
Editorial

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The second issue of the *International Journal of Cultural Property* develops themes addressed in our inaugural issue and introduces new ones. The recurrent questions are easy to identify. Art thefts continue unabated and the circulation of cultural property, both within and beyond the European Community, remains a cardinal preoccupation. Several of our contributors examine export controls and the recovery of stolen and illegally exported cultural objects. The history and mechanics of the United Kingdom export licensing rules are scrutinised by Clare Maurice and Richard Turnor, in an article offering both criticism and practical guidance. The authors conclude that if the Waverley criteria are to continue to afford a sound basis for the control of art exports, they must be supplemented in two respects: by legislation, to put the operation of the system on a proper statutory footing, and by grant, to fund the public acquisition of works important enough to be retained within the country. Since the article was written, further controversy has been fanned by the ministerial suggestion of a national list of works whose export should be prohibited outright. The subject is one to which we will inevitably return in future issues.

We also publish Kurt Siehr's commentary on the current state of the UNIDROIT draft convention on Stolen or Illegally Exported Cultural Objects, and (in our documents section) two long-awaited documents from the Commission of the European Communities: the Proposal for a Council Regulation on the Export of Cultural Goods, and the Proposal for a Council Directive on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State. Both documents have already attracted lively criticism. The proposed Directive, which makes no explicit distinction between stolen and illegally-exported cultural objects, has been compared unfavourably to the UNIDROIT proposal, which not only adopts differential treatment for the two forms of illicit removal but requires a requesting state to satisfy rigorous criteria before the requested state is obliged to return an illegally-exported object. But UNIDROIT itself has not escaped censure. There are those who question the value of a regime which permits recovery of objects acquired in good faith on condition that the claimant compensates the current

'The Journal is an organ of communication among people throughout the world who are interested in questions of cultural property policy, ethics, economics and law. In addition to refereed articles it publishes documents, judicial decisions, correspondence, bibliography and information about meetings and events. Its pages are open to all responsibly held and courteously presented points of view.'

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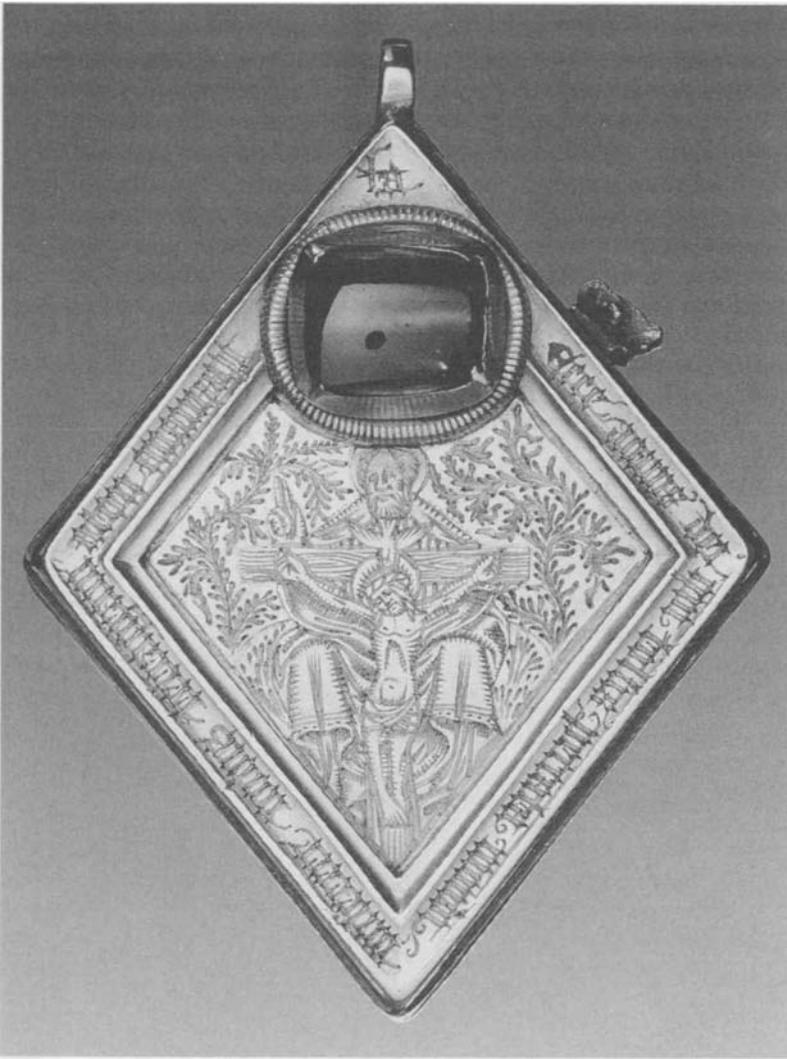
possessor; and there are those who question whether the provisions on unlawful export are not so restrictive as to invite desuetude.

The need for regulation of the illegal antiquities trade is highlighted in the report by Vassos Karageorghis on the theft and sale abroad of objects from the northern sector of Cyprus.

The problems of human tissue and human remains make a vivid reappearance in Linda Pinkerton's article on the Native American Graves Protection and Repatriation Act 1990. Readers will recall that many of the scientific and ethical arguments bearing on the treatment of such material were discussed by Jane Hubert in our inaugural issue. Linda Pinkerton's paper recounts a remarkable American statutory initiative which, in requiring the return of human remains to native groups, could well provide a model for other administrations and cultures.

An article by Lyndel Prott and Patrick O'Keefe raises more abstract issues. Their concern is the legitimacy of the language of 'property' to describe material of cultural significance. Here, as elsewhere, formal expression may conceal substantive assumptions. Does the proprietary vocabulary conceal an impoverishment of values, reinforcing the commodification of art and relegating cultural material to the status of merchandise? To some, the rift in values may be epitomised by the facts of the Bumper litigation noted by Jennifer James and Sandy Gandhi in our case-note section: a contest between a commercial corporation and a deity over material removed from a temple. It would be regrettable if the use of proprietary terminology signalled a preoccupation with the corporeal to the neglect of the discrete or spiritual. But property, like truth, is a jewel of many facets. It can encompass intangible and oral as well as tangible and scriptural phenomena, it can reside in nations or tribes or deities as well as in private entities, and it can adapt according to context. Of course, the neutrality of the term may itself argue strongly for its abandonment. But the rival claims of a word like 'heritage' seem rather less compelling when its public perception is such that the Reviewing Committee on the Export of Works of Art feels constrained to apologise for employing it.

In common with our inaugural issue, this issue is published at a time of massive change. Events as disparate as the disintegration of Yugoslavia, the announcement by the Italian government of proposals to facilitate loans of material from national institutions and the intensive preparation for the single European market demonstrate the vitality of our subject and the perils and challenges confronting those responsible for cultural property throughout the world. No less important, in their way, are the educational initiatives currently being developed to meet the demand for instruction in this area. An event worthy of particular note in this context is the recent decision by the International Bar Association Educational Trust to inaugurate a sub-fund committed exclusively to research into the legal issues of cultural property. The first project, on Art Loans and Exhibitions, is in progress and should result in a report in 1993.



The Middleham Jewel, a fifteenth century gold jewel discovered in a field near Middleham Castle, North Yorkshire, England, and later sold for £ 1,430,000. Retained in United Kingdom after export price outbid by local buyer. Photograph by kind permission of Sotheby's.

