
List of Contributors

- Caroline Forder Privaatrecht Faculteit der Rechtsgeleerdheid, Rijksuniversiteit Limburg, Postbus 616 6200 MD Maastricht, The Netherlands. Telephone: 043–887 777 Fax: 043 25 65 38
- Patty Gerstenblith College of Law, DePaul University, 25 East Jackson Boulevard, Chicago, Illinois, 60604–2287 USA. Telephone: 312–362 8701
- Sandy Ghandi Lecturer in Law, Department of Law, University of Reading, PO Box 218, Reading RG6 2AA England. Telephone: 0734 318366 Fax: 0734 753280
- Joanna Goyder European Co-Ordinator, Baker & McKenzie, Boulevard du Regent 40, 1000 Brussels, Belgium. Telephone: 32–2 5063611 Fax: 32–2 5116280
- Marion Haunton Legal Counsel, Department of Communications Legal Services, 300 Slater Street, Ottawa, Ontario K1A OC8, Canada. Telephone: 613–990–4405 Fax: 613–954–1478
- Jennifer James Senior Lecturer in Law, Department of Law, University of Reading, PO Box 218, Reading RG6 2AA, England. Telephone: 0734 318366 Fax: 0734 753280
- Vassos Karageorghis Foundation Anastasios G. Leventis, 28 Sofoulis St., Chanteclair Bld., Off. 114, Nicosia, Cyprus. Telephone: 02–461706 Fax: 02 459090
- Paul Kearns 38 Erw Salusbury, Denbigh, Clwyd, Wales LL16 3HL.
- I. H. Longworth F.S.A Keeper of Prehistoric and Romano-British Antiquities, The British Museum, London WC1B 3DG, England. Telephone: 071 323 8293

List of Contributors

- Clare Maurice Partner, Allen and Overy, 9 Cheapside, London EC2V 6AD, England. Telephone: 071 248 9898 Fax: 071 236 2192
- Patrick J. O'Keefe 6 Villa des Entrepreneurs, Paris 75015, France
- Linda Pinkerton J. Paul Getty Trust, Secretary and Trust Counsel, 1875 Century Park East Suite 2300, Los Angeles, California 90067-2561 USA. Telephone: 213 277 9188 Fax: 213-5568215
- Lyndel V. Prott Head of the International Standards Section, Cultural Heritage Division, UNESCO, 7 Place de Fontenoy, Paris 75015, France. Telephone: 45 68 44 40
- Kurt Siehr Frohburgstrasse 52, CH-8006, Zürich, Switzerland. Telephone: 01 364 02 55
- Richard Turnor Partner, Allen and Overy, 9 Cheapside, London EC2V, England. Telephone: 071 248 9898 Fax: 071 236 2192

Index to Volume One

Table of Contents

Articles

- Gurr, Andrew, "Cultural Property and 'Sufficient Interest': the Rose and the Globe Sites" 9–25
- Hubert, Jane, "Dry Bones or Living Ancestors? Conflicting Perceptions of Life, Death and the Universe" 105–127
- Karageorghis, Vassos, "The Trade in Cypriot Antiquities in London" 331–332
- Lowenthal, David, "Counterfeit Art: Authentic Fakes?" 79–103
- Maurice, Clare and Turnor, Richard, "The Export Licensing Rules in the United Kingdom and the Waverley Criteria" 273–295
- Merryman, John Henry, "Counterfeit Art" 27–77
- Pinkerton, Linda, "The Native American Graves Protection and Repatriation Act: An Introduction" 297–305
- Prott, Lyndel and O'Keefe, Patrick, "'Cultural Heritage' or 'Cultural Property'?" 307–320
- Siehr, Kurt, "The UNIDROIT Draft Convention on the International Protection of Cultural Property" 321–329

Book Reviews

- Blutke, Günter, *Obscure Business with Art and Antiques. A Criminal Report* (Kurt Siehr) 429–430
- Goodman, David and Redcliff, Michael, (eds.) *Environment and Development in Latin America: The Politics of Sustainability* (Nicola Atkinson) 427–428
- Hiller, Susan, (ed.) *The Myth of Primitivism: Perspectives on Art* (Brad Sherman) 423–426
- O'Keefe, P.J. and Prott, L.V., *Law and the Cultural Heritage Volumes 1 and 3* (Geoffrey Lewis) 257–259
- Price, Sally, *Primitive Art in Civilised Places* (Brad Sherman) 423–426

Case Notes

- Byrne-Sutton, Quentin, "The Goldberg Case: A Confirmation of the Difficulty in Acquiring Good Title to Valuable Stolen Cultural Objects" 151–168

Debattista, Charles, "Authenticity, Merchantable Quality and the Sale of Goods by Description"	199–205
Ghandi, Sandy and James, Jennifer, "The God That Won"	369–381
Gerstenblith, Patty, "Guggenheim v Lubell"	359–367
Goyder, Joanna, "Scheduling Monuments: The Rose Theatre Case"	353–358
Kaye, Peter, "International Jurisdiction Over Companies: When is an Art Gallery not an Art Gallery?"	185–192
Kearns, Paul, "Not a Question of Art: Regina v Gibson Regina v Sylveire"	383–388
McKendrick, Ewan, "Auctioneers, 'Sleepers' and Actions in Negligence"	207–213
Merryman, John Henry, "Limits on State Recovery of Stolen Artifacts: Peru v Johnson"	169–173
O'Keefe, Patrick, "Maoris Claim Head"	393–394
Prott, Lyndel, "Movables and Immovables as Viewed by the Law"	389–392
Redmond-Cooper, Ruth, "Defamation and the Art World"	175–183
Shiina, S., "The Iba Site Case"	193–194
Siehr, Kurt, "Manuscript of the Quedlinberg Cathedral Back in Germany"	215–217
Ward, Alan, "Treasure Trove and the Law of Theft"	195–198

Chronicles and Events

September 1990-August 1991	143–149
September 1991-March 1992	343–352

Conference Reports

Dyer, Christopher, "Art Antique and Architectural Theft Conference held by the Georgian Group and Trace" 15–17 November 1990 Plymouth	229–231
Tauber, Christoph, "The International Protection of Cultural Property sponsored by the Austrian Academy of Sciences" Vienna 18–19 October 1990	227–228
Wyss, Martin Phillip, "The Protection of the Cultural Heritage and its Legal Dimensions: The Heidelberg Symposium" 22–23 June 1990	232–237

Correspondence

Elsen, Albert, "The Elsen/Walsh Controversy"	129–135
--	---------

Documents

Forder, Caroline, "Treasure Trove in the Netherlands: Article 13 of Book 5 of the New Dutch Civil Code"	413
Kemp, Martin, "The 'Guidelines for the Professional Practice of Art History' Issued by the Association of Art Historians in Great Britain"	239–251

Proposal for Council Regulations (EEC) on the Export of Cultural Goods	415–422
Siehr, Kurt, “Preliminary Draft Unidroit Convention on Stolen or Illegally Exported Cultural Objects (approved by the UNIDROIT Study Group on the International Protection of Cultural Property at its Third Session on 26 January 1990)”	252–255

Essays

Agnew, Julian, and Farrar, Matthew, “Goya’s ‘Marquesa de Santa Cruz’”	137–141
Longworth, Ian, “Snettisham Revisited”	333–341

Legislation

Forder, Caroline, “New Treasure Trove Law in the Netherlands”	397–401
Haunton, Marion, “Canada’s Proposed Archaeological Heritage Protection Act”	395–396
Pinkerton, Linda, “The Native American Graves Protection and Repatriation Act”	401

Treaties and EC Matters

Goyder, Joanna, “European Community Free Movement of Cultural Goods and European Community Law”	
– Part I	219–225
– Part II	403–411

Table of Statutes

United Kingdom

Ancient Monuments and Archaeological Areas Act 1979	9 et seq., 353 et seq.
Copyright Acts 1911, 1956, 1988	244
Import, Export and Customs Powers (Defence) Act 1939	274–275, 283
Limitation Act 1980	372–372, 378–379
National Heritage Act 1983	9 et seq., 353 et seq.,
Sale of Goods Act 1979	199 et seq.,
Supreme Court Act 1981	22–23
Town and Contry Planning Act 1971	11

United States

Archaeological Resources Protection Act 1979	302
California Art Preservation Act 1979	53
Copyright Act 1978	244
Cultural Property Implementation Act 1983	27 et seq.,
Model Penal Code (American Law Institute Draft Text and Commentaries) Washington D.C. 1967	48 – 50
Native American Graves Repatriation Act 1990	297 – 305
New York Artists' Authorship Rights Act 1983	53

Others

Aboriginal and Torres Strait Islander Heritage Protection Act (Australia) 1984	319
Administrative Proceedings Act (Japan)	193 – 194
Civil Code (Netherlands) 1838, 1992	396 – 401
Constitution Act (Canada) 1867	395
Heritage Commission Act (Australia) 1975	319
Monuments Act (Netherlands) 1988	397 – 401
New South Wales Heritage Act (Australia) 1977	319
Protection of Movable Heritage Act (Australia) 1986	319
Tamil Nadu Hindu Religious and Charitable Endowments Acts (India) 1959, 1976	372 et seq.,
Treasure Trove Act (India)	372 et seq.,

Table of Cases

United Kingdom

<i>Arab Monetary Fund v Hashim and Others (No.3)</i> (1991)	378
<i>Attorney-General for the Duchy of Lancaster v GE Overton (Farms) Ltd</i> (1980)	335
<i>Bumper Development Corporation Ltd v Commissioner of Police for the Metropolis and Others</i> (1991)	369 – 381
<i>Cleveland Museum of Art v Capricorn International SA and Another</i> (1990)	185 – 192
<i>Emperor of Austria v Day and Kossuth</i> (1861)	140 – 141
<i>Harlingdon & Leinster Enterprises Ltd v Christopher Hull Fine Art Ltd</i> (1990)	199 – 205
<i>Hartt v Newspaper Publishing plc and Others</i> (1989)	175 – 183, 210, 239 – 240

<i>Hip Foong Hong v Neotia & Co</i> (1918)	374
<i>Hongkong Fir Shipping Co Ltd v Kawasaki Kisen Kaisha</i> (1962)	202
<i>Kneller (Publishing, Printing and Promotions) Ltd v</i> <i>Director of Public Prosecution</i> (1972)	384 et seq.,
<i>Leaf v International Galleries</i> (1950)	210
<i>Luxmoore-May v Messenger May Baverstock</i> (1990)	207–213
<i>Morgan v Odhams Press</i> (1971)	179
<i>Nevill v Fine Arts and General Insurance Co Ltd</i> (1897)	179
<i>R v Gibson</i> (1990)	383–388
<i>R v Hancock</i> (1990)	195–198
<i>R v Lemon</i> (1979)	383 et seq.,
<i>R v Secretary of State for the Environment, ex</i> <i>parte Rose Theatre Trust Co.</i> (1990)	10–25, 353–358
<i>R v Sylveire</i> (1990)	383–388
<i>Re Oriel Ltd</i> (1985)	187
<i>Shaw v Director of Public Prosecution</i> (1961)	383 et seq.,
<i>Winkworth v Christie, Manson & Woods</i> (1980)	325

United States

<i>Autocephalous Greek-Orthodox Church of Cyprus v Gold-</i> <i>berg</i> (1990)	151–168
<i>De Weerth v Baldinger</i> (1987)	360 et seq.,
<i>Golden Budha Corporation v Canadian Land Company</i> <i>of America</i> (1991)	362–363
<i>Guggenheim v Lubell</i> (1990)	359–367
<i>Hoelzer v City of Stamford</i> (1989)	
<i>Jeanneret v Vichy</i> (1982)	235
<i>Kunstsammlungen zu Weimar v Elicofon</i> (1981)	157 et seq., 360
<i>Menzel v List</i> (1964)	359 et seq.,
<i>New York v Wright Hepburn Webster Gallery Ltd.</i> (1970)	41–42
<i>O'Keefe v Snyder</i> (1979)	360 et seq.,
<i>Peru v Johnson</i> (1989)	169–173
<i>Regan v Time</i> (1984)	50
<i>Republic of Turkey v Metropolitan Museum of Art</i> (1990)	362
<i>US v Hollinshead</i> (1974)	171–3
<i>US v McClaine</i> (1979)	171–173
<i>Wagner v Simon</i> , (1974)	50–52

Others

<i>Arnammaghaean Foundation v Ministry of Education Den-</i> <i>mark</i> (1966) (1971)	315–317
<i>Commission v Italy EC</i> (1968)	220
<i>Fondation Abegg v Ville de Genève France</i> (1988)	389–392
<i>Milirrpum v Nabalco Pty Ltd Australia</i> (1971)	310
<i>Mullick v Mullick India</i> (1925)	310
<i>Ville de Genève et Fondation Abegg v Consorts Margail</i> <i>France</i> (1985)	389–392

Table of Conventions and Treaties

1907 Hague Convention for Respecting the Laws and Customs of War on Land	312
1954 UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict	151, 234, 236, 247–248, 312
1956 EEC Treaty of Rome	219, 325, 407–408
1968/1978/1989 Brussels Conventions on Jurisdiction and the Enforcement of Foreign Judgements in Civil and Commercial Matters	325
1969 European Convention on the Protection of the Archaeological Heritage	318
1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	151, 172, 232–236, 258–259, 318–319, 321, 325, 410
1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage	318
1973 European Convention on the Protection of the Archaeological Heritage	248
1985 European Convention on Offences Relating to Cultural Property	318, 410
1985 Convention for the Protection of the Archaeological Heritage of Europe	318
1988 Lugano Convention on Jurisdiction and the Enforcement of Foreign Judgements in Civil and Commercial Matters	325

Subject Index

Alsop, Joseph 40	description of in sale of
Archaeological heritage	199–205
protection of in Canada	early music 86–89
395–396	Bailment 363–364
protection of in Netherlands	Banfield, Edward 30
396–401	Cazenove Frescoes 389–392
Authenticity of cultural objects	Conflict of Law
attitudes towards 79–82,	English and foreign
89–97	374–377
criteria applicable to	Kanakaria mosaics and
82–84	155–166

- lex fori* 376–377
- Ownership of Nataraja and
374–377
rules 189–191
within the EC 403–411
- Counterfeit Art 27–103
authenticity and 79–103
disposal of 57–61
morality of 34
relationship to counterfeit
money and stamps 50–55
social response to 47–57,
61–63
ubiquity of 43–47
- Cultural heritage
definition of 307–309
law and 318–319
- Cultural property
problems with usage of
309–312
law and 312–318
seizure of by state 429–430
- Cyprus
illegal export from 331–332
- Defamation
art world and 175–183
- Defence
of fair comment 182–183
of justification 181–182
of laches 361, 364
- Duty 208–211
'due diligence' 361–363
- Ethics,
art historians and 239–251
- English Heritage
attitude to Rose and Globe
theatre sites 9–25, 355,
357
- Environment
of Latin America 427–428
- Export licensing (UK)
273–295
funding of 286–288
indenfinite stop procedure
292–293
'OGEL' 283–284
- Free movement of goods in the
EC 219–225, 403–411
- 'Getty Aphrodite' 129–135
- Globe Theatre, London 9–25
- 'Goldberg Case' 151–168
- Good Title
stolen objects and 151–168
- Goya, 'Marquesa de Santa
Cruz' 137–141
- Hamilton, Charles 30
- Human Remains 105–127,
297–305,
're-burial issue' and
106–110
repatriation 301, 393–394
'right of possession'
300–301
trafficking in 304–305
Vermillion Accord 111–113
- Iba Site 193–194
- Illegal Exports
documentation and
137–141
from Cyprus 331–332
UNIDROIT draft
convention on 252–255
- Irving, Clifford 30
- Kanakaria Mosaics 151–168
- Keating, Tom 30, 63, 90
faking of 'Old Masters'
38–41
- Nataraja 369–381
- Movables and Immovables
389–392
- Negligence
actions in 207–213
- Obscenity
English laws and 383–388
- Quedlinberg Cathedral
manuscript 215–217
- Primitive Art 423–426
- Rose Theatre, London 9–25,
353–358
- Sale of goods 199–205
- Simulationist art 46–47
- 'Snettisham Hoard' 333–341
- Sufficient interest 9–25
- Stead, Dr Ian 333, 340
- Stein, Anne-Marie 30, 34
- Stein, David
forgeries by 41–42, 47

- Stolen artefacts,
 Indian legislation and
 369–381
 attitude of English courts to
 379
 limits on state recovery of
 169–173
- Treasure trove 195–198,
 333–341
 ‘*animus revertendi*’ 337–339
- Dutch law of 396–401,
 413
 Indian law of 372 et seq.,
UNIDROIT
 draft convention 252–255,
 321–329
 van Meegeren, Hans 90
 ‘problem’ of 28–33, 34 et
 seq.,
 Waverley criteria 273–295, 408

	Treaties and EC Matters		<i>Price Primitive Art in Civilised Places</i> Brad Sherman
403	Free Movement of Cultural Goods and the European Community: Part II Joanna Goyder	427	David Goodman and Michael Redcliff (eds.) <i>Environment and Development in Latin America: The Politics of Sustainability</i> Nicola Atkinson
	Documents		
413	Treasure Trove in the Netherlands: Article 13 of Book 5 of the New Dutch Civil Code Caroline Forder	429	Günter Blutke <i>Obskure Geschäfte mit Kunst und Antiquitäten. Ein Kriminalreport</i> [Obscure Business with Art and Antiques. A Criminal Report] Kurt Siehr
415	Proposal for a Council Regulation (EEC) on the Export of Cultural Goods		
	Book Reviews		
423	Susan Hiller (ed.) <i>The Myth of Primitivism: Perspectives on Art</i> ; Sally	431	List of Contributors
		433	Index

Preview

In forthcoming issues of the International Journal of Cultural Property we plan to publish articles on The Movement of Art Treasures to and from Eastern Europe, Antiquities Collecting Policies – an Update, the Treatment and Protection of Antiquarian Treasures in the Middle East, Fiscal Incentives and the Public Donation of Works of Art, and the Unlawful Importation of Illegally Removed Cultural Property into the United States. Our EC and Treaties section will contain a full update on European developments involving art exports and the single market. In addition, there will be case notes, notes of legislation, book reviews and Chronicles. Contributors include Mark Almond, Robert Klein, Gareth Miller, Judith Church, Manlio Frigo and Ian Edge. For further information concerning this and future issues, please contact the Editor in Chief.

Contents

Issue 2/1992

269 Editorial

Norman Palmer

Articles

273 The Export Licensing Rules
in the United Kingdom

and the Waverley Criteria
Clare Maurice and Richard
Turnor

297 The Native American
Graves Protection and
Repatriation Act:

An Introduction
Linda F. Pinkerton

307 'Cultural Heritage' or
'Cultural Property'?

Lyndel V. Prott and
Patrick J. O'Keefe

321 The UNIDROIT Draft
Convention on the
International Protection
of Cultural Property

Kurt Siehr

Opinion

331 The Trade in Cypriot
Antiquities In London

Vassos Karageorghis

Essay

333 Snettisham Revisited

Ian H. Longworth F.S.A.

343 Chronicles

Case Notes

353 Scheduling Monuments:
The Rose Theatre Case
Joanna Goyder

359 Guggenheim v Lubell
Patty Gerstenblith

369 The God that Won
Sandy Ghandhi and
Jennifer James

383 Not a Question of Art:
Regina v Gibson
Regina v Sylveire
Paul Kearns

389 Movables and
Immovables as Viewed by
the Law
Lyndel V. Prott

393 Maoris Claim Head
Patrick J. O'Keefe

Legislation

395 Canada's Proposed
Archaeological Heritage
Protection Act
Marion Haunton

396 New Treasure Trove Law
in the Netherlands
Caroline Forder

401 The Native American
Graves Protection and
Repatriation Act
Linda F. Pinkerton