

TOWARD A NATIONAL AND INTERNATIONAL FRAMEWORK

MODERATOR:

MICHAEL WILLIAMS, Executive Editor, *The Independent*, London

PARTICIPANTS:

LORD GOWRIE PC, Former Minister for the Arts, United Kingdom; Chairman of the Arts Council of England, 1994-98

MARTIN E. SULLIVAN, Chairman, The President's Cultural Property Advisory Committee, United States Information Agency; Director, The Heard Museum, Phoenix

GREGORY WIERZYNSKI, Assistant Staff Director, House Committee on Banking and Financial Services

WILLIAMS: I'm here as the working editor of a major European newspaper. I'm an outsider in almost every sense. It's the journalist's job to do the listening, which is what I've been doing here for the past three days.

In Britain, the debate over cultural property is more parochial. For us, the Elgin Marbles are the oldest chestnuts on the tree. On a quiet day at our newspaper, they're rolled out as a sort of hardy perennial. The battle for the Elgin Marbles is a bit like a Gilbert and Sullivan operetta: We all know the lines and can hum along comfortably. We know that Tony Blair is not going to hand them back, and, since Britain is now a one-party state, there's no point in fussing about it. There are bigger and more important issues.

To simplify, there seem to be two sides. On the one side, you have what might be called the "establishment paternalists": the great museums, the collectors, the dealers, the auc-

tion houses. They argue that the free flow of art leads to a heightened awareness for all of us. Their business, they say, is not mere consumerism, but a sharing of cultures through conservational education.

But for others, these people are baddies. When the British Museum says it can better look after the Parthenon sculptures—when it argues that they can conserve them better than the Athenians—is this altruism, or the exertion of economic power against cultural powerlessness? This second group, who certainly see themselves as the "goodies," present themselves as crusaders for the culturally oppressed. And they, too, have a strong case. As archaeologists and anthropologists, they have experienced firsthand the outflow of cultural capital. They've seen the environments of great art utterly destroyed. We had a powerful argument for this view from Peter Jemison this morning.

You often hear the real voice of people at conferences such as this, not from the platform, but over dinner—and somebody hissed to me last night, "They're like fundamentalists, these people. They go from conference to conference and pretend to talk, but the conversation goes straight through and out the other side. They'd rather kill than talk."

So perhaps it's time for a Dayton Accord in the world of cultural patrimony. All the more reason, since the U.S. is the only major Western nation without a Minister of Culture. Should there be an international court to adjudicate on these issues? Or would this be an oxymoron? It sounds like a tough one, since the U.S. and the E.U. can't even agree on the price of a banana, so why should they agree on anything else? Perhaps more realistically, the answer lies in more power-sharing, more bilateral agreements, more cooperation, more education, and particularly, getting the message spread more widely through journalists. It seems to me to be of the greatest signif-

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icance that this conference should have been sponsored by the National Arts Journalism Program.

SULLIVAN: I wish to speak to three themes that are related in my own life. The first is the United States' role in the implementation of the UNESCO convention, particularly in conjunction with my chairmanship of the Cultural Property Advisory Committee.

I also want to touch on the relationships that, in my mind, exist between those kinds of concerns and the concerns that arise under the Native American Graves Protection and Repatriation Act.

Finally, museums are often seen as being caught in the middle of the contentiousness between the acquisition of cultural property and the fiduciary and stewardship responsibilities that go with being a publicly supported, tax-exempt institution. I want to touch on some themes that are emerging within the American Association of Museums, the Association of Art Museum Directors, and the Accreditation Commission. The discussions are sometimes rather testy between our American Association of Museums and the ethics codes and standards that are being articulated by the International Council of Museums.

With respect to the UNESCO convention, the Cultural Property Implementation Act and the Cultural Property Advisory Committee, let me say also that I was not the first choice of the conference organizers, for good reason. They were hoping to have someone here from the government who could render an official direction as to what is going on now, and as to the future of the Cultural Property Implementation Act. For reasons known only to them, but suspected by me, they're not here.

I am not an official spokesman for the government of the United States on this issue. But I

will offer some thoughts. The United States has rashly entered into an enormous array of agreements that has our Customs Service hopping from desk to desk to deal with things. I think it's important to know that the Implementation Act is severely constraining in terms of what the United States may and may not do. It proceeds from the premise that we do not reflexively enforce the export restrictions of other countries. All of the procedural prescriptions that are contained in that implementing law are very heavily bounded as to what the appropriate role for the United States is.

Nonetheless, we do have those agreements in place, and another that may be ratified in the near future. Three of the key things required to start an agreement are as follows: The word "pillager" is used often in the convention and the legislation. How do you define it? We do know it when we see it, perhaps? It has been the cause of a great deal of discussion, not only externally among the affected parties of the convention, but even among the members of the committee as they try to define what constitutes a state of pillage that places cultural patrimony in jeopardy.

A second threshold condition that precedes a bilateral agreement is that the requesting country has taken appropriate actions of its own to protect its patrimony. We've heard a lot about that—in particular, about whether so-called source countries are taking appropriate measures to protect their patrimony.

The third important condition is that the imposition of import controls by the United States, and actions by other nations with significant trade in pillaged items, will help deter the illicit trade. That raises the question of how much of a primary market the U.S. is for pillaged objects.

There are many implementation issues. The first basic question is: Is the process fair? Is it sufficiently open? And those of us that don't

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work for the government worry a lot about insuring equity, not only that the claimants have an opportunity to present their case fairly, but that the affected parties here in the United States—including collectors, dealers and museums—have a fair opportunity to express their concerns about whether a state of pillage exists and whether import controls would be a deterrent.

Is it sufficiently open? This has been a matter of considerable discussion. The committee, a voluntary group of citizens, is saying, “We need, as we are considering requests, to have commentary by everyone, certainly by the country presenting the request, but also from all of the affected parties, including collectors and dealers.” I don’t think any of us are satisfied that the process works as it ought to.

The second question, and a big one: Does interdiction work? The immediate outcome of a cultural-property agreement is that the United States Customs Service will interdict the importation of certain things. None of us feel strongly that interdiction always works. I’m looking at the emblematic object of this conference, the gong up there on the podium. We’ve observed at this conference what a gong can do and what it can’t do. A gong can start things pretty well, but so far it hasn’t been employed to stop things. Perhaps a cultural-property agreement might have that characteristic. A gong wakes people up, but it doesn’t seem too effective at shutting them up.

So our real concerns play out into the question: Is an agreement going to be efficacious because it really stops trade, or because it sends a signal that is translated by the requesting country and by collectors, dealers, museums and other countries into an awareness of a serious condition of pillage?

A third point in implementation is that threshold element, that if the U.S. imposes ex-import controls, what are other countries

doing to help the requesting country? Here, too, I think we’re at a very early stage. The U.S. is one of the very few art-importing countries, and it is a signatory to the UNESCO convention even though we don’t pay UNESCO dues. France has just become a signatory. That may have some impact as time goes on. There are 88 signatories altogether. What has not happened is that, in the case of looting in Guatemala or Peru or Mali, there are not 88 separate agreements in effect. The reason is mainly that other countries do not have the tight limitations on this that the U.S. does. But a source of some optimism is that in certain regions—particularly in Central America, where *el Mundo Maya* is a reality in the heritage of many countries—there are beginning to be multinational, regional collaborations for documentation, security, preservation, and so forth.

What’s the future? Are we going to see, here in the United States, a barrage of requests for implementation? Are we going to proceed on the basis of one request every other year or so, which is what we get now? Will the UNESCO convention be superseded by UNIDROIT? Will other measures that fall short of legal sanction begin to solve the problem?

I want to touch on the analogies to the Native American Graves Protection and Repatriation Act. Many think of that as domestic legislation. In fact, it has a strong parallel to cultural-property implementation, because the tribal nations of the United States participate in NAGPRA as signatories to treaties to the United States of the special sovereignty condition that those treaties have created. In those instances, the tribal governments act as surrogates for the people who are either the descendants or the spiritual associates of the objects and remains that are being sought. That’s somewhat akin to conditions that have transpired under the Cultural Property Act, particularly in Bolivia. Some know of the emergency restriction on textiles that were exported

from Bolivia to a market in the United States, while the true owners lived in a village in the Andes. But it was a Bolivian government acting on their behalf that requested the ban. And some materials were returned, first to the government of Bolivia, and eventually to the village from which they were looted.

NAGPRA has impacted a greater number of objects and remains. There have been hundreds of repatriations on behalf of the Smithsonian. And yet that's far less than one percent of the collections held by museums in the United States. These repatriations, I'm persuaded, have occurred not primarily because of the duress of the law or the penalties, but rather, because of the "gong" theory. It's the sounding of the alarm, and the changing of the thinking, and it's the changing of a philosophy within museums, with greater emphasis on fiduciary responsibility, stewardship and partnership, as opposed to the holding of clear title.

NAGPRA has helped create partnerships. And we hope that the Cultural Property Implementation Act may do similar things on the international level. In the museum profession, it has clearly led us to tighten our standards and practices. Documentation has been discussed. So has the difficulty of determining, "What is adequate provenance?" So has the difficulty in assuring that appropriate standards of care, handling, interpretation, loan or return, are elements of good practice within the museum field.

And I see it coming through the increasingly tighter standards of the accreditation commission, through the precedents that are being set by museums that are returning materials or developing shared custody agreements or simply sitting down to work out differences. All of these things seem to be working in the right direction.

Ultimately, if we are moving toward an international framework, we've got to keep talking.

There are no self-evident answers out there. My opinion as a practitioner and as a non-bureaucrat is that the framework that is emerging is one of practice and precedent more than of law. One of my concerns about UNIDROIT is that it may be a full-employment initiative for lawyers and bureaucrats, but it may not solve many of the very serious and compelling issues of custody of cultural property.

The best advice for all of us and for our countries is to try to lead by example. The United States is in an unusual position as a market country for cultural property from abroad. But we are also a source country, particularly for archaeological materials of indigenous cultures. And we are struggling in our national policy to maintain, on the one hand, our free market and the absence of import restrictions, and on the other hand, to redress many decades of neglect and dismal funding for the archaeological and cultural-property resources we have within our own boundaries.

AUDIENCE QUESTION: Why was the U.S. government unable to put up a speaker for this conference?

SULLIVAN: My conjecture is that this is a moment when the government is not focusing on this issue very much. The Cultural Property Implementation Act has been administered under the USIA, which will be merged into the State Department by October. A lot of attention is being paid to the mechanics of that, rather than to the issues. There is probably some reticence about being quoted at this point. The convergence of awareness in the public sector and the media between the antiquities disputes and the World War II looting disputes makes people cautious about going on record. That's my best guess.

WIERZYNSKI: Unlike my colleague on this panel, Martin Sullivan, I'm a bureaucrat. I work at the Banking Committee of the House

of Representatives, and I'd like to discuss briefly the committee's experiences with issues of art restitution, a subject on which we have held extensive hearings. You might well ask what a congressional committee has to do with art. The committee became involved because our chairman, Iowa congressman Jim Leach, has had an abiding interest in art and in helping Holocaust victims and their heirs recover assets that were rightfully theirs.

The committee's involvement in restitution started with a search for dormant accounts opened by Holocaust victims in Swiss banks, but soon grew to include other categories of assets, including art objects. As Hector Feliciano documented in his book "The Lost Museum," and Lynn Nicholas in "The Rape of Europa," Nazis perpetrated the greatest displacement of art in history. By the end of the war, hundreds of thousands of art objects of every description had been taken from their original owners and sold off. Our committee's effort was mainly to help return the treasures that were still at large to their rightful owners, although many of the conclusions that we drew from this exercise may apply beyond the narrow issue of restitution of possessions of Holocaust victims.

First, the great and unprecedented Allied effort to recover and transfer the mountains of treasures seized by the Nazis to the countries from which they were taken marks a rejection of the hoary and cruel doctrine that the spoils of war belong to the victor. This conclusion may yet prove to have been an idle hope, but that's how it seemed to us as we listened to expert testimony.

From this same testimony, we had a sense that there was a new kind of thinking, perhaps even a broad agreement among Western governments, that art objects acquired by force, pillage or other illegal means should be returned to their original owners. The Hague Convention has become pretty much the

order of the day. There was an international conference in Washington back in December on restitution issues, including restitution of art objects, and there our colleagues in the State Department got the impression that even the Russians might come around to this view if we stay on their case.

The committee's hearings also brought out the fact that American museums are fully cognizant of their legal and ethical responsibility toward Holocaust victims. We have a sense that their attitude has begun to spread abroad. Spurred perhaps by pressures from Holocaust heirs and various Jewish organizations that are pushing these issues, our museums have embarked on a massive review of their collections. For an outfit like the Metropolitan Museum of Art, it's a Herculean and costly task. But the commitment of the museums appears to be genuine, and progress as far as we can discern has been quite remarkable.

Still, some people have still criticized the response of these museums. The conclusion we drew from our hearing, however, was that the trend toward clarity and openness in issues of provenance can only accelerate. No museum wants to be accused of hiding tainted art in its basement, particularly one that has Jewish members on its board or relies on Jewish contributors, as all of them do to some extent. In any case, museums collect art to make it public or put it to some kind of educational purpose, so it makes no sense for a museum to be stuck with art in its basement that cannot be put on display because of its questionable provenance.

There is, moreover, a lot more information available today about art pieces and collections than there was just a few years ago. The downfall of Communism has brought the opening of records that were unknown or beyond reach for years. The appearance of these archives, sealed since the war, has stimulated the

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research of scholars and journalists. And they, in turn, have raised public awareness of art thefts and displacements. The Association of Art Museum Directors has been quite active on this front. Philippe de Montebello, the director of the Metropolitan Museum, testified before our committee about 14 months ago and noted that he was chairman of a task force of American museum directors that would soon issue guidelines for handling artwork in their collections and further acquisitions. These guidelines were in fact issued soon after the hearing. And it is not unrealistic to think that museums abroad will follow these new practices.

A third issue was that the heightened sensitivity of museum directors to the provenance of pieces in their collections, and of pieces in future acquisitions, was bound to be reflected in the art market: that is, the dealers and the auction houses. During one of the committee hearings, Gilbert Edelson, the vice president of the Art Dealers Association of America, said he welcomed the proliferation of research groups, databases and other resources for tracking the provenance of artworks, and pledged his members would use all these resources to verify the legitimacy of pieces that came on the market. We thought that was an encouraging sign. The U.S. art market is the world’s most active. We thought that if it became self-policing, the rest of the world might follow. Art-dealers and collector lobbies have not always been helpful in this area, so that may take time; but we’re optimistic.

My fourth point is on the role of government in policing the art market or trying to facilitate restitution problems. We’ve looked at this extensively and concluded that a legislative approach would probably do more harm than good, and, in fact, would have the potential for doing a lot of harm and very little good. Several members of the House and of the Senate on both sides of the aisle tried to craft bills to facilitate restitution of artworks but

found it difficult, and I think their efforts have so far not borne fruit. There’s nothing partisan about this. The difficulties have always been technical.

Anyone who tries to write a bill soon finds it exceedingly difficult to reconcile the principles that appear in any attempt to recover artworks: justice and fairness. Justice in American law is embedded in the principle that nobody can acquire good title to any kind of asset from a thief. A stolen object remains stolen no matter how many times it changes hands. That means that neither the original theft of an artwork nor any subsequent transfer can impair the original owner’s property rights.

On the other hand, the claims of justice are often at odds with the claims of fairness. Because fairness means that the owner of a stolen artwork, particularly one that has purchased it in good faith, should not forever remain exposed to the risk that somebody may lodge a claim against that work. There are statutes of limitations to take care of this problem. But statutes of limitations are very complicated business. When does the time allotted by the statute start, and when does it end? In the case of stolen art, to start running a statute at the moment of theft, which may be decades before the original owner discovers the whereabouts of the stolen property, would produce a manifestly unjust outcome that no court would ever consider.

And there are other questions. For example, should the original owner lose his or her recovery rights if he or she never made any efforts to locate the stolen property? If so, how much effort is necessary to avoid that? These questions of definitions are very difficult to articulate in legislation.

Also, what is the responsibility of a museum, or an auction house, or an art dealer, when they ascertain that a piece offered by a donor or a client may be of tainted provenance? Is

there a responsibility on the part of the museum or the dealer to inform the artwork owner of the conflicting claims of ownership? Does he or she have a duty to report the case to the F.B.I. or some other law-enforcement authority? How does a museum director reconcile his or her responsibilities as a fiduciary for a public institution with a potential legal requirement of honoring the legitimate claim of a previous owner?

These are just a few of the problems. When you thrust these into an international context, the difficulties are immense, compounded especially by the fundamental divergence between American laws and most European laws, which award good title to a good-faith purchaser of an artwork, even if it is later proved that the work's provenance was tainted.

Ultimately, it seemed to us that order in the art world and the art market, if it ever comes, will come through coordinated private undertakings, such as the guidelines offered by the Association of Art Museum Directors, plus the work of research groups and watchdog organizations such as the Art Loss Register. International conventions like the UNESCO convention are very helpful. And international cooperation is also key.

None of this, though, will have a lasting effect, unless a greater effort is made to mobilize public opinion. Public opinion can be mobilized through the press, Congressional hearings, academic gatherings such as these, and by government leaders. Because we don't have a Ministry of Culture in the U.S.—which is probably for the good—all of our elected leaders and the executive branch officials should take a more sustained interest in this.

Our feeling was that the committee's hearings into Holocaust victims' assets had succeeded in stimulating a new appreciation of the sanctity of artworks—that they are something above and quite apart from money. By this I'm

not suggesting that the British Museum or the Metropolitan return their collections to the places they came from. But I do want to suggest that national concerns, at least in our chairman's view, are now ascendant. Jim Leach likes to paraphrase Hannah Arendt to say that the deprivation of assets effaces the presence of their owners on earth. I think much the same can be said about nations and their indigenous works of art. Some of you in the audience may not agree with this, but it struck us at the conclusion of our hearings that this is the world as it is today.

Because we are the world's largest art market and the world's most dominant nation, there is a special American responsibility with regard to art. I think this was deeply felt by the committee. So we would like you to urge Congress and the executive branch to talk more about art, to be more attentive to it. The administration of John Kennedy was the only one in recent times that placed any emphasis on art and culture. One hopes that the occupant of the White House in the year 2000 will renew that concern.

Finally, Stuart Eizenstat's success here and abroad in promoting the cause of restitution of Holocaust victims' assets suggests that we could include art in our regular diplomatic dialogue with other nations. A dozen countries have formed commissions to look into their own activities with regard to Holocaust art during World War II. The United States has just formed one. The bill that created the commission was authored by Jim Leach. Two international conferences on these issues have been held in the past 18 months. So I think we're all moving in the right direction.

GOWRIE: I'm not a native Englishman, but I'm romantically attached to that country. And I can't pretend to be anything other than what I've become, which is possessor of rather English habits of thought: empirical, skeptical, suspicious of most methods of ordering

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national and international affairs. I made my career in British public life to help redress, in any small way I could manage, the powers of the state in favor of those of the individual.

Let's get to some cases. Of course, the British used both their maritime power and their political and economic stability, particularly in the 18th century, to plunder or buy up (according to perspective) the world. The United States has, for well over 100 years now, used its financial muscle to acquire great cultural objects. I think in general, both public and private collectors have proved to be good custodians. My point is that they haven't needed good legislation to turn them into good custodians.

Spoils of war were always legitimate spoils. When Wellington beat Napoleon, the British government, by public subscription, gave him a grand country house. He chose a relatively modest one and didn't bankrupt the economy. And he was a national hero. Naturally, the general public would look at the house. There's still a sign there, if you'll go to see it (it's open to the public), which reads as follows: "The Duke of Wellington would be greatly obliged if the public would not press their noses against his windows. Should they wish to see his house, they need only to ring for his steward."

The infant European Union will, in my judgment, die in its cot if it is not carefully nurtured. At present, it's being force-fed with regulation. Genetically, it is prescriptive, regulatory and protectionist. Human beings are inventive and mischievous apes. Rules exist to be circumvented. The late Jimmy Goldsmith, the cynical and entertaining self-made billionaire, once said that if you marry your lover, you create a vacancy.

It's been said that the U.S. is the only great nation without a Minister of Culture. Well, my response to that is, "God bless America."

When I was Minister of Culture in Britain in the '80s, I tried to do away with myself, which is not generally the habit of British ministers.

While I was Minister of Culture, the Getty Museum income came on-stream. The museum community panicked. I said, "Calm down. I've met the Getty bunch. They're sensible business-like people. They certainly don't want to generate price inflation, which would be hugely against their own interest." The panic increased. "We're in the hands," the museum community and some journalists said, "of a mad Thatcherite free-marketeer." But Getty behaved impeccably and sensibly.

There was a row this year, when the Getty bought a Poussin for just under \$30 million, which belonged to a British owner. Britain is practically wallpapered with Poussins. The Duke of Sutherland owns seven, and the Duke of Rutland five. And you know, there are quite a lot of dukes over there.

You can see Sutherland's at the National Gallery in Scotland, where he lends them. You can visit Rutland's at Belvoir Castle. Leaving aside issues of colonial plunder, which don't apply to European works of art or the European countries, Britain was rich and stable when Europe was fighting about religion.

A brief philosophical point. Ideology, not usually cash, is the threat to culture. In my judgment, it is impractical for the 20th century to export its own political and cultural assumptions to previous ages. And theft and war loot, we all agreed here, are different. In the case of the Holocaust and World War II, heirs and families are still alive. Then where looting archaeological sites is concerned, as suggested from the floor by George Ortiz, most of us agree that this too is different. Perhaps our conference's title should be "Groping Toward a Statute of Limitations." We can't pursue things back to Cain and Abel. We can, however, lead by example.

A quick word about the art market. I've been both a cop, protecting Her Majesty's game, and a robber, as European chairman of Sotheby's for seven years. As chairman of Sotheby's, I was one of those who put an end to that house's auctioning antiquities in London. That wasn't because I am a good guy, alas. It was because legal hassles and public-relations difficulties, over a profit center less than one percent of the business of the whole company worldwide, seemed to me ludicrously poor business. If this conference had a fault when talking about material issues, it was in making the assumption that the antiquities market is a very big and very valuable market. Should you happen to trade your Barnett Newman, your Pollock, or your Rothko in for antiquities, you'll get museums full of them, and legitimately traded ones as well.

I felt a bit guilty about the decision to wind down our antiquities department. It was a practical and, I think, a good business decision in the context of Europe. However, it was discriminatory against perfectly legitimate collectors. As a freedom-loving person, I dislike that. Christopher Hitchens produced the best argument to the old chestnut of the return to Athens of the so-called Elgin Marbles. There is no legal claim of any credibility. But natural justice and generosity are of aesthetic as well as moral beauty.

All art is, in the end, about praise. Alas, the British and most-developed nations happen to find themselves in the midst of another beautiful Athenian creation. It is called democracy. To return the Marbles would require an act of Parliament. And the British Parliament won't and will not pass such an act at present. Should European resolutions be passed to this effect, the British will wake up and start behaving like the French. They will sign onto the regulations and not observe them. This would be a retrograde step, but it will happen. And anyhow, Europe is very much a *marriage de convenance* for the English. I suspect that it

will be an unhappy marriage. We should all be aware of creating a field day for lawyers.

I believe that Derek Walcott served us best when he talked about "the joylessness of received or preordained ideas." He told us not to become victims of definition, not to fall below the standards of the spirit of mankind. He actually praised the value of a corrupting miscegenation of cultural pluralism. I believe we should concentrate on the radioactive, so to speak, the emotional and aesthetic life of works of art and artifact, not their possession. Who owns Picasso? There is an owner. It's the 20th century.

Let me close with three little slides. They're audio rather than visual aids. The painter and sculptor Giacometti said that if he were asked to save a Rembrandt or a cat from a burning building, he'd save the cat. That is the spirit of man, which art informs, and which art is informed by.

The novelist James Joyce was asked by a Republican Irishman why he hadn't joined the great struggle for liberation from Britain. "Think," he replied, "what I did to their novel."

The poet W.H. Auden wrote a Haiku:
*A poet's wish:
to be like some valley cheese,
local but prized elsewhere.*

As Martin Sullivan implied, lead by example, but please—dear conference, and dear Uncle Sam—don't abandon the tradition of liberty, which is your best artifact and your finest possession.

WIERZYNSKI: Generally, we are in agreement. I think leading by example is what needs to be done here. And legislation is not, at least as seen by the Congressional leadership, a happy formula for issues so extraordinarily complicated. Case-by-case determinations that take into account obligations and

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circumstances not always spelled out in the law will result in far more equitable solutions than anything applied strictly by bureaucratic design or fiat.

SULLIVAN: I'd also say—from my own experience with indigenous communities in the United States on issues that to them are not only about property rights, but fundamentally about human rights—that there is great complexity to this. Lord Gowrie's comment that ideology, not money, is the threat to culture is perhaps applicable in some places at some time, but with respect to indigenous people, it's been my experience that the ideology of colonialism, combined with the power of money, has been a very destructive threat, both to cultural patrimony and to ways of life. Those of us who see our responsibilities in the museum world as not only stewards of collections, but sharers of stories and interpreters of the cultural heritage that objects contain, we worry a great deal about threats that stem from an ideology of superiority.

AUDIENCE QUESTION: Under the title, "Who Owns Culture," I think we've addressed the issue of culture, as shown by autographs, statues, marbles, vases, paintings, etc., very well. One aspect of culture, though, is a more intangible item—historical culture. How would you address the issue of somebody trying to usurp another people's culture? I'm thinking of two quick examples, both of them relatively recent.

I was in Turkey not too many years ago, and the guides who took us to Ephesus call the antiquities Turkish antiquities. The Greco-Roman antiquities were called Turkish antiquities. That was a small example.

The more recent one is here in the United States. Professor Jeffries at City College is saying that Western culture is not based on Greco-Roman culture, but it came out of Africa. So far, it's his opinion. He's entitled to

it. But then he says, "I can prove that, because Aristotle stole everything from the Library of Alexandria," when we know the Library of Alexandria was not in existence when Aristotle was alive. How would you answer things like that? Would you confront people like this? Would you debate them? Or would you ignore them?

SULLIVAN: From time to time I teach a graduate seminar called "The Past as Contested Property." If there's one conclusion I can predict at the beginning of every semester, it's that property is, in fact, contested property, and always will be so, and that assertions that blend the potency of heritage with an application, or misapplication, of history happen everywhere. Our role as educational institutions—museums in particular—is to do our best not to be swayed by the kinds of advocacy that have an agenda behind them.

GOWRIE: I think that America is falling into a danger, which Britain is following, of being terrified of ever giving offense. If people talk nonsense, you tell them, in a polite way, they are talking nonsense. One of the dearest myths one finds in minority communities in England is that they're of slave origins, because the British went and carted them off and sold them. The answer is that the British—whose aristocracy behaved in a pretty foul way to its own peasantry—were not different from the African aristocracy. The African aristocracy was selling the slaves to the British. The British were the middlemen. Now, it was a very unrespectable trade to be a middleman in. Happily, William Wilberforce and other fine liberal people ended it. But nevertheless, the cultural assumption in which that is based is simply untrue. If you tell them this, they get really cross. It's well-documented.

AUDIENCE QUESTION: If a country has certain cultural goods in a museum of another country, does it matter how they have ended up there? And if that museum has taken poor

care of them with great danger of continuous damage, what do you think the country should do? Should it address itself to a national committee or an organization?

SULLIVAN: There are American Indian tribes whose important ceremonial material rests in European museums, and is not very well cared for. There exists no mechanism at present for those tribes, either going through the United States government or going through UNESCO, to make claims, either for the restitution of that property or to address the care of it. The one court that I see holding a great deal of power in the world today is the

court of public opinion. Calling attention to the poor care of collections, regardless of whether those collections are held validly or not, has to be the first step toward working out a solution.

There are some institutions that have begun to address claims on that basis. But it is a very awkward thing for a museum to say, "Gee, we fell down on the job for the last 30 or 40 years," or "Your cultural property came to us, but it wasn't very important to us so we didn't take very good care of it." I think we are going to see many more instances of this kind of proposition.

CONCLUDING REMARKS

MICHAEL JANEWAY: In closing, I'm going to take my cue from Daniel Shapiro but also from the immortal Thomas "Fats" Waller, from his great song, "Breaking the Ice," in which he observed, "Rome wasn't built in a day, they say, nor romance built in a night."

Much of what's been discussed here is old and bitter. But a lot is new, or newly relevant. One of the themes of this conference, sounded at the start by Professor Merryman, is that cultural property claims are not mutually exclusive. Sensitive cultural legacies or patrimonies are of vital importance to individual peoples, but culture—in a broader and no less humane sense—demands sharing, exchange and access, without which there is no mutual understanding. We heard that when such claims are mutually exclusive, intellectual and cultural exchange breaks down.

A second theme was that such exchange cannot be effectively enhanced on a truly broad scale, nor can the public be informed about it except through informed journalism.

A third theme has been that sovereign governmental and international rules and regulations are solutions in these matters only up to a limited point. The strictest rules contribute to the worst corruption of rules.

Fourth, we've understood that our country, as a young and market-oriented one—though one learning of late of its own cultural-property disputes—is in a somewhat different position from that of other nations.

Fifth, though the nature of archaeological and contemporary artistic treasures is fundamentally different, we need to acknowledge cultural property, of whatever age, as it exists in relation to the present. And we heard reference to the fact that the impact of new technologies bears study as a double-edged force: for good,

in that information technologies can be a means of richer understanding among cultures and about cultural claims; and for evil, in that various technologies become tools for ever more adroit looting and plunder.

In the department of "modest proposals," we draw from discussion of these and other themes that in the U.S., and between it and other nations, there is a need for greater ongoing encouragement of understanding of conflicting cultural property-claims, and a setting of tone.

Grey Gowrie said "God bless America, for lacking a ministry of culture," and I take his point. But could or should such enhanced understanding or tone-setting come—not necessarily at the level of a ministry of culture, but through an enhanced national cultural authority? Martin Sullivan spoke on a certain absence on the part of U.S. government spokesmen here and the reasons for it, and that goes to a certain lack of comprehensive thought process about these issues. Could such an enhanced understanding come through some internationally conceived and university-based center for study and debate of cultural property, bringing together experts in the field—practitioners, artists, archaeologists, lawyers, people from the museum and art trade, collecting and philanthropy fields—with journalists who cover those fields? Such a center might combine research, archive-building, discussion and publication. It might be charged with the mission of developing greater public awareness of cultural-property claims in tension or dispute, and of proposing creative solutions to effect accommodation among those claims, such as we've heard here about innovative museum collaborations and philanthropic collaborations in the archaeological field. These seem to be ideas whose time has come.

There has been mention of further steps such as a new federal or international cultural-property protection agency, based on models

such as the EPA or the Rio Biodiversity Treaty. The parallels between the cultural-property and the environmental debates are suggestive, but they're hardly exact analogues. The issues of looting and plunder of the legitimate and black markets define the cultural-property debate unlike the environmental one. Nevertheless, cultural-property issues demand study, debate, tone-setting, establishment of principles, and exploration of relevant models and analogues for effective conflict resolution, more so than any conference could satisfy. That study in tone-setting seems to require a mix of public encouragement or governmental encouragement, journalistic examination or inquiry, and academic or think-tank research and development.

RICHARD BRILLIANT: I would like to remind all of you that this house is the center of the Italian Academy for Advanced Studies in America. And we have heard now, for three days, a number of discussions about very complex issues: some of which have been presented with clarity, and some—because the issues themselves are so complex—have been presented with passion but not necessarily clarity. I think this conference will probably lead to other conferences, but we would not like to think that this is one in a long series of conferences that produce no result.

There are intellectual issues here, not simply in terms of the instrumental use of policy. I was impressed by not only the most immediate panel but also the forerunning panel this afternoon, in the description of the way in which, incrementally, legal decisions, treaties, agreements and various implementations of policy have moved forward to create a climate of change that, indeed, is significant in its

movement away from rather hard positions of 10 or 15 or 20 years ago.

I think it's necessary to examine not only the nature of cultural property, but also to become more sophisticated in considering not only the character of that property, but also to think about the ways in which the past and the present interact, not only because we wish to preserve that past (and sometimes, despite our wishes to preserve that past, we destroy it quite willingly) but also because we are responsible for future generations.

That responsibility is ours most severely, not just because of the danger of the destruction of so much in the 20th century, as we have already seen, but also because it is our responsibility to make available to our descendents and to our progeny the material remains of the past that engender a sense of the past of which we are heirs. It seems to me that that's not just wishful thinking, that it is a requirement of an application of mind and effort, a coming forward with a desire to make sure there is something worthwhile left for our descendents.

One of our questioners in the last session mentioned that it's not simply material things, but ideas and histories that count. Whether one can sanitize views of histories or make sure that the attitude about the past passes some standard of correctness is not for me to say.

What is here for me to say—and it's been the spirit of our colleagues and panelists and audience members and participants—is that we have joined in a common enterprise: to assure for future generations that there is something worthwhile to live for.