is gebaseer op 'n bydrae tot die "Art & Law Symposium" wat gehou is by die Dunedin School of Art, Otago Polytechnic, Nieu-Zeeland op 29 Oktober, 2010. Die simposium was gesamentlik gereël deur die Dunedin School of Art en die Faculty of Law aan die University of Otago. Die doel van die simposium was o.a. gefokus daarop om die vele interaksies tussen kuns en die reg uit te wys as sisteme waarin die waardes van gemeenskappe vervat is en gereflekteer word; om voorbeelde van kunswerke aan te bied waarin oorweging van die reg direkte uitbeelding vind; om aspekte van kopiereg in verhouding tot die visuele kunste te oorweeg; om die rol van kuns en die reg in die vestiging en bewaring van kulturele tradisies te ondersoek; kuns as 'n konteks vir kritiese dialoog oor die reg; kuns as a breë arena waarin die stryd om regte afspeel; kuns en die reg as skeppers van wêreld of raamwerke – *fare mundi* – vir ons om in te lewe; kuns en die reg as beide betrokke in 'n hermeneutiek wat dikwels die basis van interpretasie in enige gegewe konteks bevraagteken. Die simposium het bevind dat kuns en die reg geensins hermeties geseëde areas is nie, dat hul wedersyds op mekaar inspeel op vele en dikwels verrassende wyses. Die geval van die Vermeegeren vervalsings kan beskou word as 'n uitmuntende voorbeeld van sulke inspelings tussen die kuns en die reg. 'n Studie van hierdie geval as 'n interrelasie tussen kuns, reg en politiek raak aan sommige bogenoemde wyses waarop die kuns en die reg met mekaar verbonde is.

Sleutelwoorde: kuns, reg, politiek, vervalsing, kopiereg, gemeenskapswaardes, kopie, tegnologie

The case on which this article centres is the Vermeegeren forging of 17th-century Vermeer paintings in the decade leading up to the Second World War. I will commence by pointing to the salient facts of the case. Johannes Vermeer was a seventeenth-century Dutch painter of genre scenes of everyday life and of a religious painting entitled *Christ in the House of Martha and Mary* (1654-55) which was painted in the style of a genre painting with a religious pretext. Han van Meegeren, a twentieth century dealer, portraitist and forger, made paintings in the thirties and early forties entitled, for example, *Head of Christ* (1940-41) and *Christ and the Adulteress* (1943), works which would become especially infamous together with another slightly earlier one entitled *Christ and the Disciples at Emmaus* (1937). He sold these works as original Vermeers. How experts involved could not see the visual anomalies now seems inexplicable, but the fact is that they did not, maybe because it suited them not to. The paintings are compositionally quite awkward for real Vermeers. Van Meegeren justified this by claiming

they were early Vermeers, before that master had developed his exquisite mature style.

Moreover, Van Meegeren had succeeded in getting some of his work validated by a leading Vermeer scholar of the time by making it fit this art historian's pet theory of the time: namely that the young Vermeer had travelled to Italy and studied Caravaggio's paintings and had been influenced to paint large religious paintings, which might eventually turn up, hopefully on his own doorstep. Art historian Dirk Hannema, Director of the Rotterdam Museum Boijmans from 1921 to 1945, curated a major exhibition there in 1935 entitled "Vermeer: Origins and Influence" and another exhibition held in 1938 entitled "Masterworks from Four Centuries" which featured the then recently purchased *Christ and the Disciples at Emmaus* (1937). Hannema believed this painting to be a genuine Vermeer and purchased it for the museum collection as a prize which would situate the museum more favourably in relation to its competitor, the Rijksmuseum in Amsterdam. The exhibition was welcomed and led to accolades and opportunities for Hannema:

In 1939 Hannema received a doctorate *honoris causa* from Utrecht University. During World War II, Hannema collaborated with the German occupiers of the Netherlands. In 1940 he was instrumental in the illegal sale to the Nazis of part of the Koenigs Collection, which by that time had come in the possession of the port magnate D. G. van Beuningen (1877-1955). Under German occupation he became a member of the Kultuurraad (Culture Council), on invitation of *Reichskommissar* A. Seyss-Inquart, and accepted the position of supervisor of the Dutch museums under Anton Adriaan Mussert (1894-1946), the head of the Dutch Nazi party. (Ebbinge Wubben, 1985: 257).

However, in "May 1945, following the liberation of Holland, Hannema was arrested by the Dutch Military Authority and interned for eight months. He was dismissed from his position by Museum Boymans" (49). The reputation of the museum was almost destroyed. Then, arguably the most famous forgery case of all times unfolded between 1945 and 1947, when Vermeegeren was put on trial for treason by the Allies in the Netherlands for having collaborated with the Nazis by trading a national treasure, an 'early Vermeer', to Hermann Göring for two hundred lesser Dutch paintings. The forger had to confess and prove his craft or be convicted for treason, Van Meegeren confessed to forgery and his defense was that he was a national hero because he'd painted the Vermeer himself and had exposed even an élite Vermeer scholar such as Hannema. He proved his expertise by painting another 'Vermeer' in court, and he was ultimately convicted only of fraud and sentenced to a year in prison for the various fake 'Vermeers' he'd sold to others, another example being where he forged Vermeer's famous *Woman in Blue Reading a Letter* (1663-64) through his *Woman in Blue Reading Music* (1935-36).

An interesting aspect of the case revolves around the popularity which Vermeegeren enjoyed despite the crimes he had committed. An available documentary on the case at *Vermeegeren's Fake Vermeers* http://arttube.boijmans.nl/en/video/VanMeegeren_en/ issued by the current Museum Rotterdam Boijmans van Beuningen focuses on this aspect. Vermeegeren's popularity should be seen in the context of the immediate post-war years in Europe. He was hailed as a hero even though he had been seen eating caviar on the Keisergracht in Amsterdam during a time of strict rationing. The status bestowed on him seems to have been based on four issues: 1) He had exposed a member of the academic élite; 2) this museum director had been exposed as a Nazi collaborator; 3) Vermeegeren had also fooled Göring (who was viewed in Nazi Germany as an art connoisseur); and 4) the forger had illustrated his craft in court for all to be impressed with.

Some key issues are raised by this case. Returning to the focus areas of the symposium in which context this case study was first presented, the text below touches on some of them particularly relevant to the case under enquiry.

Social values are embedded and reflected in systems of art and law: conjunction and conflict

The case of the Vermeegeren forgeries foregrounds the conjunction between two systems in which social values are embedded and reflected. This particular case involved, however, conflict rather than convergence of two systems. The court of law handed down a very light sentence despite collateral evidence of the forger's allegiance to Hitler (see *Vermeegeren's Fake Vermeers*) and his *intent* of selling a Vermeer – a national treasure belonging to the Netherlandish State, a state which had very recently been at war with Germany and had then been occupied by its enemy. One can only surmise concerning the reasons for the light sentence. Possibly, the postwar context with its attendant sensibilities concerning collaboration with the enemy, played a part. Another view could be that the theatrics acted out in the court served as a kind of carnivalesque vent for the communal stress built up through the war years and that Vermeegeren played the role of the 'fool' or the 'picaro' (see Cornew, 1995) in this performance, thereby ameliorating his actual role during the war.

Values embedded in the arena of the arts, however, were in conflict with the light sentence meted out. Processes of validation and evaluation of art works take time and involve complex layers of analysis, contextualization and audience reception. Milan Kundera writes:

Applied to art, the notion of history has nothing to do with progress: it does not imply improvement, amelioration, an ascent; it resembles a journey undertaken to explore unknown lands and to chart them. The [artist's] ambition is not to do something better than his or her predecessors but to see what they did not see, say what they did not say. Flaubert's poetics does not devalue Balzac's, any more than the discovery of the North Pole renders obsolete the discovery of America...Let us imagine a contemporary composer writing a sonata that in its form, its harmonies, its melodies, resembles Beethoven's. Let's even imagine that this sonata is so masterfully made, that if it had actually been by Beethoven, it would count among his greatest work. Any yet no matter how magnificent,, signed by a contemporary composer it would be laughable...No way around it: historical consciousness is so thoroughly inherent in our perception of art that this anachronism (a Beethoven piece written today) would be spontaneously (that is , without the least hypocrisy) felt to be ridiculous, false, incongruous, even monstrous. Our feeling for continuity is so strong that it enters into the perception of any work of art (2007: 15 & 4).

Unfortunately for the system of art at the time, its main proponent for the case of Vermeer was himself complicit and according to records, astonishingly, would not concede that the work acquired by the Rotterdam Museum Boijmans was forged, not even after Vermeegeren had confessed and created a 'Vermeer' for all to see in the court rooms (Ebbinge Wubben, 1985: 258).

Art works as manifestations of issues relevant to law: the copy and copyright

There exists many famous art works which directly depict moments important to the long history of law. Examples are Phillippe De Champagne's *Moses and the Tablets of the Law* (1648) and Jacques Louis David's *Oath in the Tennis Court* painted in late 18th century revolutionary France when members of the national assembly barricaded themselves in a space to make decisions which would later be acted upon in future law. Vermeegeren did not depict any such literal subject matter relevant to the law. However, his forgeries were made in a context which would later prove to have been pivotal with regard to the law and art interface. In 1936 Walter Benjamin wrote his essay entitled "The Work of Art in an Age of Mechanical Reproduction", a seminal text which explored the implications of reproductive technology for notions of authenticity, originality and value in the visual arts.

Benjamin built on a sense which were prevalent within the early decades of the twentieth century, a sense of significant change in the perception and reception of the visual arts. Paul Valéry wrote, for example, in 1931 as follows:

Our fine arts were developed, their types and uses were established, in times very different from the present, by men whose power of action upon things was insignificant in comparison with ours. But the amazing growth of our techniques, the adaptability and precision they have attained, the ideas and habits they are creating, make it a certainty that profound changes are impending in the ancient craft of the Beautiful. In all the arts there is a physical component which can no longer be considered or treated as it used to be, which cannot remain unaffected by our modern knowledge and power. For the last twenty years neither matter nor space nor time has been what it was from time immemorial. We must expect great innovations to transform the entire technique of the arts, thereby affecting artistic invention itself and perhaps even bringing about an amazing change in our very notion of art (Valéry, 1931: see the preface to Benjamin's text at <http://www.marxists.org/reference/subject/philosophy/works/ge/benjamin.htm>)

Benjamin himself was deeply under the impression of fundamental changes occurring and how these interfaced with technology: "In principle a work of art has always been reproducible. Man-made artifacts could always be imitated by men. Replicas were made by pupils in practice of their craft, by masters for diffusing their works, and, finally, by third parties in the pursuit of gain. Mechanical reproduction of a work of art, however, represents something new" (1936: 1). He continues:

Even the most perfect reproduction of a work of art is lacking in one element: its presence in time and space, its unique existence at the place where it happens to be. This unique existence of the work of art determined the history to which it was subject throughout the time of its existence. This includes the changes which it may have suffered in physical condition over the years as well as the various changes in its ownership. The traces of the first can be revealed only by chemical or physical analyses which it is impossible to perform on a reproduction; changes of ownership are subject to a tradition which must be traced from the situation of the original.

The presence of the original is the prerequisite to the concept of authenticity. Chemical analyses of the patina of a bronze can help to establish this, as does the proof that a given manuscript of the Middle Ages stems from an archive of the fifteenth century. The whole sphere of authenticity is outside technical – and, of course, not only technical – reproducibility. *Confronted with its manual reproduction, which was usually branded as a forgery, the original preserved all its authority; not so vis-à-vis technical reproduction.* The reason is twofold. First, process reproduction is more independent of the original than manual reproduction. For example, in photography, process reproduction can bring out those aspects of the original that are unattainable to the naked eye yet accessible to the lens, which is adjustable and chooses its angle at will. And photographic reproduction, with the aid of certain processes, such as enlargement or slow motion, can capture images which escape natural vision. Secondly, technical reproduction can put the copy of the original into situations which would be out of reach for the original itself. Above all, it enables the original to meet the beholder halfway, be it in the form of a photograph or a phonograph record. The cathedral leaves its locale to be received in the studio of a lover of art; the choral production, performed in an auditorium or in the open air, resounds in the drawing room (1936: 2-3, my emphasis).

Vermeegeren's forgeries and the law suit brought against him occupy an interesting position within this realisation of the increasing mobility of the art work as copy. His work falls within Benjamin's category of imitation "by third parties in pursuit of gain". Vermeegeren had gone to great lengths to imitate the works of a past master; he bought 17th-century canvases and scraped the paint off while being careful to retain as much of the surface cracks as possible; he then mixed paint with bakelite which hardened the paint quickly on drying, thus avoiding detection through the slow drying characteristics of oil paint. His endeavours were focused on the effects of the past with outcomes gained through modern technology in the form of bakelite, used for the long playing records and telephones for which Vermeer's time would have to wait more than

three centuries. His forgeries were singular, ‘once offs’, as he tried to emulate the authenticity and singularity of his model, Vermeer. He traded his *Christ and the Disciples at Emmaus* for two hundred supposedly ‘lesser’ Dutch paintings with Göring, an indication of how he prized his forgery. However, once in court, he revealed all. An audience could see how he imitated Vermeer, could see his techniques and the materials and tools he used. Although he became a national hero for hoaxing the élite and for his gifts as a performer to the gallery in court, only the original Vermeer paintings retained their authenticity, the “aura” which Benjamin discusses; while Vermeegeren’s forgeries – once unmasked – were received as oddities. They were, in turn, copied by his son, Jacques Vermeegeren, with his forgeries becoming ever further removed from their source.

While the strategies mentioned above harkened back to the past, Vermeegeren’s court case deployed the very technologies which would catapult the issue of the copy into the future, while rendering imitation obsolete. The court case was filmed for a start. In *Vermeegeren’s Fake Vermeers* documentary footage is included in various places. Photographic copies of his forgeries started a life of proliferation which would later escalate beyond all expectations, even those of Benjamin, when the internet became an integral part of our lives. Benjamin, did foresee this process:

In the case of the art object, a most sensitive nucleus – namely, its authenticity – is interfered with whereas no natural object is vulnerable on that score. The authenticity of a thing is the essence of all that is transmissible from its beginning, ranging from its substantive duration to its testimony to the history which it has experienced. Since the historical testimony rests on the authenticity, the former, too, is jeopardized by reproduction when substantive duration ceases to matter. And what is really jeopardized when the historical testimony is affected is the authority of the object.

One might subsume the eliminated element in the term “aura” and go on to say: that which withers in the age of mechanical reproduction is the aura of the work of art. This is a symptomatic process whose significance points beyond the realm of art. One might generalize by saying: the technique of reproduction detaches the reproduced object from the domain of tradition. By making many reproductions it substitutes a plurality of copies for a unique existence (1936: 4).

As a Marxist, Benjamin connected this process with the mass movements of the twentieth century as he understood how perception and concurrent modes of production shift in relation to historical circumstances: “...the mode of human sense perception changes with humanity’s entire mode of existence. The manner in which human sense perception is organized, the medium in which it is accomplished, is determined not only by nature but by historical circumstances as well” (1936: 5). Furthermore, Benjamin understood how this shift would play out around the mid-twentieth century and beyond:

To an ever greater degree the work of art reproduced becomes the work of art designed for reproducibility. From a photographic negative, for example, one can make any number of prints; to ask for the “authentic” print makes no sense. But the instant the criterion of authenticity ceases to be applicable to artistic production, the total function of art is reversed. Instead of being based on ritual [also read: tradition], it begins to be based on another practice – politics” (1936: 7).

Here, one can return to the case of the Vermeegeren forgeries. His activities within the context of WW11 intersected with politics. He used the political situation to enrich himself as he found a ready market for his forgeries in relation to the Nazi drive to procure as many European art treasures as possible to bolster their need for a superior ‘culture’. Hannema’s ambitions intersected with this drive and thus he was fair game for a forger like Vermeegeren. Political motives, power, lay at the root of these manoeuvres and tradition became the victim.

***Fare mundi* – art and law creating worlds or frameworks: a culture of the copy**

Although it was in 1936 that Benjamin published his now famous essay, the issue of the copy (also of forgeries) already had a history by that time. Hillel Schwartz's *The Culture of the Copy: Striking Likenesses; Unreasonable Facsimiles* (1998) stand out in this regard as it provides a comprehensive survey of the Western fascination with replicas and duplicates of all sorts. Since the advent of modern photography in the 1830s, this fascination has duplicated itself manifold. Benjamin realized what the implications of mechanical reproduction would be for the 'aura' and tradition of art. Nearer to our century, Douglas Davies wrote "The Work of Art in the Age of Digital Reproduction (an Evolving Thesis: 1991-95)", in which we read:

The work of art in the age of digital reproduction is physically and formally chameleon. There is no clear conceptual distinction now between original and reproduction in virtually any medium based in film, electronics, or telecommunications. As for the fine arts, the distinction is eroding, if not finally collapsed. The fictions of "master" and "copy" are now so entwined with each other that it is impossible to say where one begins and the other ends. In one sense, Walter Benjamin's proclamation of doom for the aura of originality, authored early in this century, is finally confirmed by these events. In another sense, the aura, supple and elastic, has stretched far beyond the boundaries of Benjamin's prophecy into the rich realm of reproduction itself.

Davies acknowledges that this "rich realm" impacts on mind and perception; that it constructs our world differently. Strategies such as collage, deconstruction, remixing, revisioning and rearranging are deployed amongst many others to recreate what is already there. He even acknowledges the work of forgers such as Vermeegeren who could argue that his "...work brings pleasure in the same measure as the copied master" (1995: 383). Nonetheless, the spectre of the 'original' remains with us through, for example. Davies's positioning of his 90s work using VideoFusion software to alter the conclusion of the *Last Nine Minutes* he had co-created with Joseph Beuys and Nam June Paik in 1977 as being a "post-original original" (1995: 383).

Celebrations of the "rich realm" of the digital find a counterpoint in Jean Baudrillard's text on *Simulacra and Simulation*, published in 1981 and later translated into English in 1995. His approach is profoundly critical as he presents our current world as one of copies without originals. But, Baudrillard also had a sophisticated historical consciousness and provided readers with a threefold shift or fundamental changes in Western culture with regard to issues of imitation and copying:

Simulacra and Simulation identifies three types of simulacra and identifies each with a historical period:

First order, associated with the premodern period, where the image is clearly an artificial placemaker for the real item. The uniqueness of objects and situations marks them as irreducibly real and signification obviously gropes towards this reality.

Second order, associated with the modernity of the Industrial Revolution, where distinctions between image and reality break down due to the proliferation of mass-reproducible copies of items, turning them into commodities. The commodity's ability to imitate reality threatens to replace the original version, especially when the individual person is only concerned with consuming for some utility a functional facsimile.

Third order, associated with postmodernity, where the simulacrum precedes the original and the distinction between reality and representation vanishes. There is only the simulacrum, and originality becomes a totally meaningless concept (see http://en.wikipedia.org/wiki/Simulacra_and_Simulation).

One can argue that Vermeegeren operated within the second order outlined above and that his ‘moment in the limelight’ could not have happened earlier or later than it did. His fraud and its complex reception in a court of law and from within the general populace of the Netherlands immediately post-WW11 fit within the “...commodity’s ability to imitate reality threatens to replace the original version, especially when the individual person is only concerned with consuming for some utility a functional facsimile.” I think of Baudrillard’s use of words and phrases like “maleficence” and “sorcery”, “perversions of reality”, “unfaithful copies” which “mask and denatures reality” as an “evil appearance” (1995: 10).

In “Towards a Modern Art of Law” Laura Fitzgerald argues that: “Law is a builder of worlds. Through constitution-framing, legislation and adjudication, law structures individuals into patterns of rights and responsibilities...To acknowledge the creative quality of law is to recognise its kinship to other endeavours traditionally called art... which also builds worlds... for us to imaginatively inhabit.” According to this publication law involves world-building, building a *nomos*, a normative universe which involves patterns of human relationships with the places we inhabit, patterns of ethics and normative behaviours which are similarly constructed and reflected in art.

Copyright law has been struggling with the dramatic shifts in the ontology of art works. One the one hand, the internet allows unprecedented access to visual reproductions; on the other hand many mechanisms try to block this access through subscription and other means. In this respect “Am I a crook? copyright issues on the Internet” provides many insights.

Copyright laws are becoming ever more stringent, while many versions of learning commons proliferate on the worldwide web. The tension remains between original and copy, between access and profit, between tradition and popular proliferation. Han Vermeegeren’s Vermeer forgeries seem to occupy a very particular position in the history of these tensions, one which simultaneously looked back to the past and suggested the current conundrums we live with in our current world as constructed by art and law in close proximity.



Figure 1
Johannes Vermeer, *The Love Letter*,
1667-68



Figure 2
Johannes Vermeer, *The Art of Painting*,
1665-67



Figure 3
Johannes Vermeer, Girl Reading a Letter at an Open Window, 1657-59.



Figure 4
Johannes Vermeer, The Girl with a Wineglass, 1659.



Figure 5
Johannes Vermeer, Christ in the House of Martha and Mary, 1654-55.

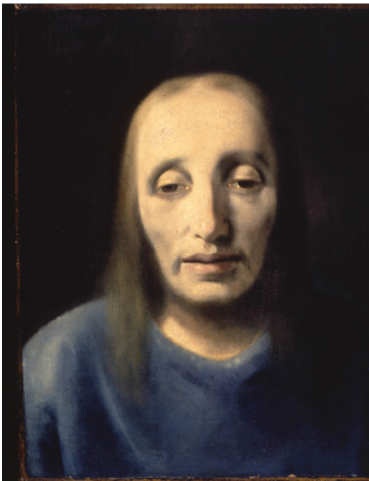


Figure 6
Han Vermeegeren, Head of Christ, 1940-41.

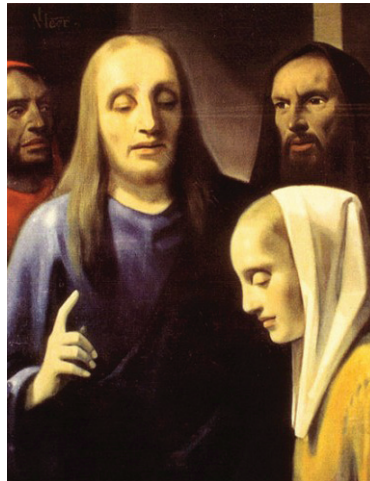


Figure 7
Han Vermeegeren, Christ and the Adulteress, 1943.

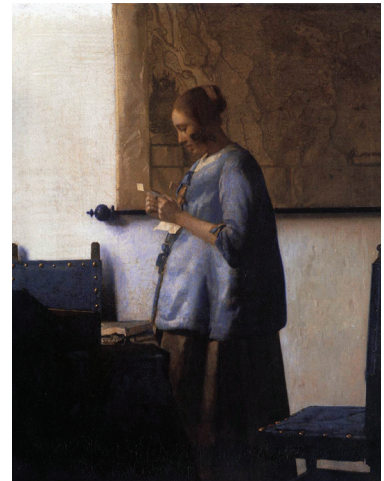
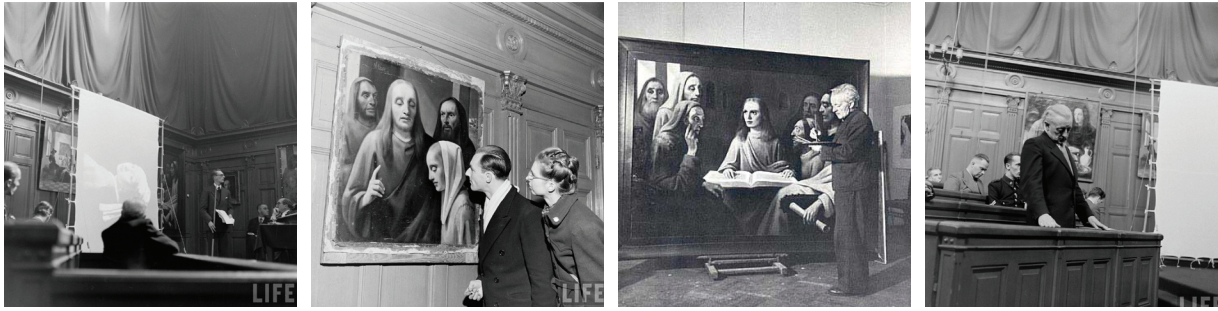


Figure 9
Johannes Vermeer, Woman in Blue Reading a Letter, 1663-64.



Figure 10
Director and chief restorer Dirk Hannema of Rotterdam Museum Boijmans admiring the newly discovered Emmaus by Johannes Vermeer that eight years later would appear to be a fake made by Han van Meegeren.



Figures 12-15
Trial of Han Vermeegeren,
1947



Figures 16-19
Jacques Vermeegeren's copies of his father's
forgeries a generation later.

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