

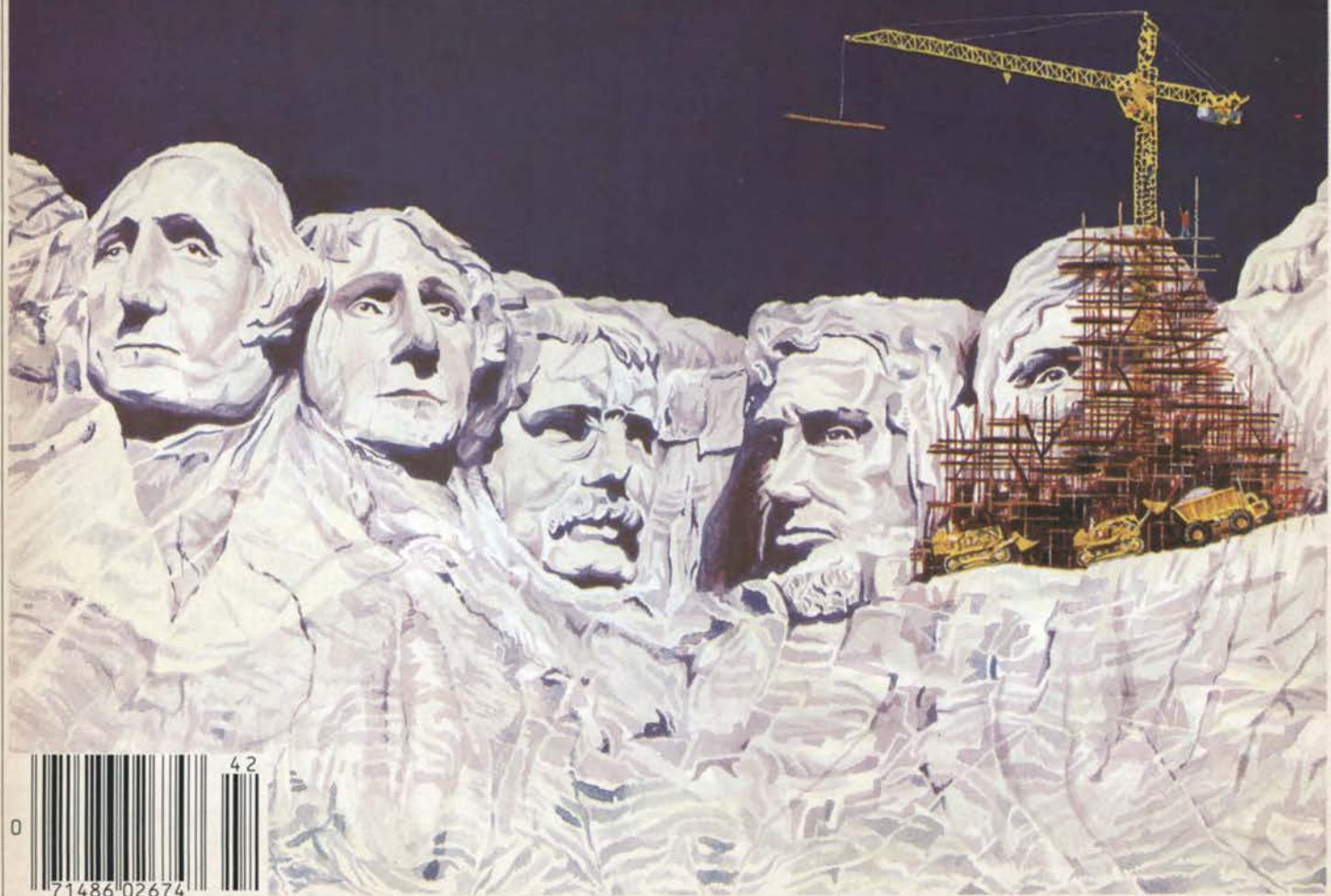
The Economist

17-23 October 1987 UK £1.30/USA \$3.00/Canada C\$3.00
FF 18/DM 6.00/Lire 5000/FL 6.50/BF 107/Dkr 22/Nkr 20/Skr 21/ASch 42/SFr 5.00/Pls 350

A RICH JAPAN'S ROLE
CHINA PEERS PAST DENG
JUDGMENT ON SALOMON

NEW LINES FOR OLD
A survey of world telecommunications

THE PERFECT PRESIDENT



The Economist

17-23 October 1987 UK £1.30/USA \$3.00/Canada C\$3.00
FF 18/DM 6.00/Lire 5000/FL 6.50/BF 107/Dkr 22/Nkr 20/Skr 217/Asch 42/SFr 5.00/Rls 350

A RICH JAPAN'S ROLE
CHINA PEERS PAST DENG
JUDGMENT ON SALOMON

NEW LINES FOR OLD
A survey of world telecommunications

The Economist

25 ST JAMES'S STREET, LONDON SW1A 1HG

Telephone: 01-839 7000

Telex: 24344

Fax: 01-839 2968

Dear Susan,

Many thanks for your excellent story.

It has already attracted a lot of favourable comments from my colleagues and, I'm sure, will do so worldwide.

I very much look forward to your piece on unknown pre-Columbian civilisations.

All the best,

John



Disputes about Elgin ...



... Nefertiti's tomb ...



... and Benin



Palenque's stolen mask

ARTS

Collectors or looters?

NEW YORK

If a private collector loots an historical site or smuggles works of art out of a country, there are no ethical or legal arguments about it: the stuff should go back. But what if a government loots the site, or a person steals works of art and gives them to a public museum? This article looks at the legal questions raised when the ownership of works of art comes into dispute

THE questions will be raised in a Manhattan court at the end of October, when lawyers for the Turkish government are due to present their case that the Lydian hoard, a collection of gold and silver artefacts made in the 6th century BC, should go back to Turkey from the basement of the Metropolitan Museum, New York, where it has been for most of the past 20 years. The Turkish case is that the hoard was stolen. Most of the pieces, the lawyers claim, were bought by the museum from an art dealer in New York, Mr John Klejman (who has since disappeared), and he in turn had got them in Turkey from a mysterious character called Osman the Blacksmith.

The man who bought the Lydian hoard for the Metropolitan Museum, Mr Thomas Hoving, who was director of the museum between 1966 and 1978, is in no doubt about the outcome of the case:

I think it's inevitable that the Metropolitan Museum has a responsibility now to admit—well, we got stung. The Lydian hoard is part of Turkey's cultural patrimony and has to go back.

If it does, will that open the floodgates to the repatriation of works of art from all over the world? Some of the best known works in western museums are in dispute. The limestone bust of Queen Nefertiti disappeared in 1912 and is still in the Berlin Museum, even though German archaeo-

logical digs have been suspended in Egypt for decades. Italy has not relinquished its claim that the Calyx crater, a vase painted by Euphronius in 515 BC, was stolen from Etruria in 1972 (and even has confessions from looters to prove it). The vase was bought by the Metropolitan Museum for \$1m the same year. The British Museum contains not only the Elgin marbles—the decorative sculpture from the Parthenon which Lord Elgin, the British ambassador to the Ottoman empire, shipped to Britain after being given a permit to remove them by the Ottoman government in Athens—but a collection of Benin bronzes from Nigeria and much other imperial loot. Most of its, and the Louvre's, finest Chinese treasures were stolen from Buddhist caves-temples in remote Gansu province by an archaeologist, Sir Aurel Stein, who bribed the man in

charge to look the other way while cartloads trundled off with the booty.

The case of the Lydian hoard, however, is unlikely to set a precedent which would require all these to change hands. First, because there have been similar cases in America's courts before. In 1981, East Germany won back two Dürer portraits sold in 1946 to an American art collector, Mr Edward Eliochoon (see table overleaf). Turkey has hired the same lawyers who won that case, Mr Harry Rand and Mr Lawrence Kaye.

Second, because what happens in America will not directly affect other countries. America, almost alone among the antiquities-collecting—ie, rich—nations of the world, has signed into its national law the international code of conduct that governs such matters. This code is a so-called convention treaty, drawn up by UNESCO to stop the smuggling of works of art. The convention was ratified by the American Congress in 1982 and also forms part of the law dispensed by the International Court of Justice in The Hague.

The UNESCO treaty is no third-world charter requiring western museums to give back all their antiquities. Even where it is incorporated into national legislation, it has no retroactive effect. It applies only to "museums and similar institutions" that are financed by governments, which in America means excluding the Metropolitan Museum (and, indeed, the majority of large galleries and museums). The country that has been robbed must prove the stolen object is an endangered national treasure. (Turkey has a strong case here: the Lydian civilisation has vanished; the Lydian hoard is almost its only known collection of artefacts so Turkey can argue that the Metropolitan is holding on to part of its history). The UNESCO treaty also requires that new anti-looting measures be taken.

This, laments Mr Ozgen Acar, who is one of the architects of the Lydian hoard case, is hard on poor



countries. Turkey has 3,000 ancient cities and the government cannot afford even two guards per city. Not surprisingly, with 43,000 registered monuments and places of antiquity, grave-robbing continues to thrive. Moreover, suits in the American courts are not a cheap way of getting your heritage back. Turkey has allocated one billion liras (\$1.1m) to its Department of Antiquities' budget to contest the case.

Nevertheless, UNESCO's convention symbolises a big change. In the 1960s, says Mr Hoving, "you did not ask anybody where [antiquities] came from. If you liked them, you bought them." Now, UNESCO's international treaty has been followed by several bilateral agreements that have helped reduce smuggling by tightening up security at customs. America's agreements with Peru and Ecuador, for instance, resulted in around 300 artefacts being returned to Latin America in two hauls. Spectacular thefts, though, continue. On Christmas day 1985 thieves broke into

Mexico City's Anthropology Museum and stole its greatest (moveable) treasure, a burial mask from a Maya pyramid in Palenque. The government of Israel permits the sale and export of original antiquities for fear the trade would otherwise disappear into the black market and become impossible to control.

The taking of antiquities, though, has become rarer, and museums are less cavalier about where objects originally came from. Responsible art collectors, both public and private, are having to justify their collections in a climate of opinion more openly hostile to them than for many years.

The most radical argument is that antiquities are the common heritage of man and should not be owned privately. That is the view of Ms Connie Lowenthal, the director of the International Foundation for the Research of Art (IFRA), a not-for-profit organisation based in New York which, like Paris's Interpol, keeps computer files of missing art and publishes its findings



Made in Lydia, kept in America

monthly. Few go to that extreme.

Others, aside from smugglers and unscrupulous museum curators, feel that most antiquities should not go back. In a recent issue of *International Law and Politics*, Mr Frederic Truslow, counsel for Peru in a case which resulted in Peru's recovery of 154 smuggled pre-Columbian artefacts, argued that other Peruvian objects now displayed outside the country should stay outside, because they benefit Peru by creating interest and tourist goodwill as much as if they were still in the country. A more common argument, recently voiced in "Thinking about the Elgin Marbles" (from the *Michigan Law Review*), is that museums abroad often justify continued ownership of objects because of the protection they guarantee against, say, pollution or neglect.

Disputes about works of art are often couched in unnecessarily extreme terms. Co-operation between claimant governments and museum owners is also possible. In the case of the Lydian hoard, the estimated \$1.7m that the Metropolitan Museum paid (and which went into the pockets of art dealers and smugglers over the years) could have financed 100 excavations in Turkey with teams of archaeologists, naturalists and other scholars. In return, the Turkish government could have given the museum first rights of display and a loan of the collection for several years.

This may sound idealistic, but such an accord is being negotiated between Turkey and the Dumbarton Oaks Museum of Harvard University. It concerns the Sion Treasure, a collection of Byzantine ecclesiastical silver from St Nicholas's Monastery in Myra (the home of Santa Claus). Under the agreement (which has not yet been concluded) the silver will be restored in Turkey and the United States; the collection would then be exhibited in turn in the two countries before eventually being returned to Turkey.

RECENT DISPUTES—AND SOME SETTLEMENTS

Boston Raphael *Italy vs Boston Museum of Fine Arts (1972)*

The director of the Boston Museum of Fine Arts, Mr Perry Rathbone, bought a supposed Raphael in 1969. The seller, allegedly, was Ferruccio Bossi, a dealer who had a police record. Italy's commission for the recovery of art accused a museum curator of smuggling the painting into America. Mr Rathbone denied the allegation but the painting was returned to Italy in 1972, where it was discovered to be a fake.

Sion treasure *Turkey and Dumbarton Oaks Museum, Harvard University (1979)*

Ecclesiastical Byzantine silver disappeared from the monastery of Saint Nicholas of Myra in the eleventh century. In the 1960s, the treasure turned up at Dumbarton Oaks Museum, Harvard University. Turkey and museum drafted an agreement in 1979 to share in silver restoration and exhibition. Artefacts will return to Turkey eventually. Agreement not concluded.

Dürer portraits *Weimar Museum (East Germany) v Edward Elicon (1981)*

Paintings by Dürer of Hans and Felicitas Tucher (1499) stolen from East Germany in 1945. Sold to Mr Elicon in 1946 for \$450. Estimated value, \$3m-5m each. Returned to East Germany after court case in Manhattan in 1981.

Peruvian pre-Columbian *Peru v David Bernstein (1981)*

Customs officials at Dulles airport, Washington DC, seized 154 pre-Columbian objects from American tourist, David Bernstein, valued at \$288,000. In 1929 Peru passed legislation declaring all pre-Columbian artefacts and monuments the property of Peru. Bernstein was in violation of this law as well as America's National Stolen Property Act. Bernstein pleaded guilty to misdemeanour, received a suspended sentence, a fine of \$1,000 and 200 hours of community service. All seized property went back to Peru.

Shiva Nataraja *India vs Norton Simon (1985)*

Tenth-century AD bronze statue of Hindu deity, stolen from temple in southern India. Purchased by an American art collector, Norton Simon in 1972 for \$1m. Settled out of court. Returned to India in 1985.

Ecuadoran pre-Columbian *Ecuador v Fabio Magnalardo (1986)*

153 pre-Columbian ceramics (dated 3000 BC) intercepted by customs men in Miami. Fabio Magnalardo, Ecuadoran citizen, arrested attempting to smuggle artefacts into America. Magnalardo is now serving a one-year jail sentence in Miami. Will face additional charges in Ecuador. Artefacts returned to Ecuador in 1987 under a bilateral agreement with America.

Hittite Tablets *Turkey vs Vorderasiatisches Museum, East Germany (1987)*

After 70 years in a Berlin museum basement, 7,400 cuneiform tablets are being returned to Turkey this year by East Germany. The tablets document the history of the Hittite empire from around 1700 BC to 1200 BC and were taken to Germany for study and restoration at the beginning of this century. 3,000 other Hittite tablets were returned between 1924 and 1943.

Lydian hoard *Turkey v Metropolitan Museum of Art, New York (1987)*

250-piece silver-and-gold collection from sixth-century BC, looted from tumuluses in Turkey in 1966. Sold to Metropolitan Museum, New York for around \$1.7m during ten years beginning in 1966. Turkey sued for return of treasure in May 1987; the museum filed for dismissal of case in 1987. Court proceedings due to begin on October 27th.