List of Contributors

Caroline Forder

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

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
<table>
<thead>
<tr>
<th>List of Contributors</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Clare Maurice</td>
<td>Partner, Allen and Overy, 9 Cheapside, London EC2V 6AD, England. Telephone: 071 248 9898 Fax: 071 236 2192</td>
</tr>
<tr>
<td>Patrick J. O'Keefe</td>
<td>6 Villa des Entrepreneurs, Paris 75015, France</td>
</tr>
<tr>
<td>Linda Pinkerton</td>
<td>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</td>
</tr>
<tr>
<td>Lyndel V. Prutt</td>
<td>Head of the International Standards Section, Cultural Heritage Division, UNESCO, 7 Place de Fontenoy, Paris 75015, France. Telephone: 45 68 44 40</td>
</tr>
<tr>
<td>Kurt Siehr</td>
<td>Frohburgstrasse 52, CH-8006, Zürich, Switzerland. Telephone: 01 364 02 55</td>
</tr>
</tbody>
</table>
# Index to Volume One

## Table of Contents

### Articles

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gurr, Andrew</td>
<td>“Cultural Property and ‘Sufficient Interest’: the Rose and the Globe Sites”</td>
<td>9-25</td>
</tr>
<tr>
<td>Hubert, Jane</td>
<td>“Dry Bones or Living Ancestors? Conflicting Perceptions of Life, Death and the Universe”</td>
<td>105-127</td>
</tr>
<tr>
<td>Karageorghis, Vassos</td>
<td>“The Trade in Cypriot Antiquities in London”</td>
<td>331-332</td>
</tr>
<tr>
<td>Lowenthal, David</td>
<td>“Counterfeit Art: Authentic Fakes?”</td>
<td>79-103</td>
</tr>
<tr>
<td>Maurice, Clare and Turnor, Richard</td>
<td>“The Export Licensing Rules in the United Kingdom and the Waverley Criteria”</td>
<td>273-295</td>
</tr>
<tr>
<td>Merryman, John Henry</td>
<td>“Counterfeit Art”</td>
<td>27-77</td>
</tr>
<tr>
<td>Pinkerton, Linda</td>
<td>“The Native American Graves Protection and Repatriation Act: An Introduction”</td>
<td>297-305</td>
</tr>
<tr>
<td>Prott, Lyndel and O’Keefe, Patrick</td>
<td>“‘Cultural Heritage’ or ‘Cultural Property’?”</td>
<td>307-320</td>
</tr>
</tbody>
</table>

### Book Reviews

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blutke, Günter</td>
<td>Obscure Business with Art and Antiques. A Criminal Report (Kurt Siehr)</td>
<td>429-430</td>
</tr>
<tr>
<td>Goodman and Redcliff, Michael</td>
<td>Environment and Development in Latin America: The Politics of Sustainability (Nicola Atkinson)</td>
<td>427-428</td>
</tr>
<tr>
<td>Hiller, Susan</td>
<td>The Myth of Primitivism: Perspectives on Art (Brad Sherman)</td>
<td>423-426</td>
</tr>
<tr>
<td>O’Keefe, P.J. and Prott, L.V.</td>
<td>Law and the Cultural Heritage Volumes 1 and 3 (Geoffrey Lewis)</td>
<td>257-259</td>
</tr>
<tr>
<td>Price, Sally</td>
<td>Primitive Art in Civilised Places (Brad Sherman)</td>
<td>423-426</td>
</tr>
</tbody>
</table>

### Case Notes

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Byrne-Sutton, Quentin</td>
<td>“The Goldberg Case: A Confirmation of the Difficulty in Acquiring Good Title to Valuable Stolen Cultural Objects”</td>
<td>151-168</td>
</tr>
</tbody>
</table>
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
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 Quedlinburg Cathedral Back in Germany” 215 - 217

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

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

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


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 Country Planning Act 1971 11

435

https://doi.org/10.1017/S0940739192000298 Published online by Cambridge University Press
### Index to Volume One

#### United States

<table>
<thead>
<tr>
<th>Act/Act</th>
<th>Year</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archaeological Resources Protection Act</td>
<td>1979</td>
<td>302</td>
</tr>
<tr>
<td>California Art Preservation Act</td>
<td>1979</td>
<td>53</td>
</tr>
<tr>
<td>Copyright Act</td>
<td>1978</td>
<td>244</td>
</tr>
<tr>
<td>Cultural Property Implementation Act</td>
<td>1983</td>
<td>27 et seq.,</td>
</tr>
<tr>
<td>Native American Graves Repatriation Act</td>
<td>1990</td>
<td>297 - 305</td>
</tr>
<tr>
<td>New York Artists’ Authorship Rights Act</td>
<td>1983</td>
<td>53</td>
</tr>
</tbody>
</table>

#### Others

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

### Table of Cases

#### United Kingdom

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

436
Hip Foong Hong v Neotia & Co (1918) 374
Hongkong Fir Shipping Co Ltd v Kawasaki Kisen Kaisha (1962) 202
Knuller (Publishing, Printing and Promotions) Ltd v Director of Public Prosecution (1972) 384 et seq.,
Leaf v International Galleries (1950) 210
Luxmoore-May v Messenger May Baverstock (1990) 207–213
Morgan v Odhams Press (1971) 179
Nevill v Fine Arts and General Insurance Co Ltd (1897) 179
R v Gibson (1990) 383–388
R v Hancock (1990) 195–198
R v Lemon (1979) 383 et seq.,
R v Sylveire (1990) 383–388
Re Oriel Ltd (1985) 187
Shaw v Director of Public Prosecution (1961) 383 et seq.,
Winkworth v Christie, Manson & Woods (1980) 325

United States
Autocephalous Greek-Orthodox Church of Cyprus v Goldberg (1990) 151–168
De Weerth v Baldinger (1987) 360 et seq.,
Guggenheim v Lubell (1990) 359–367
Hoelzer v City of Stamford (1989)
Jeanmeret v Vichy (1982) 235
Kunststsammlugen zu Weimar v Elicofon (1981) 157 et seq., 360
Menzel v List (1964) 359 et seq.,
New York v Wright Hepburn Webster Gallery Ltd. (1970) 41–42
O’Keefe v Snyder (1979) 360 et seq.,
Peru v Johnson (1989) 169–173
Regan v Time (1984) 50
Republic of Turkey v Metropolitan Museum of Art (1990) 362
US v McClaine (1979) 171–173
Wagner v Simon (1974) 50–52

Others
Commission v Italy EC (1968) 220
Milirrump v Nabalco Pty Ltd Australia (1971) 310
Mullick v Mullick India (1925) 310

437
### Table of Conventions and Treaties

<table>
<thead>
<tr>
<th>Year</th>
<th>Convention Description</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1907</td>
<td>Hague Convention for Respecting the Laws and Customs of War on Land</td>
<td>312</td>
</tr>
<tr>
<td>1956</td>
<td>EEC Treaty of Rome</td>
<td>219, 325, 407–408</td>
</tr>
<tr>
<td>1968/78/89</td>
<td>Brussels Conventions on Jurisdiction and the Enforcement of Foreign Judgements in Civil and Commercial Matters</td>
<td>325</td>
</tr>
<tr>
<td>1969</td>
<td>European Convention on the Protection of the Archaeological Heritage</td>
<td>318</td>
</tr>
<tr>
<td>1972</td>
<td>UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage</td>
<td>318</td>
</tr>
<tr>
<td>1973</td>
<td>European Convention on the Protection of the Archaeological Heritage</td>
<td>248</td>
</tr>
<tr>
<td>1985</td>
<td>European Convention on Offences Relating to Cultural Property</td>
<td>318, 410</td>
</tr>
<tr>
<td>1985</td>
<td>Convention for the Protection of the Archaeological Heritage of Europe</td>
<td>318</td>
</tr>
<tr>
<td>1988</td>
<td>Lugano Convention on Jurisdiction and the Enforcement of Foreign Judgements in Civil and Commercial Matters</td>
<td>325</td>
</tr>
</tbody>
</table>

### Subject Index

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

438
Index to Volume One

*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
indefinite 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
Quedlinburg 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

439

https://doi.org/10.1017/S0940739192000298 Published online by Cambridge University Press
| Stolen artefacts, Indian legislation and attitude of English courts to limits on state recovery of | Dutch law of 396—401, 413 |
| Stolen artefacts, Indian legislation and attitude of English courts to limits on state recovery of | Indian law of 372 et seq., UNIDROIT draft convention 252—255, 321—329 |
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