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Recent UK Initiatives Against Illicit Trade in Antiquities Including Accession to the 1970 UNESCO Convention

DAVID GAIMSTER*

INTRODUCTION: THE SCALE OF THE PROBLEM

Britain has the second largest art market in the world, second only to the USA. In 1998, art market sales in the United Kingdom totalled just under £3,300 million.

According to the House of Commons Select Committee report of July 2000 on *Cultural Property: Return and Illicit Trade*, the British art market accounts for 52 per cent of the total Western European art sales and is growing faster than the Western European market as a whole.¹ However, there is indisputable evidence that London is also a center of the stolen art market. Between 1999 and 2000 the London Metropolitan Police detained £22 million-worth of cultural goods and in 1999 Interpol's London bureau dealt with 132 new cases of stolen cultural items.² Although the illicit trade in antiquities forms a relatively minor part of the international art market, with an estimated value of £58.7 million worldwide for Classical material (and £15 million in the UK),³ archaeological artifacts are particularly and increasingly vulnerable to looting and illicit trafficking. Professor Lord Renfrew of Cambridge University was among those who gave evidence to the Select Committee that the London market was becoming heavily involved in the "process whereby looted antiquities without provenance entered the 'legitimate' market, thereby acquiring a deceptive appearance of legitimacy which made their onward sale acceptable."⁴

The most cogent evidence for the illicit trade in antiquities is provided by the evidence of the destruction of archaeological sites around the world in order to feed the demand for the antiquities market. Mercenary excavation poses a particular threat to the heritage because looting invariably destroys the positional context and social association of

archaeological objects. Where sites are violated, objects of low commercial value may be damaged or discarded, collections or hoards dispersed beyond retrieval and the historical record obliterated irreparably.

Although there are many factors that can cause the destruction of sites worldwide, in particular development, destruction caused by the search for antiquities is of particular concern. Although the worst cases occur abroad, the UK is not immune from the problem. In England, Wales and Scotland it is lawful to search for antiquities with the permission of the landowner, except on scheduled ancient monuments, and metal detecting is a popular activity. However, there are a number of scheduled monuments and other sites, which are not protected by law, which are regularly attacked by treasure hunters—the so-called "nighthawks"—who do not have the permission of the landowner. To quote three examples⁵, at Wanborough in Surrey a hoard of 9,000 silver Iron Age coins worth £2 million was looted by Treasure hunters in 1984-85 and subsequently seen in dealers' lists worldwide;

"The British art market depends for its continuing success on the standards and perceived integrity of its participants."

Roman bronze sculptures were stolen by Treasure hunters from Icklingham in Suffolk and subsequently purchased by a U.S. collector; and 500 prehistoric bronze artifacts were removed illegally from a site near Salisbury, Wiltshire, of which two-thirds were recovered subsequently by the British Museum and a third were dispersed on the international market (Fig. 1). There are other high-profile cases, such as Corbridge in Northumberland, where a log of illicit detecting maintained over a period of four and a half years between 1989 and 1994 recorded 24 separate incidents. On a single occasion, up to 55 holes were dug on the site.

The British art market depends for its continuing success on the standards and perceived integrity of its participants. Indeed, the auction houses and established dealers, which



Figure 1. Decorated miniature bronze shields from the Salisbury Hoard found in the mid-1980s, the most remarkable hoard of prehistoric metalwork ever found in Britain. The hoard was sold to dealers and dispersed. Photo: British Museum, London.

stand at one end of that chain of respectability, have a strong business interest in the elimination of the illicit market. The British Antiquities Dealers Association maintain that their members have made considerable efforts in the last decade to distance themselves from such traffic. These include the adoption of a voluntary Code of Practice by which participants undertake "to the best of their ability, not to import, export or transfer the ownership" where they have "reasonable cause to believe" that "an imported object has been acquired in or exported from a country of export in violation of that country's laws" or that "an imported object was acquired dishonestly or illegally from an official excavation site or monument or originated from an illegal, clandestine or otherwise unofficial site."⁶

What remained in question for the Parliamentary Select Committee were not the concerns of the archaeological community about the scale of illicit trade in archaeological objects, nor the commitment of the British art market to avoid facilitating illicit trafficking, but the effectiveness of existing measures to combat the problem.

In response to calls from archaeologists and the legitimate art trade, the Department for Culture, Media and Sport (DCMS) established, in the Spring of 1999, an Illicit Trade Advisory Panel (ITAP) under Norman Palmer, Professor of Commercial Law at University College London (and Editor-in-Chief of the journal *Art, Antiquity and Law*), to advise the Government on, firstly, the extent of the illicit international trade in art and antiquities, and the extent to which the UK is involved in this; and, secondly, how most effectively the UK can play its part in preventing and prohibiting the illicit trade. The Panel's membership was drawn from the worlds of archaeology, museums and the

art trade. Their Report was published in December 2000 and marks a very significant landmark in developing public policy in this area, not least because it represents, for the first time, a consensus between all those groups interested in the trade in cultural objects on practical measures to improve the current situation.⁷ DCMS Ministers have broadly welcomed Professor Palmer's Report and officials in the Cultural Property Unit are now working with the Panel and colleagues in other Government departments to take forward its key recommendations.

UK ACCESSION TO THE 1970 UNESCO CONVENTION —JULY 2002

Accession to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property forms the first of the key recommendations of the Ministerial Advisory Panel. The UNESCO Convention enables countries who are parties to the Convention to claim back stolen antiquities which surface in the countries of fellow signatories. The Convention is not retroactive: it is applicable only to cultural objects stolen or illicitly exported from one state party to another state party after the date of entry into force of the Convention for both states concerned. The Panel advised against accession to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects on the basis that claims could be made for the return of stolen cultural property up to 50 years after the theft. Accession to UNIDROIT would have required primary legislation and so would have taken time, whereas acceptance of UNESCO could be enacted without delay.

On the question of defining cultural objects under UK acceptance, the Illicit Trade Advisory Panel recommended applying the European Union Directive, rather than the Convention, which operates between EU Member States that are parties to the Convention (European Community law would oblige us to do this in any event), thus avoiding

"Accession to the 1970 UNESCO Convention . . . forms the first of the key recommendations of the Ministerial Advisory Panel. . . . The panel advised against accession to the 1995 UNIDROIT Convention."

duplication. Through the concept of designation and other filters the UNESCO Convention captures a more clearly defined range of objects than the UNIDROIT Convention and one which fits comfortably with existing UK classifica-

*David Gaimster Ph.D, Secretary to the Illicit Trade Advisory Panel, Department for Culture, Media and Sport, Cultural Property Unit, London.

¹ Culture, Media and Sport Select Committee Seventh Report on *Cultural Property: Return and Illicit Trade*, House of Commons, London (2000), para. 25.

² Report of the Ministerial Advisory Panel on Illicit Trade, Department for Culture, Media and Sport, London, (December 2000), Annex A. See www.culture.gov.uk

³ As in note 2.

⁴ As note 1, para. 26.

⁵ As in note 2, p. 43.

⁶ As in note 1, para. 28.

⁷ As in note 2.

tions. It makes no reference to limitation periods so that the normal British statutory periods can apply where appropriate. It provides that the removal of cultural objects from countries by forces of occupation shall be illicit. Its widespread adoption (93 countries to date, prior to the UK) enhances its value as a means of recovering objects unlawfully removed from the UK. Compliance is almost certainly less onerous than in the case of the UNIDROIT Convention. The UNESCO Convention allows contracting states a considerable degree of discretion as to implementation, thereby accommodating local conditions.

A number of requirements of the UNESCO Convention which had previously been identified by the UK Government as stumbling blocks to its accession no longer posed a problem. Article 5(b) requires each State Party to be responsible for "establishing and keeping up to date, on the basis of a national inventory of protected property, a list of public and private cultural property whose export would constitute an appreciable impoverishment of the natural cultural heritage." Here the UK's current export licensing system, with its list of categories of the type of objects that will qualify, satisfies this requirement. Australia and Canada, both of which have acceded to the UNESCO Convention, have broadly similar export control systems. Both countries have assumed that the categories adopted for that system constitute a national inventory for the purposes of the Convention and that interpretation has not been challenged by any other State.

Another issue which had previously stymied UK accession to the UNESCO Convention is the requirement in article 5(d) for state parties to undertake "the supervision of archaeological excavations, ensuring the preservation *in situ* of certain cultural property, and protecting certain areas reserved for future archaeological research." There is now general satisfaction that the previous interpretation of this provision, which was that all archaeological excavations needed to be licensed by the State, is incorrect and that current arrangements in the UK whereby (1) cultural property is preserved *in situ* through the system of monuments in guardianship, (2) scheduled archaeological monuments are protected by law, (3) there is the provision for supervision of archaeological excavations by local authority archaeological services under the framework of Planning Policy Guidance Note 16 in England and its counterparts for the other parts of the UK, combine to satisfy this requirement.

A third difficulty was the requirement under Article 5(e) that the State be obliged to establish "for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules, in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of

these rules." Again, there is general satisfaction that the UK already meets this requirement, since most of the relevant professional associations such as the International Council of Museums, the Museums Association, the Institute of Field Archaeologists, the UK Institute of Conservation and dealers' associations now have such codes.

Fourthly, the Convention introduces an obligation, under Article 10, on dealers to maintain registers of cultural property in their stock, "as appropriate for each country." Illicit Trade and Advisory Panel members were satisfied that the current requirements for dealers to register for Value Added Tax (VAT) and to keep records of their transactions met this obligation.

After extensive consultation, the UK Government agreed that it should accede to the convention with the following reservations:

- (a) the UK interprets the term 'cultural property' as confined to those objects listed in the Annex to the European Union (EU) Regulation and Directive;⁸
- (b) as between European Community (EC) member states, the UK shall apply the relevant EC legislation to the extent that legislation covers matters to which the Convention applies, and
- (c) the UK interprets Article 7(b)(ii) to the effect that it may continue to apply its existing rules on limitation to claims made under this Article for the recovery and return of cultural objects.

The then Department for Culture, Media and Sport Minister, Alan Howarth, welcomed the ITAP December 2000 Report and announced on 13 March 2001 that the Government intended to accede to the UNESCO

"The signed Instrument of Acceptance was deposited with UNESCO in Paris on 31 July 2002."

Convention "once the normal Parliamentary and other formalities have been completed," on the basis that no fresh legislative commitment was required. Although accession was delayed while the legal requirements of the Convention were subjected to a detailed examination by legal advisers, Ministerial commitment to the measure was expressed repeatedly in policy statements.⁹ There is now satisfaction that the existing measures within the UK meet

"Professor Palmer, the Chairman of ITAP, successfully persuaded the members of the Panel representing the art and antiquities trade that accession to the Convention would not introduce onerous new burdens."

the requirements of the Convention. Following publication as a Command Paper in late April 2002, together with an Explanatory Memorandum, the Convention was laid before Parliament for 21 sitting days. The signed Instrument of Acceptance was deposited with UNESCO in Paris on 31 July 2002.

The archaeological community has long pressed the Government to accede to the UNESCO Convention, although members of the art market have in the past lobbied against it. Professor Palmer, the Chairman of ITAP, successfully persuaded the members of the Panel representing the art and antiquities trade that accession to the Convention would not introduce onerous new burdens. Following extensive consultation, the devolved administrations of Wales, Scotland and Northern Ireland also agreed that the UK should accept the Convention.

In joining the 93 other countries (including the United States) that are party to the UNESCO Convention, the UK Government sends out a powerful signal both to those who do so much damage to the world's cultural heritage and to those in the international community, that the UK is serious about playing its full part in the international effort to stamp out the illicit trade in cultural objects.

CRIMINAL OFFENSE

The 1970 UNESCO Convention was signed by the UK Government on the basis that no fresh legislative commitment was required. However, the Illicit Trade Advisory Panel recommended in its Report of December 2000 the introduction of a new criminal offense of "dishonestly importing, dealing or being in possession of any cultural object, knowing or believing that the object was stolen, or illegally excavated, or removed from any monument or

wreck contrary to local law" as essential underpinning of UK responsibilities and obligations under the Convention. The measure is supported both by the archaeological community and the art and antiquities trade, in view of the perceived inadequacy of the Convention to safeguard archaeological sites against illicit excavation or removal. Action on this matter is felt to be too important to be left to the vagaries of private law or to the restitution process. The Panel agreed that a pre-emptive measure, such as the creation of a new criminal offense to counter the illicit trade in unlawfully removed cultural objects, was the best solution. There is no doubt that the passing of a new criminal offense—with a proposed maximum penalty of 7 years' imprisonment—would show that the UK Government means business about tackling the illicit trade.

The offense would apply only to objects stolen, excavated or removed after the date on which the statutory provision creating the offense came into force. The offense would apply irrespective of the country in which the theft, excavation or removal occurred, including the UK. The offense would be one of guilty intent (*mens rea*).¹⁰ It would be for the prosecution to persuade a jury that the defendant knew that an object had been stolen, unlawfully excavated or unlawfully removed.

"... [the Panel] decided to omit illegally exported objects from the scope of the offense because it was concerned about the export laws of certain countries which restrain individuals from exporting their own possessions . . ."

A recent case has suggested that the powers of HM Customs and Excise to seize or detain objects which they suspect may have been stolen or illegally excavated may need to be strengthened. The Panel has proposed that the offense, while not necessitating the introduction of any new system for the general inspection of imported goods, be fortified by appropriate powers of search, detention and seizure on the part of the enforcement authorities. In addition, the Panel has recorded its scepticism about the use of due diligence as a standard for criminal liability and believe that a *mens rea* defense is preferable. Secondly, it believes that it would be excessively bureaucratic to apply the offense on a bilateral basis only to objects emanating from certain countries and that such an approach would also be confusing to dealers, collectors and museums. Lastly, it decided to omit illegally exported objects from the scope of the offense because it was concerned about the export laws of certain countries

⁸ As in note 2, Annex E.

⁹ *The Historic Environment: A Force for Our Future, Department for Culture, Media and Sport*, London (December 2001), para. 4.43. See www.culture.gov.uk

¹⁰ As in note 2, paras. 68-69.

which restrain individuals from exporting their own possessions, particularly in the light of possible contraventions of the European Convention on Human Rights on grounds of uncertainty or disproportionality under the terms of article 1 of the first protocol to the ECHR.

A criminal provision of the nature proposed may have beneficial effects in civil law. The taint of criminal association may make insurance cover harder to obtain or enforce for objects of doubtful provenance, and impede their movement across national borders. It may also increase the risk of liability under the title and associated guarantees contained in section 12 of the Sale of Goods Act 1979.¹¹

Draft instructions for the criminal offense were cleared by all the relevant UK Government Departments over the course of 2001-02. The Government has also recently expressed its commitment to introducing this offense as soon as possible and is now awaiting the earliest suitable legislative opportunity for its enactment.¹²

INFORMATION MANAGEMENT

A recurrent theme throughout the lifespan of the Illicit Trade Panel has been the need for intelligence. No party transacting within the market can do so confidently without reliable and efficiently retrievable information. The difficulty of gaining such intelligence is most keenly felt within two categories: information about the laws of other countries and information about the provenance and legal status of individual objects.

The Panel recommended the institution of a comprehensive and universally accessible database of international legislative information.¹³ The database should be run as a service available to all who transact in cultural objects. It should seek to record information about past as well as present laws and about judicial decisions constraining those laws. It should, like other modern law databases, be constantly updated. Proof of reference to the database will be relevant to a possessor's legal position in numerous respects: it will help to show good faith for the purpose of triggering the limitation period and it will be a strong disincentive to prosecution for the proposed new criminal offense. It should assist particularly in regard to excavated objects which, being unrecorded, will not be identifiable by consulting any database of objects. It is felt that UNESCO is the best organization to take the lead on this initiative, and the Department for Culture, Media and Sport is currently in discussion with UNESCO on the launch of the first phase of a database.

The Illicit Trade Panel's December 2000 Report also recognized the need for improved intelligence as a key to effective enforcement. It included, among its key recommendations, the establishment of a specialist national database of unlawfully removed cultural objects. The database would be intended to cover cultural objects unlawfully removed from any place in the world, whether in the UK or overseas. Its primary purpose would be to record those objects which have been (a) stolen, or (b) illegally excavated, or (c) illegally removed from monuments or wrecks on the basis that the theft of such objects within the UK should be a reportable offense. Access to the proposed database should be prescribed with carefully regulated and restricted levels of access by means of a system of security codes. Differential levels of access could, for example, be extended to police forces, public authorities, commercial entities and to private individuals.¹⁴

The development of a widely accessible database of stolen cultural objects remains very integral to fulfilling the UK's obligations under the UNESCO Convention, in particular those covering inventories and publicity regarding the disappearance of stolen items, and is important for the prosecution of the proposed criminal offense of possession and dealing in illegally removed cultural property. It is also regarded as a key part of the package by the art trade.

The illicit trade in cultural objects is, by its nature, international and the Report from the Culture Select Committee rightly stressed that such a database, in order to be effective, must be compatible with other international initiatives to develop such a resource.¹⁵ Previous attempts to collaborate with other countries in developing such a database have all too often foundered on the difficulty of reconciling different national systems. UNESCO places considerable stress on computerized databases and lists a number of international services (INTERPOL, ICOM, IFAAR) while stressing the value of complementary national inventories of stolen cultural property.¹⁶ It concludes that 'there is a definite need for more cooperation and networking between databases'.¹⁷

A series of consultations involving the Department for Culture, Media and Sport, the Home Office, Customs and Excise, the National Criminal Investigation Service, the Police Information Technology Organization and the Metropolitan Police and the two largest private database

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operators in this field, Invaluable Group and the Art Loss Register, took place during 2000-01 to examine the best way forward. Before the database proposal can be realized, there remain a number of issues which need to be fully considered including technical feasibility, levels and degrees of accessibility, data protection and cost.

EXPORT CONTROL

Members of the Illicit Trade Advisory Panel are united in their opinion that the export licensing system offers a workable and currently under-used means of imposing constraints on the movement of those cultural objects which have recently entered the UK after their illegal exportation from an overseas country. Aside from the two databases discussed above, the Panel's proposals on export controls form the principal immediate and non-statutory means by which the UK can demonstrate its commitment to the suppression of the illicit trade. In its Progress Report for 2001, it invited the Government to accept the following position: that on accession to the UNESCO Convention, it is the policy of the Government, in considering any application for an export license, that the Export Licensing Unit shall seek to identify

and take account of any unlawful removal (including illicit excavation) of the object from the UK or, where different, from the country in which it was located immediately before it was in the UK; and that the Export Licensing Unit shall take account of any evidence of unlawful removal (including illicit excavation) from a third country in which the object was located before the country of its last location.¹⁸

In addressing this question, the Panel stated that it is mindful of (a) the central role which any revised system of export supervision will play in the UK's implementation of the UNESCO Convention; and (b) the necessity to maintain proper conditions for the licit UK trade in cultural objects and to avoid initiatives which unacceptably impede the legitimate market or other beneficial forms of cultural exchange.¹⁹

In the light of the UK Government's recent accession to the UNESCO Convention, the Panel is currently concentrating on recommendations for the most effective means of:

- (a) advising on types of cultural property currently subject to looting and therefore needing extra checks on provenance before export licenses are granted;
- (b) monitoring the illegal unlicensed outflow of archaeological material from the UK, including material offered for sale on the Internet;
- (c) reviewing the system of, and instructions given to, expert advisers; the provenance requirements of Open Individual Export Licenses in cases of permanent export; the guidance to exporters, and consideration of the criteria which could be directed towards the constraint of the export of illicitly removed cultural objects and any consequent implications for individual export licenses; the advice on what action should be taken if the staff of the Export Licensing Unit or expert advisers have any suspicions about the provenance of an object;
- (d) advising on declarations about provenance and due diligence that should be made by applicants.²⁰

"Ninety percent of Treasure finds are found by metal detector users, of whom there are an estimated 10,000-15,000 in the UK."

PROTECTING PORTABLE ANTIQUITIES IN THE UK

The Treasure Act of 1996 came into force on 24 September 1997 and has effect in England, Wales and Northern Ireland.²¹ The purpose of the 1996 Act is to ensure that the most important discoveries of Treasure are preserved for the nation by being offered to museums. Finders and landowners are rewarded. A Code of Practice, which was approved by Parliament, sets out the procedures. Ninety percent of

¹¹ As in note 2, paras. 106-10.
¹² As in note 9, para. 4.44.
¹³ As in note 2, para. 89.

¹⁴ As in note 2, para. 90.
¹⁵ As in note 1, para. 53.
¹⁶ Askew, P. & Clement, E., *Preventing the Illicit Traffic in Cultural Property: a resource handbook for the implementation of the 1970 UNESCO Convention*, UNESCO, Paris (1997), pp. 44-45.
¹⁷ As in note 16, p. 45.

¹⁸ Illicit Trade Advisory Panel Progress Report (2001), Department for Culture, Media and Sport, London (2002), Appendix II. See www.culture.gov.uk.
¹⁹ As in note 18.
²⁰ As in note 18. See Appendix II for full list of issues.
²¹ The Act does not apply to Scotland where all ownerless objects belong to the Crown under the legal principle of *bona vacantia*, and separate arrangements also apply in Northern Ireland where under the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 all archaeological objects found in the Province must be reported and a license must be obtained by anyone intending to search for archaeological objects.

Treasure finds are found by metal detector users, of whom there are an estimated 10,000-15,000 in the UK (Fig. 2). Provided metal detector users have the permission of the landowner, there are no legal restrictions on their use, except on some 17,000 scheduled ancient monuments where metal detecting is illegal without permission. A 1995 survey estimated that detector users were finding perhaps 400,000 archaeological objects a year, only a small proportion of which were recorded by archaeologists or museums.²²

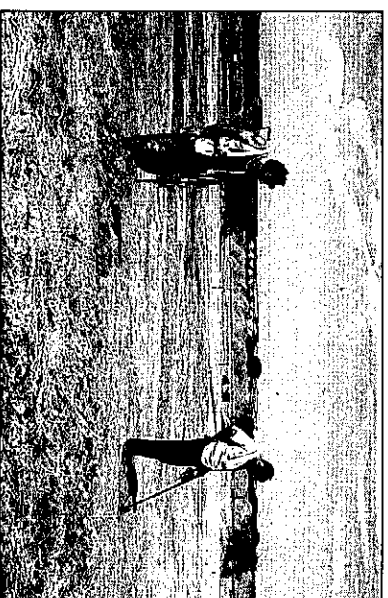


Figure 2. Metal detectorists working on a Roman small town site in Ashford, Kent. Increasing cooperation between metal detector users and archaeological groups is a key objective of the Portable Antiquities Scheme. Photo: Portable Antiquities Scheme

The Act replaced the medieval common law of Treasure Trove. Under the old law objects had to pass three tests before they could be Treasure Trove: (a) they had to contain a substantial proportion of gold or silver in their composition; (b) they had to have been deposited by their original owners with the intention of recovery; and (c) their original owner or his heirs must be unknown. In practice it was often difficult to determine whether finds passed the first two tests. The Treasure Act replaced these subjective tests with a new objective test of Treasure. It had for many years been accepted that the old common law of Treasure Trove was badly in need of reform since it was riddled with anomalies and completely unsuited to present-day conditions. The Treasure Act is a modest reform and represents a pragmatic approach to the problem.

Under the Treasure Act the following finds are designated Treasure (provided they were found after 24 September 1997):

- (a) objects other than coins at least 300 years old with a minimum precious metal content of 10%;
- (b) all groups of coins from the same find at least 300 years old (if the coins have a precious metal content of less than 10% then the hoard must consist of at least 10 coins); and
- (c) objects found in association with Treasure.

The Treasure Act requires finders to report potential Treasure to the coroner either within 14 days after the day on which they made the find or within 14 days after the day on which they realized that it might be Treasure. There is a maximum penalty of 3 months' imprisonment or a fine of £5,000 for failing to report Treasure without a reasonable excuse.

If the local Treasure adviser believes that the find may be Treasure they inform the national museum (British Museum, National Museums & Galleries of Wales or Northern Ireland Heritage and Environment Service) and they will then decide whether they or any other museum may wish to acquire it. If no museum wishes to acquire the find, the Secretary of State will normally disclaim it so that it can be returned without the need to hold an inquest. If a museum does wish to acquire part or all of the find, then the coroner will hold an inquest to decide whether the find is Treasure.

Any find of Treasure that a museum wishes to acquire must be valued by the Treasure Valuation Committee which consists of independent experts appointed by the Secretary of State. The Committee commissions a valuation from one or more experts drawn from the trade. All interested parties have an opportunity to comment on the valuation and may submit their own valuations before the Committee makes its recommendation. An appeal may be made to the Secretary of State. The main change from the previous Treasure Trove regime is that landowners, as well as finders, are now eligible for rewards and in practice most rewards are divided equally between the two, where the finder has permission to be on the land.

The 1996 Act has led to a ninefold increase in cases of reported Treasure. Under the old Treasure Trove system an average 24.5 cases a year were declared Treasure Trove; under the Act, 191 cases were reported in 1998, 223 in 1999 and 265 in 2000. One of the other most significant benefits of the Act in producing new archaeological insights is the requirement that objects found in association with Treasure should also be reported. In addition, the Act is beginning to reveal categories of find that have been little studied hitherto: for example, the third *Annual Treasure Report for 2000* contains details of 20 silver-gilt dress-fittings of the sixteenth century, a class of Renaissance costume accessories which was little known before the introduction of the Act and which have now transformed our knowledge of elite fashion in the Tudor period.²³

When published in 1997, the Treasure Code of Practice stated that a review would be carried out after the Act had been in operation for three years. The review would consider whether adjustments needed to be made to the definition of Treasure and whether any revisions should be made to the Code. A consultation exercise was undertaken by the Department for Culture, Media and Sport between December 2000 and March 2001 on which the subsequent Review was based.²⁴ The Review's focus was twofold: (a) to see whether the definition of Treasure should be altered and (b) to look at the administration of Treasure. The Government welcomed the Report and committed itself to implementing its two most important recommendations: to extend the definition of Treasure to include deposits of prehistoric base-metal objects, and to revise the Code of Practice on the Act.

The draft Order, now before Parliament, will bring within the definition of Treasure deposits of prehistoric base-metal objects, which are relatively common finds (there are perhaps about 50 such cases a year), and which are archaeologically of considerable interest. At present when such finds are made, finders have no obligation to report them and museums no right to acquire them. The most famous case from recent years was the unique hoard of over 600 prehistoric bronze artifacts (axes, miniature shields etc.) looted by two metal detector users from a site near Salisbury in Wiltshire. The objects appeared on the market, and the find was only tracked down through the detective work of the curator at the British Museum. Under the terms of this Order, such a find would be Treasure and thus Crown property, and its legal status would be clear. The Code of Practice has been revised to take account of the Order and a number of other changes have been made to it in the light of experience of four years' operation of the Act.

"The main change from the previous Treasure Trove regime is that landowners, as well as finders, are now eligible for rewards . . ."

However, only about one percent of the finds made by metal detector users is Treasure. There is no legal requirement for finders to report the other 99 percent of their finds. For this reason in 1997 the Government established the voluntary Portable Antiquities Scheme to encourage members of the public to report all finds of archaeological objects. This complements the Treasure Act by encouraging finders to report all their archaeological finds. The

Government and the Heritage Lottery Fund (HLF) have been funding 12 pilot schemes covering in England and Wales (the Scheme is not required in Scotland or Northern Ireland where there is a legal obligation for all objects to be reported). The success of the pilot schemes can be judged by the 100,000+ objects which have been recorded to date, of which 45,000 are now on the Portable Antiquities Website.²⁵ Many new archaeological sites have also come to light as a result. The Finds liaison officers have played a major role, both in ensuring the smooth running of the Treasure reporting process and in encouraging cooperation between metal detector users and archaeologists, two groups previously at loggerheads.

A lottery to the HLF bid for three-year funding for a national network of 41 posts at a cost of £1.5 million a year from April 2003 was approved in May 2002. This bid has 63 national and local partners each of whom is contributing 10 percent towards the cost. This means that there will be a national network of Finds liaison officers from next year, which will also result in a much enhanced service for dealing with Treasure cases.

CONCLUSION

In conclusion, it is worth remembering that until recently the UK was branded as "an internationally renowned center of illicit trade in antiquities."²⁶ It is true that for the previous thirty years or so the UK stood on the sidelines of the only genuinely international action against the illicit trade in art and antiquities. Today the British art and antiquities market is operating in a very different climate. Since publication of the recommendations of the Culture Select Committee in July 2000 and the Ministerial Advisory Panel on Illicit Trade in December 2000 there has been dramatic progress on measures to combat the looting of archaeological sites and the unlawful trafficking in cultural property. The UK Government has recently become party to the 1970 UNESCO Convention and is now working to introduce measures to strengthen its treaty obligations, including the extension of national criminal law where necessary, an increase of power for enforcement authorities, the establishment of specialist databases, a campaign for increasing of public awareness, and the use of the export licensing regime to retard cultural objects, which were unlawfully removed from countries of location, from leaving the UK. Meanwhile,

²³ *Annual Treasure Report 2000*, Department for Culture, Media and Sport, London (2002), cat.173-194. See www.culture.gov.uk

²⁴ *Report on the Operation of the Treasure Act: Review and Recommendations*, Department for Culture, Media and Sport, London (October 2001). See www.culture.gov.uk

²⁵ www.finds.org.uk

²⁶ *International Trade Today* (October 2001), 26-27.

"...until recently the UK was branded as 'an internationally renowned center of illicit trade in antiquities'.... [T]here has been dramatic progress on measures to combat the looting of archaeological sites and the unlawful trafficking in cultural property."

at home, the Department for Culture, Media and Sport is currently sponsoring legislation for an extension to the protection of important gold and silver artifacts being found by metal detectorists and an expansion of a voluntary scheme to encourage the reporting of all portable archaeological finds. Together, the improved Treasure regime and the Portable Antiquities Scheme represent the largest single heritage protection program ever mounted in the British Isles.

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