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Case Icklingham Bronzes – John Browning and Leon Levy, Shelby White, Ariadne Galleries

John Browning – Leon Levy – Shelby White – Ariadne Galleries – Archaeological object/objet archéologique – Post 1970 restitution claims/demandes de restitution post 1970 – Illicit excavation/fouille illicite – Illicit exportation/exportation illicite – Ownership/propriété – Due diligence – Judicial claim/action en justice – Negotiation/négociation – Settlement agreement/accord transactionnel – Donation

A group of antiquities known as the “Icklingham Bronzes” were illicitly excavated from the farm of John Browning sometime in the early 1980s. By 1989 they were on sale in New York. John Browning formally demanded the restitution of the Bronzes from Leon Levy and Shelby White, the good faith purchasers, but the request was rejected. Hence, Mr. Browning filed a legal suit in New York. The parties reached an unprecedented out-of-court settlement in 1993. According to this, Leon Levy and Shelby White agreed to donate the Bronzes to the British Museum on the occasion of their deaths.

I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.

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I. Chronology

Post 1970 restitution claims

- **1981-1982:** A number of objects were allegedly **excavated** from Roman ruins in the wheat fields of John Browning, in the county of Icklingham, a village of Suffolk, England. These objects comprised masks and figures in bronze.¹
- **1988/1989:** The “**Icklingham Bronzes**”, as the find came to be called, was sold by a British art dealer to **Leon Levy** and his wife, **Shelby White**, New York collectors, through Ariadne Galleries Inc.
- **1989:** The **Icklingham Bronzes** were on display at the Ariadne Galleries.
- **1991:** John Browning **demand**ed the **return** of the bronzes. Based on the evidence and assurances provided by archaeologists, he maintained that the objects on sale were illegally removed from his farm.² When the restitution request was refused, Mr. Browning filed suit in the United States District Court for the Southern District of New York.³
- **1993:** John Browning, the Levys and Ariadne Galleries **settled** the saga of the Icklingham Bronzes out-of-court: John Browning relinquished the claim, whereas Leon Levy and Shelby White agreed to **bequeath** the Bronzes to the British Museum on the occasion of their deaths.

II. Dispute Resolution Process

Judicial claim – Negotiation – Settlement agreement

- The Icklingham Bronzes have become something of a *cause célèbre* due to John Browning’s efforts to recover them.
- At first, Mr. Browning demanded restitution asserting that the Bronzes had been illicitly removed from his property and smuggled abroad. He maintained that the Bronzes had been excavated from his land due to the evidence provided by specialists.⁴ As the Ariadne Gallery refused to return the Bronzes, Mr. Browning had no alternative other than to file a lawsuit. The Gallery maintained that it “was a good-faith purchaser of the bronzes”⁵ and that they were

¹ Neil Brodie, Jenny Doole and Peter Watson, *Stealing History: The Illicit Trade in Cultural Material* (Cambridge: The McDonald Institute for Archaeological Research, 2000): 22.

² Norman Palmer, “Statutory, Forensic and Ethical Initiatives in the Recovery of Stolen Art and Antiquities,” in *The Recovery of Stolen Art*, ed. Norman Palmer (Dordrecht: Kluwer, 1998), 19.

³ William H. Honan, “Peripatetic Roman Bronzes Trailed by Lawsuit,” *The New York Times*, May 14, 1991, accessed April 17, 2012, <http://www.nytimes.com/1991/05/14/arts/peripatetic-roman-bronzes-trailed-by-lawsuit.html>.

⁴ For instance, it was found that one of the objects offered for sale had spots of inlaid silver that matched the appearance of a leopard believed by some specialists in antiquities to be stolen property. *Ibid.*

⁵ *Ibid.*

- acquired “with the utmost care”.⁶ Hence, it appeared that the defendants chose to stand on their property rights.
- However, investigation by British police brought to light several individuals who testified that they had seen the Bronzes and were told they had been dug up from John Browning’s fields.⁷ In addition, Frances Dunkels, a spokesman for the British Museum, said in an interview that in 1982, Dr. Ian Longworth, the keeper of Roman-British antiquities at the British Museum, was shown photographs of 16 bronzes said to be in the hands of a British dealer who indicated that they had come from Brownings’ farm. Later on, Frances Dunkels also said that Dr. Longworth was informed that in 1988 the Bronzes were in the possession of Ariadne Galleries.⁸ Although the information provided by these witnesses could not lead to prosecution under British law, they were sufficient to prove a theft in an American court.⁹
 - It was only when this evidence emerged that the defendants agreed to resolve the dispute out-of-court. Therefore, it can be argued that the parties reached an agreement because of the prospect of Mr. Browning’s likely success at trial. Also, it cannot be excluded that the disputants negotiated a settlement in order to avoid the rising of litigation costs and public embarrassment.

III. Legal Issues

Due diligence – Illicit excavation – Illicit exportation – Ownership

- Although not judicially tested, the instant case entailed two main issues: whether the material had been illicitly removed from Mr. Browning’s farm and whether the possessor had acquired the objects in good faith.
- Regarding the former issue, the problems that a court of law is required to deal with in a restitution case are notorious: (i) the presence of buried archaeological objects is unknown until their removal; (ii) antiquities clandestinely excavated may change hands several times through the black market before being bought by an institutional or private collector; (iii) these archaeological objects are sold without (educational and scientific) information about their origin or provenance; (iv) the illicit provenance is often hidden and archaeological objects are “laundered” through their publication in exhibition catalogues.
- As for the issues of ownership and good faith, it is worth emphasising that the purchase of the Icklingham Bronzes can be seen as another instance demonstrating that for a long time museums and collectors have bought works of art with little or no thought to provenance. This thinking is echoed in the words of Lord Renfrew of Kaimsthorn, former Professor of Archaeology in the University of Cambridge and Director of the McDonald Institute for

⁶ William H. Honan, “Lately, More Antiquities Can Go Home Again,” *The New York Times*, January 25, 1993, accessed April 17, 2012, <http://www.nytimes.com/1993/01/25/arts/lately-more-antiquities-can-go-home-again.html?pagewanted=all&src=pm>.

⁷ Ibid.

⁸ William H. Honan, “Peripatetic Roman Bronzes Trailed by Lawsuit.”

⁹ Ibid.

Archaeological Research: “I was [...] shocked, on visiting the exhibition of Leon Levy and [...] Shelby White at the Metropolitan Museum of Art in New York [...], to find the most extraordinary treasure store of looted antiquities from all over the Ancient World. Life-sized Roman statues from Turkey jostled with Cycladic figures, which competed for space with gold from Mesopotamia. No respectable museum, I felt [...], would give space to such a store of loot [...]”¹⁰

IV. Adopted Solution

Donation

- The statement announcing the agreement over the Icklingham Bronzes was publicly read for the first time by Mr. Browning at a conference on Conservation and the Antiquities Trade on 2 December 1993. The statement read as follows: “The Ariadne Galleries Incorporated, Torkom Demirjian [the proprietor of Ariadne Galleries Inc.], Leon Levy, Shelby White, John Browning and Rosemary Browning are pleased to announce that litigation presently pending in the United States District Court for the Southern District of New York concerning a group of antiquities know as the Icklingham Bronzes has been terminated in a manner satisfactory to all parties. As part of the settlement, Leon Levy and Shelby White have agreed to bequeath the Bronzes to the British Museum upon the latter of their deaths. The remaining terms of the settlement are confidential”.¹¹

V. Comment

- The settlement of the dispute over the Icklingham Bronzes was welcome because it involved a precious archaeological treasure. Marion True, former curator of antiquities of the J. Paul Getty Museum in Malibu, said that the find of the Icklingham Bronzes is “one of the most important finds of the last 50 years” and “incredibly important for Romano-British studies” because of its “extremely fine and interesting workmanship, advanced technology and iconographic and religious importance”.¹²
- It is also worth emphasising that the statement announcing the agreement underlined that the settlement was “satisfactory to all parties”.¹³ For the possessors, the bequest to the British Museum was entirely beneficial: the agreement allowed them to retain custody of the collection for their lifetime and to avoid a hazardous lawsuit, given that available practice demonstrates that the identification of previously undocumented antiquities is not an

¹⁰ Cited by Norman Palmer, “Statutory, Forensic and Ethical Initiatives,” 29.

¹¹ John Browning, “A Layman’s Attempts to Precipitate Change in Domestic and International ‘Heritage’ Laws,” in *Antiquities, Trade or Betrayed. Legal, Ethical and Conservation Issues*, ed. Kathryn W. Tubb (London: Archetype, 1995), 145.

¹² William H. Honan, “Peripatetic Roman Bronzes Trailed by Lawsuit.”

¹³ Norman Palmer, “Statutory, Forensic and Ethical Initiatives,” 19.

impossible task. For the claimant, Mr. Browning, the agreement was important in that it permitted the return of the Bronzes to the country of origin and included a clause on the compensation of his legal fees.¹⁴ Needless to say, the negotiated settlement was satisfactory for the British Museum. Although it did not participate in the negotiation process, the Museum will eventually receive the Bronzes. It will eventually be able to show them to the public, thereby fulfilling its mission to ensure the physical conservation and display of artworks for the public's enjoyment and education.

- However, it must be conceded that these benefits were largely adventitious. Indeed, it appears that they derived from the calculated decision taken by each party on the basis of the likely disadvantages of a protracted litigation. In addition, it can be argued that the use of a non-confrontational dispute settlement as an alternative to litigation can be exploited by unethical art professionals as well as criminals to avoid judicial proceedings and the ensuing sanctions. The likelihood of a particular law being applied if the case is litigated renders any out-of-court settlement more attractive. In the instant case, the buyers' claim that they had exercised due diligence at the moment of the acquisition was not sufficient to avoid an adverse ruling. As objects looted from unofficial archaeological sites are unlikely to be registered, a New York Court could have accepted the plaintiff's arguments that the buyers should have realized that the treasure was stolen (because of its unique character and peculiar features or because of the circumstances) or should have further verified its provenance and the vendor's title.

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¹⁴ William H. Honan, "Lately, More Antiquities Can Go Home Again."

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