



Department for  
Digital, Culture,  
Media & Sport

# Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest 2021-22



# **Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest 2021-22**

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# Report of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

1 May 2021 to 30 April 2022

## **To:**

The Rt Hon Michelle Donelan MP  
Secretary of State for Digital, Culture, Media and Sport

67th Report of the Reviewing Committee

## **Members of the Committee 2021–22**

Sir Hayden Phillips (Chair, appointment expired 17 March 2022;  
appointment extended until 16 September 2022)

Mr Christopher Baker

Mr Peter Barber

Mr Richard Calvocoressi (appointment expired 12 November 2020;  
appointment extended until 12 August 2021)

Mr Mark Hallett (appointed 13 August 2021)

Mr Stuart Lochhead

Mr Tim Pestell (appointed 13 August 2021)

Mr Christopher Rowell

Ms Pippa Shirley

Ms Leslie Webster (appointment expired 18 February 2021;  
appointment extended until 12 August 2021)

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Ms Mafalda Raposo

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**A register of interests held by Committee members is posted  
on Arts Council England's website: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)**

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# Report of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

## Annual Report to Parliament

### By the Secretary of State for Digital, Culture Media and Sport

I am pleased to lay before Parliament the sixty-seventh annual report of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest which covers the period 1 May 2021 to 30 April 2022.

As Sir Hayden reflects, the number of cases referred to the Reviewing Committee throughout the reporting period has been low compared to previous years, perhaps a reflection of the difficult times from which we are only now starting to emerge. We have much to celebrate, however, in the four export-deferred objects that have been successfully acquired by UK institutions. The collection of drawings and watercolours by John Gould, one of Britain's most significant ornithologists, are truly glorious to look at and will be enjoyed by visitors to the Natural History Museum. I was also pleased to learn that the University of Edinburgh and Ulster Museum were successful in acquiring the lute manuscript and the Peruzzi painting respectively, demonstrating a good spread of cases across the whole of the UK.

It is encouraging to know that the new system of legally binding offers is working well and was able to apply to all of the above cases and I hope that the minor teething problems to which Sir Hayden refers can be resolved.

The portrait of Omai by Sir Joshua Reynolds, considered by the Reviewing Committee in June 2021 deserves a special mention. As Sir Hayden notes, it is at the very top end of the scale of national importance and I would agree that every chance should be given to keep it in

the UK. To that end it is fantastic news that the National Portrait Gallery has indicated that it will attempt to acquire it and I wish them well with their fundraising campaign.

I welcome Sir Hayden's positive mention of the Illicit Trade Working Group and we are willing to look at further ways of improving the export licensing system to prevent further infractions of the kind mentioned.

Finally, I would like to thank the Reviewing Committee for its advice. The objects that they consider are wide-ranging and in most cases unique and I am impressed at the quality of advice and depth of understanding that the Committee provides. I am also grateful to those who act in the role as expert advisers to the Committee, staff at the Arts Council and to all those organisations and individuals who give so generously towards the objects that were saved for the nation.

My particular thanks are reserved for Sir Hayden Phillips who, after eight years as Chair of the Committee, stood down from the role earlier this year. Through his excellent stewardship as Chair, Sir Hayden has guided the Committee through some highly challenging cases and has provided Ministers with helpful advice on a number of policy issues including the introduction of legally binding offers referred to above. He should be extremely proud of all he has achieved. I wish his successor, Andrew Hochhauser KC, every success in the role and I look forward to working with him.

**The Rt Hon Michelle Donelan MP**  
Secretary of State for Digital, Culture,  
Media and Sport

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# Reviewing Committee Report for 2021-22

1 May 2021 to 30 April 2022

## Introduction

As in previous years, we have been privileged to have a wide variety of important objects come before our Committee. Whilst the number of objects referred to us may have remained low in comparison with some earlier years, their values have shown no sign of diminishing and although at the time of writing this report three of the 15 objects for which you accepted our recommendation that an export licence be deferred have been acquired, the *Peruzzi* by National Museums Northern Ireland, the 17th century manuscript of Italian and French lute music by the University of Edinburgh and the Gould drawings by a private individual who has entered into an agreement to lend them to the Natural History Museum, another case is anticipated to be the subject of an Option Agreement shortly.

The three acquisitions were secured under the new legally binding Option Agreement mechanism which came into effect on 1st January 2021. One more is in the pipeline. We are pleased to report that the mechanism appears to be working well. There have been some teething problems, particularly in relation to the timing of the first condition report which has to be agreed by the purchaser and owner before the Option Agreement is signed, so within the 15 Business Day interim consideration period following the end of the first deferral. This is a very tight timetable with no inherent flexibility, but fortunately both cases where there has been a delay were with the agreement of both parties and the delay was not contentious.

Reynolds' portrait of Omai from Castle Howard, which came before our predecessors

in December 2002, was considered by us in June 2021. The painting seemed to us to be quintessentially of Heritage status, for the reasons set out in our 2002-03 report, and we believe that every chance should be given for the nation to secure it this time round which will most certainly be the last. Although it is not a case where the legally binding mechanism applies, we have been reassured that the owners will accept a matching offer and we have no reason to doubt this. We are also heartened that the National Portrait Gallery has registered a serious expression of interest and is trying to raise the £50m to save it for the nation. We are fully aware that we are living in uncertain and difficult economic times, but we hope that funds will be secured to save this magnificent British portrait by the foremost British artist of his day whose tercentenary falls on 16th July 2023 and keep it in the UK where it was painted and has remained ever since. This is a very special case and we hope that the Government will, as a last resort, be willing to consider making a one-off grant to secure this masterpiece for the nation.

During the year we are reporting on we met remotely eight times and in person twice and considered objects referred to us at nine of those meetings. I would like to thank members of the Committee, the Secretary of State's expert advisers who bring objections to us and our Independent Assessors who made the effort during these difficult times to inspect the objects we considered.

We considered 18 objects and we are also reporting on one from the 2018/19 reporting period. For all but two of these we

recommended that their export licences should be deferred. Two were withdrawn, one before we referred it to you, the other one later and you deferred 15. Their aggregate value came to £113,829,831 (the third highest total in the last 10 years). To date three of them have been saved; three are still under deferral and sadly the other 9 were or can be exported.

We were not able, again, to hold a meeting of the Advisory Council during this reporting period and the last meeting was held in June 2019.

### **Compensating Offers**

For many years the UK tax system has helped public museums and galleries to acquire important cultural objects at a reduced price. This is achieved through HMRC forgoing the tax. After an export stop any owner, rightly, must receive the market price which has been set in the marketplace and so should not financially be out of pocket. However, where a sale to a UK public museum follows, the vendor's tax liabilities reduce the actual cash paid because the sale is tax free. As a result public museums can make a compensating offer to purchase which is set by the fair matching price and any additional elements (for example buyer's premium and VAT usually payable to the agent) but reduced by the total amount of tax that would be payable in the UK by the seller on the sale price.

Cases where this applies are clearly identified as such in the press release announcing their deferral by the use of the following wording:

*Offers from public bodies for less than the recommended price through the private treaty sale arrangements, where appropriate, may also be considered by the minister. Such purchases frequently offer substantial financial benefit to a public institution wishing to acquire the item.*

We would urge museums to bear this in mind and if they have any questions to contact the Secretariat at an early stage. We would also like to remind applicants, as we said in our 2013/14 report, that until a calculation of the estimated net-of-tax price is to hand the press release, from which time the deferral will start to run, will not be issued.

### **Illegal exports**

Last year we reported that a national treasure which had been refused an export licence more than three decades ago, was spotted by a reader of our reports at an auction in New York. The item was a 6th Century BC Greek Scarab Seal reported at case xiii in our 1982/83 report. We have been informed by law enforcement that unfortunately as the person thought to be the exporter is now deceased the UK has no means of legally requiring its return.

We understand that for any action to be taken it is necessary to establish that the person who exported the object, who has to be based in the UK, had the intention to export it unlawfully and had committed an offence. If the exporter is outside the UK, the UK has no means of legally requiring the object's return.

In the circumstances we hope that time will be found for legislation to improve the system of licensing for the export of works of art to enable reinforcements of the system to be implemented to make good any infractions of the UK export systems. We are aware that an opportunity to legislate will inevitably take some time to occur. In this regard we are heartened that your Department has convened the Illicit Trade Working Group, a revival of the old Enforcement Agencies Steering Group, with the aim of developing a more structured approach to work across departments, agencies and law enforcement to tackle the illicit trade in cultural property; and provide a forum and a framework for collaborative working between policy officials and enforcement officers.



## Repatriation/restitution

Although the publication of the Arts Council's [Guidance](#) on this subject to museums in England fell outside this reporting period we should here mention that it has been agreed with your Department that any objects proposed for repatriation by non-national museums that require an individual export licence are handled in exactly the same way as any other objects that come before us. The fact that repatriation has been proposed is not a consideration to take into account either by the expert adviser or the Committee whose remit is not to make judgements as to whether or not such objects should be repatriated. These will be considerations for you to make.

## Manuscripts, Documents and Archives

The Working Party on Manuscripts, Documents and Archives met in September 2021 and June 2022 and it has several concerns relating to the export of manuscripts, books and archives.

It is not sufficiently widely understood that there is no financial threshold for the export of manuscripts and archives and that all manuscripts, however seemingly cheap and insignificant, require a licence. The situation is worsened by the reductions in the staffing of county and urban archives and local history libraries as a result of the local government cuts, which makes it more difficult to keep track of private archives that may be at risk of export. The problem has become more acute as some on-line auction houses, based abroad, have left it to vendors in the UK to send their material to their foreign purchasers.

It also seems that some representatives of local archives, history societies and archives are still not aware that outstanding local significance is a legitimate ground for the withholding of an export licence. If they are aware that material of interest to them falls

into that category, they should not hesitate to contact the relevant expert adviser who may decide to bring it before the Committee.

The provenance of material for which export licences have been applied has long been a worry and it was reported to the 2022 meeting of the Working Party that some solicitors are selling off archives, deposited in their offices, to which they have no title. Some have gone abroad without the knowledge or consent of their owners.

Lastly the Documents Working Party expressed concern at the inability to enforce the return of material that had been illegally exported from this country and has subsequently surfaced.

## Sir Hayden Phillips GCB DL

Chairman, Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest

## Cases referred to the Committee

In 2021-22, 18 objects were considered by the Committee because the appropriate expert adviser had objected to their proposed export on the grounds of national importance. We are also reporting here one object which was considered by us in a previous reporting period.

The Committee will designate an object as a 'national treasure' if it considers that its departure from the UK would be a misfortune on one or more of the following three grounds, collectively known as the Waverley criteria:

History	Aesthetics	Scholarship
Is it closely connected with our history and national life?	Is it of outstanding aesthetic importance?	Is it of outstanding significance for the study of some particular branch of art, learning or history?
Waverley 1	Waverley 2	Waverley 3

### Items found to be national treasures

Seventeen items were found to meet at least one of the Waverley criteria:

- |  |   |
|--|---|
| <b>Case 1</b> Gould's Original Drawings, Vols I and II                               | <b>Case 11</b> <i>Banquet Still Life</i> by Jan Davidsz. de Heem  |
| <b>Case 3</b> <i>The Nativity</i> , by Baldassare Tommaso Peruzzi                    | <b>Case 12</b> <i>Portrait of Omai</i> by Sir Joshua Reynolds   |
| <b>Case 4</b> Aristotle and Homer Marble Busts attributed to Giuliano Finelli        | <b>Case 13</b> 17th century manuscript of Italian and French lute music   |
| <b>Case 5</b> <i>Portrait of Joan Thornbury</i> by Hans Eworth                       | <b>Case 15</b> <i>A Pair of Group Portraits of Mr and Mrs Joseph May and their Children</i> (1780) by Angelica Kauffman |
| <b>Case 6</b> <i>Portrait of the 14th Earl of Dalhousie</i> by John Singer Sargent   | <b>Case 16</b> <i>Ferme normande, été (Hattenville)</i> (1882) by Paul Cezanne  |
| <b>Case 7</b> Tiger's head finial from the throne of Tipu Sultan                     | <b>Case 17</b> <i>A View of Verona with the Ponte delle Navi</i> by Bernardo Bellotto                                   |
| <b>Case 8</b> <i>Allegorical Painting of Two Ladies</i> , English School, circa 1650 | <b>Case 18</b> <i>Confirmation</i> by Nicolas Poussin   |
| <b>Case 9</b> Early Charles II ebony longcase clock                                  | <b>Case 19</b> Sheffield football club archive  |
| <b>Case 10</b> <i>Portrait of Prince William</i> by Benjamin West                    |   |

### Items found not to be national treasures

Two items were found not to meet any of the Waverley criteria. They were:

**Case 2** Sir Ernest Shackleton's Medal Miniatures

**Case 14** *Caernarvon Castle* by JMW Turner

### National treasures referred to the Secretary of State

15 cases were referred to the Secretary of State for deferral. The aggregate value of the 15 deferred items was £113 million (£113,829,831).

### Deferred items that were acquired

Of the 15 deferred items, the following three were acquired by institutions or individuals in the United Kingdom:

**Case 1** Gould's Original Drawings, Vols I and II

**Case 3** *The Nativity*, by Baldassare Tommaso Peruzzi

**Case 13** 17th-century manuscript of Italian and French lute music

These had a total value of £1.9 million (£1,965,017), which represents 1.7 per cent of the total value of objects that were deferred.

### Outstanding cases

At the time of writing this Report, three items with a total value of £69,272,800m were still under deferral.

**Case 8** *Allegorical Painting of Two Ladies*, English School, circa 1650

**Case 12** *Portrait of Omai* by Sir Joshua Reynolds

**Case 18** *Confirmation* by Nicolas Poussin

### National treasures that were not saved

Unfortunately, it was not possible to retain in the UK every national treasure that was deferred. Export licences were (or can be) issued for the nine items listed below:

**Case 4** Aristotle and Homer Marble Busts attributed to Giuliano Finelli

**Case 6** *Portrait of the 14th Earl of Dalhousie* by John Singer Sargent

**Case 7** Tiger's head finial from the throne of Tipu Sultan

**Case 9** Early Charles II ebony longcase clock

**Case 10** *Portrait of Prince William* by Benjamin West

**Case 11** *Banquet Still Life* by Jan Davidsz. de Heem

**Case 15** *A Pair of Group Portraits of Mr and Mrs Joseph May and their Children* (1780) by Angelica Kauffman

**Case 16** *Ferme normande, été (Hattenville)* (1882) by Paul Cezanne

**Case 17** *A View of Verona with the Ponte delle Navi* by Bernardo Bellotto

These had a collective value of £42.5 million (£42,592,014), which represents 37 per cent of the total value of objects placed under deferral and 60 per cent of the total number.

# Individual export cases 2021-22



**Case 1** Gould's Original Drawings, Vols I and II

*2<sup>d</sup> of them there are the same species  
Is not the upper stricollis? I. Francis of the Male & the other  
the two left hand birds are the same as the*

## Case 1 Gould's Original Drawings, Vol I and II

### **Two albums containing 129 process drawings and watercolours and four unpublished lithographic proofs by John Gould (1804-1881), Elizabeth Gould (1804-1841) and Henry Constantine Richter (c.1821-1902).**

The applicant had applied to export the drawings to the USA. The value shown on the export licence application was £1,062,500 which represented an agreed sale price subject to the granting of an export licence. In addition, commission of £187,500 was payable and VAT of £37,500 would be payable on this in the event of a UK sale. The total would be £1,287,500.

The Head of Library Special Collections at the Natural History Museum acting as expert adviser objected to the export of the drawings under the third Waverley criterion because they were of outstanding significance for the study of the history and study of natural history illustration, in particular Gould's drawing and publication processes but also some of the bird species depicted.

John Gould was a businessman, publisher and obsessive bird collector. He was an expert taxidermist and later became the leading British and Australian ornithologist of his time. His publication *The Birds of Australia* has been described 'as one of the world's finest books, probably the most valuable and desirable of all printed works relating to Australia'.

This two-volume corpus of drawings was a specially selected set of drawings by Gould for the 13th Earl of Derby as recorded in a series of letters in 1843 from Gould's assistant, Prince, to Lord Derby in which the drawings were offered to Derby for acquisition and their future preservation (Datta, p.170-171). The drawings are also of high significance due to so many of them being signed by Gould.

They predominately depict the avifauna of Australia, a subject which Gould directed his

attention to right up until his death. To realise his vision, he travelled to Australia between 1838-40 with his wife Elizabeth to procure more specimens in order to record and figure Australian birds. Gould and his assistant John Gilbert added about 300 new species to those birds already known to inhabit Australia and by the time of his death, Gould had been able to figure practically every known Australian bird species in his numerous works. In volume II, drawings are of birds which featured in some of Gould's other lavish bird publications and include those of his wife Elizabeth, and his artist Henry Constantine Richter. As such, they offer a global snapshot of the world's avifauna.

Gould did not work alone but employed a strong team of specimen collectors, administrative agents and highly talented artists who included Edward Lear (1812-1888), Josef Wolf (1820-1899), William Matthew Hart (1830-1908), Henry Constantine Richter (c.1821-1902) and his own wife Elizabeth Gould (1804-1841) in addition to lithographers and colourists (inc. Gabriel Bayfield (1781-1870) to translate his preparatory sketches into finished illustrations. Elizabeth Gould created 84 plates for *Birds of Australia*. Richter studied skins and the drawings John and Elizabeth brought back from Australia and produced the majority of the 681 plates for *The Birds of Australia*.

The drawings in these two volumes are working studies of his subjects and represent the first step in the process of the production of his plates. They provide essential instruction to his artists to enable them to complete finished watercolours, the outlines of which were carefully delineated and transferred to lithographic stones to print the plates and then finished by hand.

The applicant did not dispute that the volumes met the Waverley criteria.

We heard this case in May 2021 when we saw the two volumes and concluded that they met the third Waverley criterion. Gould was



### Case 1 Gould's Original Drawings, Vols I and II

one of Britain's most significant ornithologists of the 19th century and his work played a role in Charles Darwin's theory of evolution and is referenced in Darwin's book, *On the Origin of Species*. These drawings, therefore, were the product of one of the most significant natural history artists of the Victorian age and there was much still to be discovered, bibliographically but particularly from the standpoint of the history of science, about these often beautiful but above all honest drawings, by one of this country's greatest ever ornithologists and his talented wife.

The drawings sometimes differ in important details from the artistic lithographs derived from them, but they are perhaps most significant as being amongst the earliest accurate western depictions of non-European birds, some now extinct. They should be retained in this country so that they can be

researched not only from an artistic and bibliographical perspective but above all in the context of Gould's correspondence and the specimens, also gathered by John Gould, held by British institutions.

We therefore recommended that a decision on their export licence should be deferred for an initial period of three months to enable an offer to purchase them to be made at the agreed fair market price of £1,287,500 (inclusive of VAT) with a further four months if there was a serious expression of interest and the owner granted an Option Agreement. This was the first case we heard where the legally binding Option Agreement mechanism applied, and we are pleased to report that during the first deferral period, which started on 25th June 2021, we were informed of an offer from a private source to purchase the volumes at the fair matching price with a guarantee of reasonable public access at the Natural History Museum. The owner agreed to grant them an Option Agreement. Although this was not concluded until 15 December 2021, this was by agreement between the parties. A decision on the export licence application was deferred for a further four months from that date but before the end of the second deferral period the sale was concluded, and the private purchaser has entered into an agreement with the Natural History Museum to put them on public display. In this case due to the fragility of the drawings and on the advice of the Natural History Museum the period of public access will initially be by appointment in the invigilated Public Reading Room for the normal 100 days a year but by appointment. During this time a full conservation assessment of the volumes will be undertaken, and more details of the display timings will be given in due course.

The independent assessors for this case were Christopher Mills (Former Head of Library, Art and Archives, Royal Botanical Gardens, Kew) and Lowell Libson (Lowell Libson & Jonny Yarker Ltd).

## Case 2 Sir Ernest Shackleton's Medal Miniatures

### **A set of twelve medal miniatures mounted on a single brooch pin, half sized replicas of all, bar one of the medals awarded to Sir Ernest Shackleton.**

The applicant had applied to export the medals to New Zealand. The value shown on the export licence application was £78,000 which represented the hammer price at auction of £60,000 plus £18,000 buyer's premium, £3,000 VAT on that premium would be payable in the event of a UK sale making the total £81,000.

The Chief Executive at the UK Antarctic Heritage Trust acting as expert adviser had objected to the export of the medals under the first Waverley criterion because they were associated with the single most decorated British polar explorer, Sir Ernest Shackleton, a man who led some of the most significant British Antarctic expeditions in history and were therefore so closely connected with our history and national life that their departure from the UK would be a misfortune.

This set of medal miniatures comprises twelve half-sized replicas of twelve of the thirteen medals awarded to Sir Ernest Shackleton. They are mounted, with ribands overlapping on a large brooch pin and clasp in accordance with Ministry of Defence regulations on brooch width.

The medals are arranged in order:

- Commander of the Royal Victorian Order, 1909
- Officer of the Order of the British Empire (Military), 1909
- British War Medal, 1914-18
- Allied Victory Medal, with emblem for Mentions in Dispatches, 1914-18
- Polar Medal, EV11R with three clasps 'ANTARCTIC 1902-04', 'ANTARCTIC 1907-09' and 'ANTARCTIC 1914-16'
- Polar Star of Sweden, 1909
- Dannebrog of Denmark, 1909
- St Olaf of Norway, 1909
- Legion of Honour (France), 1909
- St Anne of Russia, 1910
- Crown of Italy, 1910
- Order of Merit (Chile) 1916

The medal missing from the set is the Royal Crown of Prussia, awarded in 1911, possibly omitted for political reasons, as the Great War had just ended when this set was made. Such sets were purchased by the recipient to be worn on Mess Dress uniforms and civilian evening dress usually for evening functions. This set had been worn and the ribands bear the surface soiling and on the reverse, there is wear on the metal plate of two of the medals.



Known as one of the greatest explorers in history, Shackleton's accomplishments, and indeed failures, but more importantly his response to adversity, placed him as one of the greatest of Britons. He achieved a 'farthest South' in 1909, having had to make the agonising decision to turn back a mere 97 miles short of the Pole, an achievement which made his name and earned him the knighthood and CVO upon his return. The leadership and courage he demonstrated during the Imperial Trans-Antarctic Expedition was legendary and referenced still today by teachers of leadership across the world. The loss of his ship *Endurance* to the ice and his heroic rescue of all his men after two years marooned in Antarctica is a well told story.

His contribution during his lifetime was recognised both in the UK and abroad and he received thirteen official decorations. He was also awarded around forty civilian and academic awards from thirteen countries as well as the UK. In the UK he was awarded a Polar Medal, with three clasps for each of the three expeditions from which he returned in 1904, 1909 and 1916; the CVO was presented to him after he returned from his attempt on the South Pole in 1909. Upon his return from Antarctica after the *Endurance* expedition, Shackleton was keen to join the war effort and volunteered for the army and was appointed a Temporary Major. For this he received a British War medal and Allied Victory medal for his service during the First World War. Towards the end of the war, he was posted to Russia during which his contributions to the Great War and subsequently, the Russian Civil War, he was appointed an OBE.

This and the two war medals represent the period of his career that is very poorly reflected in the public domain. Much is made of his Antarctic exploits, but his conduct and achievements when he served in the Army are little known. The war medals, including a Mentioned in Despatches by General Ironside, throw light and potential research areas on his non-polar career, contrasting the frustration of polar ambitions with wider military necessities which did not give him the same honours.

The absence of the actual full-sized medals awarded to Shackleton in UK public collections rendered this miniature set all the more significant as a unique artefact which explicitly communicates the accomplishments and recognition of this extraordinary man; as a personal item seemingly well-worn; and as a symbol of his legacy.

The applicant disputed that the medal miniatures met the Waverley criteria. While this set provided an almost comprehensive summary of his decorations for his achievements in Antarctic exploration in the Heroic Age, these were in fact duplicates (half size miniatures) of the full-size awards, bought by the recipient to wear at mess and black-tie dinners. The original medals awarded to Shackleton, apart from the Polar Medal, were sold at Christie's on 8 October 2015 and most had been granted export licences and were now overseas. While this present set had great association value, as one of Shackleton's sets of miniatures as worn, these were simply replicas of the original medals. As such this set could not be described as being "so closely connected with our history and national life that its departure would be a misfortune."

Shackleton was awarded these medals primarily for his Antarctic exploits. As the jumping off point for the expeditions, and the medals were of greater significance to the history of New Zealand than they were to the history of the UK.

We heard this case in June 2021 when we saw the medals. Whilst we did not dispute that Shackleton was a major figure, this set of medal miniatures would have been purchased by the recipient rather than awarded and there was no definitive proof that Shackleton himself had purchased it nor any known photographs of him wearing it. The Committee therefore considered that its degree of national importance was not so great as to justify the withholding of an export licence.

The independent assessors for this case were Paula Williams (Curator of Map, Mountaineering and Polar Collections, National Library of Scotland) and Michael Smith (Author of *Shackleton: By Endurance We Conquer*).



### Case 3 *The Nativity* by Baldassare Tommaso Peruzzi

**Baldassare Peruzzi (1481–1536), *The Nativity*, c. 1515, oil on panel measuring 100.6 cm by 76.4 cm.**

The applicant had applied to export the painting to the USA. The value shown on the export licence application was £430,000 which represented the sterling equivalent of the agreed sale price (\$600,000) subject to the issue of an export licence.

The Director, The National Gallery, assisted by the Curator of Sixteenth-Century Italian Paintings and the Simon Sainsbury Curatorial Fellow, Paintings before 1500, The National Gallery, acting as expert adviser had objected to the export of the painting under the third Waverley criterion because it was of outstanding significance for the study of Roman painting in the 1510s, a key moment in the development of European painting.

This Nativity scene is an exceedingly rare surviving work on panel by Baldassare Peruzzi (1481–1536), a highly esteemed, versatile artist – architect, theatre designer, painter and draughtsman – who was one of the leading figures in art in Rome in the first decades of the 16th century. This was the only painting by him in a UK collection and exemplified many of the innovations taking place in Roman painting during this period, most notably in its night-time setting, its all’antica inspirations and the frieze-like monumentality of its figures. Night-time scenes were a characteristic device of this decade, with Michelangelo’s *Judith and Holofernes* lunette (1512, Sistine Chapel),

Michelangelo and Sebastiano del Piombo’s *Viterbo Pieta* (finished 1516, Museo Civico, Viterbo) and Raphael’s *Liberation of Saint Peter* (1514, Stanza di Eliodoro) providing three major precedents. Yet Peruzzi’s use of dark tonalities for a work on this intimate scale was unusual, daring even. Its nocturnal setting pre-empted highly influential works such as Raphael’s *La Perla* (c. 1518, Museo del Prado), and its dramatic side lighting anticipates the lighting effects of artists such as Parmigianino and Rosso Fiorentino by about a decade.



**Case 3** *The Nativity*, by Baldassare Tommaso

The panel was probably once the pendant to a panel of *The Coronation of the Virgin* (last known to be in a private collection in Norway) and previously in the same collection as the present panel, namely the Sebright Collection, Beechwood; C. L. Frommel suggested that the two panels may once have been a diptych made for a small altar and were separated when they left the Sebright Collection in 1939. The whereabouts of *The Coronation of the Virgin* are currently unknown.

Formerly attributed to one of Raphael's closest followers, Giovanni Francesco Penni (circa 1488–1528), it was the great connoisseur of Italian drawings, Philip Pouncey, who first attributed this painting to Baldassare Peruzzi, when it was in his collection. First published by John Pope-Hennessy in 1946, the painting is undoubtedly one of the most significant surviving paintings by Peruzzi. It placed the artist at the forefront of innovation in Roman painting around the mid-1510s.

The applicant did not dispute that the painting met the Waverley criteria.

We heard this case in June 2021 when we saw the painting and concluded that it met the third Waverley criterion. This was an extraordinarily rare painting as very few by Peruzzi have survived, and almost none were outside Italy. It was remarkably well preserved. The inventiveness of the picture, the striking tonality and composition, and the artist's painterly way of depicting light and architecture made it of outstanding significance for the study of early 16th century painting in Rome.

Its inclusion in Philip Pouncey's collection was also significant. Pouncey was a highly important figure, who made a major contribution to the international study and attribution of Italian drawings, including those which he attributed to Peruzzi. Since it was not known when this painting entered the Sebright collection in the UK, this added another potential facet of research.

We therefore recommended that a decision on the export licence should be deferred for an initial period of three months to enable an

offer to purchase the painting to be made at the agreed fair market price of £463,317 which represented \$600,000 converted to GBP (xe.com) on 18 September 2020, the date of the sale agreement. Which gave the applicant the benefit of any fluctuations in accordance with our normal policy We further recommended that, if at the end of the initial period the owner agreed to grant an Option Agreement to a potential purchaser the deferral period should be extended by a further six months. The painting had been exempted from capital taxation and the requested three months' notice of an intention to sell it had not been given to the Arts Council. Although this was a case where the binding Option Agreement applied, we followed the previous policy and recommended that an additional three months be added to the second deferral period to account for this omission. In Case 6 below we report that it was subsequently established that although we retain flexibility to recommend an appropriate length for the second deferral period based on the value of the object and our assessment of the challenges of fundraising, we do not retain that flexibility in cases where the three months' notice of an intention to sell a previously exempted item has not been given.

During the initial deferral period, which started on 23 July 2021, we received a serious expression of interest from the Ulster Museum, National Museums NI. The owner accepted this offer and granted the Ulster Museum an Option Agreement which was concluded on 15 November 2021. The deferral period was extended for a further six months during which time the painting was purchased by National Museums NI at the tax remitted price of £277,990 with the assistance of grants from the Department for Communities (Northern Ireland), the Art Fund, the National Heritage Memorial Fund and the Esmé Mitchell Trust.

The independent assessors for this case were Prof. David Ekserdjian (Professor of the History of Art and Film, University of Leicester), Dr Tim Hunter (Art Consultant and Director, Venator Fine Art Ltd.) and Prof. Alison Wright (Professor of Italian Art c. 1300-1550, University College London).

## Case 4 Aristotle and Homer Marble Busts attributed to Giuliano Finelli

### **A pair of marble busts attributed to Giuliano Finelli (Carrara, 1601 – Rome 1653), depicting Aristotle (?) and Homer, circa 1630-35, 40.8 cm. and 42.5 cm. high.**

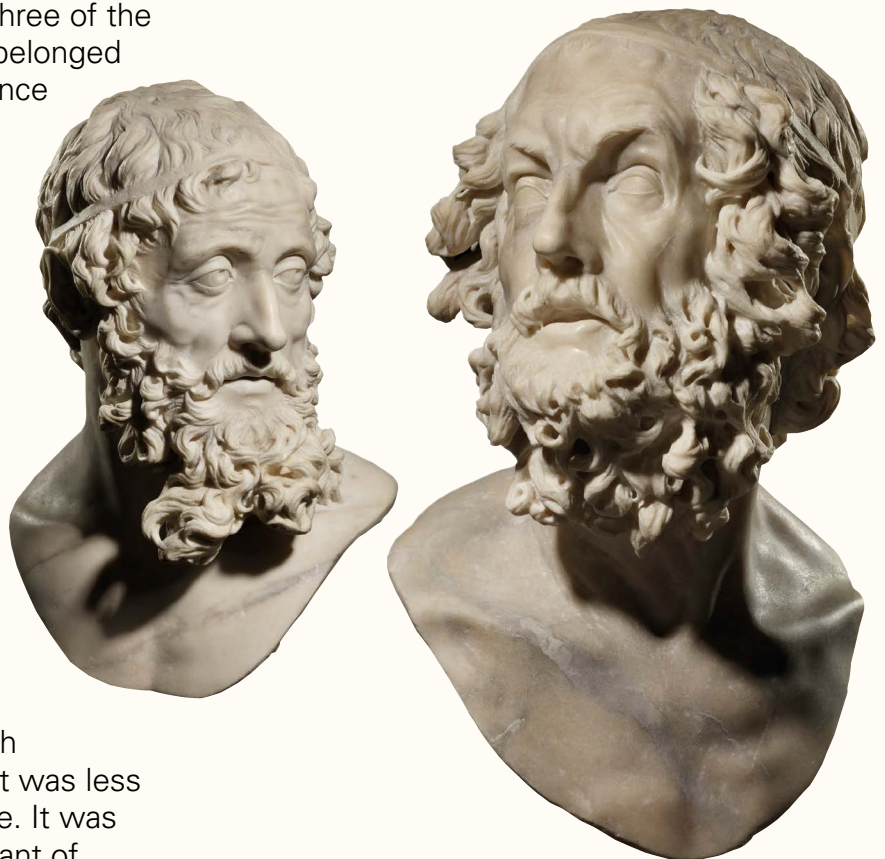
The applicant had applied in 2020 to export the busts to the USA. This was before the date binding offers were introduced which was for all applications made on or after 1st January 2021. The value shown on the export licence application was £851,250 which represented the hammer price at auction of £700,000 plus the buyer's premium of £151,250. In addition, in the event of a UK sale VAT of £30,250 would be payable on the buyer's premium making the total £881,500.

The Senior Curator of Sculpture at the Victoria and Albert Museum, assisted by the Curator of Sculpture, post-1600 at the Victoria and Albert Museum acting as expert adviser had objected to the export of the busts under all three of the Waverley criteria because they had belonged to the renowned Derby Collection since the early 18th century, their finely carved detailing and characterisation were of outstanding aesthetic importance and they were of outstanding significance for the study of British collections and the study of Italian Baroque sculpture.

The busts were unpublished before their sale at Christie's London in July 2020 and were known by only a handful of specialists and scholars. The busts came from the celebrated art collection of the Earls of Derby, largely amassed by James Stanley, 10th Earl of Derby (1664-1736). Discreet and always making his purchases through agents, the Earl built a collection that was less widely known than others of his time. It was nonetheless one of the most important of early 18th century Britain. While the painting collection of the Earls of Derby was well documented, thanks to early inventories and

publications, the smaller sculpture collection was a field yet to be explored. These busts were therefore a rare – and documented – testimony of the collection that had been considerably reduced in the past century.

Purchased as 'Bernini' in the early 18th century, the busts were attributed to Giuliano Finelli in the 2020 Christie's catalogue and sold as such. Giuliano Finelli was now considered one of the most talented sculptors of the Italian 17th century as highlighted in the 2019 monograph on his work. Finelli's extraordinary understanding of his material, first demonstrated in his acknowledged contribution to Bernini's *Apollo and Daphne*, could be seen in the exquisite treatment of the beard, lace and fur of his portrait busts. The two busts of Greek philosophers showed a similarly careful, while vigorous, treatment of the curled hair



**Case 4** Aristotle and Homer Marble Busts attributed to Giuliano Finelli

and long beard, as well as of the wrinkles on the forehead and on the corner of the eyes. Examples of Finelli's work outside Italy and Spain were rare and only the superbly carved *Bust of Francesco Bracciolini*, 1630-3, was securely attributed to him.

Regardless of whether the attribution to Finelli was unanimously accepted, these were exceptionally high quality and rare examples of busts of this type and from this date, with an important provenance and attribution history. They shed light on the sculpture collection of the 10th Earl of Derby and were of major significance for the study of Italian Baroque sculpture, possibly adding to the limited and still growing corpus of works by Giuliano Finelli.

At the hearing the expert adviser withdrew their objection under the first Waverley criterion.

The applicant disagreed that the busts met the Waverley criteria. They had not been identified as works of interest at Knowsley Hall, the seat of the Earls of Derby until the year in which the year in which they were sold in 2020. Although attractive they were not prime examples of Finelli's style and not of aesthetic importance. Each bust was varved out of a rather grey, heavily veined block of marble which had resulted in them having been extensively waxed to mark some of the most pronounced veins in the chests and shoulders although this had been removed in a restoration in 2021 before the date of the hearing. Some of the extremities of the hair and face were abraded and the crumbling away of the material on both busts had necessitated resin in-fill to create a more homogeneous and coherent surface. Nor were they of outstanding significance for study: the busts were neither signed nor documented from their time of creation and their attribution to Finelli was significantly reliant on a stylistic comparison between the bust of Homer and the bust of Seneca in the Prado which was itself only attributed to Finelli. As attractive as they were, they told us nothing about Finelli's technique.

We heard this case in July 2021 when we saw the busts and concluded that they met the second and third Waverley criteria for their

outstanding significance to the study of British collections and the study of Italian Baroque sculpture.

The attribution of the sculptures was extremely interesting, and we observed that the truncation at the back of the busts was different from the two examples on long term loan at the Rijksmuseum attributed to Orfeo Boselli, after a model by Francois Duquesnoy. Finelli was a spectacular technician, and the busts under consideration were technically remarkable pieces. They displayed exceptional detail and vigour and were impressive. We found that the attribution was plausible; however, this was still to be more widely agreed which would potentially require further investigation.

These busts were a dynamic and creative interpretation of the 'beggar philosopher' archetype, reflecting the changing tastes of collectors in the 17th and 18th century. The importance of the genre at the time highlighted potential avenues for research looking into the impact that this type of baroque sculpture had on British artists and also on the possible links that might be drawn between painting and sculpture depicting the same scene. The busts were significant for the study of baroque sculpture, as there were few extant examples of comparable subject and quality.

We therefore recommended that a decision on their export licence should be deferred for an initial period of three months to enable an offer to purchase the busts to be made at the agreed fair market price of £881,500 (inclusive of VAT). We further recommended that, if at the end of the initial deferral period of three months there was a potential purchaser who showed a serious intention to raise funds with a view to making an offer to purchase, the deferral period should be extended by a further three months.

At the end of the initial deferral period, no offer to purchase the busts had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Dino Tomasso (Partner, Tomasso Brothers Fine Art) and Jeremy Warren (Honorary Curator of Sculpture, Ashmolean Museum).

## Case 5 *Portrait of Joan Thornbury*, Hans Eworth

**Hans Eworth (fl. c. 1540; living 1573), *Portrait of Joan Thornbury, Mrs Richard Wakeman* by, oil on panel, painted in 1566, measuring 92.4 cm by 70.7 cm**

We heard this case in September 2021 when we saw the portrait and concluded that it met the third Waverley criterion. The application for an export licence was withdrawn before our submission was made to the Secretary

of State. The portrait, therefore, remains in the UK.

The independent assessors for this case were Johnny Van Haeften (Director, Johnny Van Haeften Ltd.), Lucy Whitaker (Freelance Art Historian and Curator) and Mark Evans (Head of Paintings and Photographs, Victoria, and Albert Museum).

## Case 6 *The Portrait of the 14th Earl of Dalhousie* by John Singer Sargent

**John Singer Sargent (1856-1925), *Portrait of Arthur George Maule Ramsay (1878-1929), the 14th Earl of Dalhousie in front of double pillars and plinth*, oil on canvas, measuring 150.7 cm by 102.2 cm. Painted in 1900 and exhibited in May 1900 at the Royal Academy.**

The applicant had applied to export the portrait to the USA. The value shown on the export licence application was £7,581,277.85 which represented the price at which the overseas owner had bought the portrait through a private sale on 8 July 2021 (\$10,500,000 converted to GBP on the date of the licence application which was 16th July 2021). In the event of a UK sale VAT of £115,523.47 on the commission (which was \$800,000 converted to £577,617.33) would be payable.

The Curator of British Art 1850-1915 at Tate Britain, assisted by the Assistant Curator of 19th century British Art at Tate Britain, acting as expert adviser had objected to the export of the painting under the second and third Waverley criteria because it was a contender for Sargent's finest portrait of a male sitter and of outstanding significance for the study of Sargent as an international artist and the wider art, history and culture of the period.

This was a three-quarter length portrait of Arthur Ramsay (4 September 1878 – 23 December 1928), the 14th Earl of Dalhousie, approximately life-size. He was clean shaven with hair cut short at the sides, wearing a white shirt with a stand-up collar, a loose-fitting off-white flannel suit and a long, plain red tie in the modern style. Dalhousie's stance is self-consciously nonchalant, but he regards the viewer with unsmiling reserve. There is a large, dark space beyond with an obscure high window. Recent cleaning had revealed multicoloured textiles, perhaps furled flags, piled in the shadows.

*The Portrait of the 14th Earl of Dalhousie* was a symphony in white. It was exceptional in that it had never been lined, preserving the freshness of Sargent's bravura brushwork. The life-size painting knowingly claimed its place in the history of portraiture.

When this painting had appeared at the Royal Academy at *The One Hundred and Thirty-second Exhibition*, May 7-August 6, 1900, no. 44, it laid the foundation for Sargent's rise to the position of pre-eminent portraitist on both sides of the Atlantic, and his global celebrity in the present day. Sargent was a leading member of the circle of artists and



**Case 6** *Portrait of the 14th Earl of Dalhousie*  
by John Singer Sargent

writers, such as his friend Henry James, who pioneered the new century's fascination with the modern human subject. Coincident with the advent of psychoanalysis (1900), this portrait was exceptional in its penetration of character, an analysis of aristocratic masculinity, uncertainty, and imperial doubt.

Sargent is recognised as one of the leading artists of the late nineteenth and early twentieth centuries, and as such his work is prominent in collections both in the UK and internationally. There are 122 paintings in UK public collections, three quarters of which are portraits, about five of which share the 'stellar' status of *The Portrait of the 14th Earl of Dalhousie*. The picture stands out for the youthfulness of its sitter, and the modernity of its conception, the virtuosity of its execution and the freshness of its condition.

The applicant did not dispute that the portrait met the Waverley criteria.

We heard this case in September 2021 when we saw the painting and concluded that it met the second and third Waverley criteria. Painted at a new and riveting time in the artist's career, it was a fascinating bravura portrayal rooted in English history, with clear Van Dyck influence. It was one of Sargent's finest male portraits. The movement and flow of the paint, the agitated creases in the arms and the nervous feel of the sitter made the painting extraordinary aesthetically as well as on a psychological level.

The portrait evoked a brilliant transitional moment in British portraiture, being late Victorian in date but strikingly modern in appearance. Dalhousie was a Scottish aristocrat, and his portrait was one of the finest of all Sargent's studies of male subjects; an image of hauteur perhaps tinged by uncertainty, it was a coming-of-age painting, created when the subject turned twenty-one, and, as recent research had shown, it was paid for by his tenants. There was much more to be learned about its commission and the personal connection between the Earl of Dalhousie and Sargent.

The portrait had been exempted from capital taxation and the requested three months' notice of an intention to sell it had not been given to the Arts Council. To account for this we recommended that a decision on the export licence application should be deferred for an initial period of four months to enable an

offer to purchase it to be made at the agreed fair market price of £7,617,360 (plus VAT). This represented the \$10.5m purchase price and commission converted to sterling at the date of the licence application which, in accordance with our normal policy, was the rate that ensured that the applicant got the benefit of any fluctuations. We also recommended that there should be a further deferral period of eight months if there was a serious expression of interest and the owner agreed to grant an Option Agreement. Our recommended deferral periods included an additional one month beyond what we would normally have stipulated to the first deferral period and an additional two months to the second, this to account for the omission of the requested notice.

We were informed by the Department that under the new binding offers policy, it was not within our powers to recommend a second deferral period that extended beyond six months except for exceptionally expensive objects when more time may be needed to raise the funds. Although we retain flexibility

to recommend an appropriate length for the second deferral period based on the value of the object and our assessment of the challenges of fundraising, we do not retain that flexibility in cases where the three months' notice of an intention to sell a previously exempted item has not been given.

We were asked by the Department if we still wished to recommend a period of eight months for the second deferral period but as we had already made our recommendation known to the applicant, we were content on this occasion for the extra two months to be discounted completely and for the second deferral period to be six months.

At the end of the initial four-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Richard Ormond (Director, JS Sargent *Catalogue Raisonné Project*), Brian Allen (Chairman, Hazlitt Group) and Jonathan Green (CEO, Richard Green Gallery).

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## Case 7 Tiger's head finial from the throne of Tipu Sultan

**A tiger's head finial from the throne of Tipu Sultan of Mysore (1750-1799) from Mysore, 1787-93 (construction of the throne; Kirmani 1864). The plinth was possibly made in Madras or Calcutta, circa 1799-1800. It is made from gold over a lac core and set with rubies, diamonds and emeralds. The head is mounted on a black marble pedestal with gilt metal inscription in Persian scripts and mounts 6.9cm (height of head); 17.5cm (total height with pedestal).**

The applicant had applied in 2020 to export the finial to Qatar. This was before the date binding offers were introduced. The value shown on the export licence application was £1,160,000

which represented the price at which the overseas owner had bought the finial through a private sale in 2013. This same finial had appeared before our predecessors in May 2010 and is reported as Case 1 in our 2010/2011 report.

The Curator of the South Asian Collection at the British Museum acting as expert adviser had objected to the finial's export under all three of the Waverley criteria. It had an early provenance (it was in the collection of Thomas Wallace, Baron Wallace of Knarsdale (c.1800 or later) and listed in an 1843 inventory of the contents of Featherstone Castle (Northumberland)) and was therefore of national importance, inextricably tied to the

The tiger's head finial was one of eight which once adorned the gold-covered throne of Tipu Sultan (r.1782-99), arranged around the balustrade of the throne platform. Once part of the throne of Tipu Sultan, it was integral to our understanding of the ways in which Indian rulers constructed their identity and legitimacy. Tipu was regarded as the British East India Company's greatest threat. After he was finally defeated in 1799, the finial found its way to Featherstone Castle in Northumberland, acquired by Thomas Wallace who was Commissioner for the Affairs of India and President of the Board of Control, where it remained for at least a hundred years.

The finial was one of the few fully documented examples of South Indian goldsmiths' work, and a fine example of late 18th century royal craftsmanship. The techniques employed (including the mounting of gems within arcades, the inclusion of closely set rubies and emeralds with kundanset diamonds, and the texturing of the surface using punches) were also used for elaborate jewellery in the region, including pieces found in Hindu temple treasuries. The tiger motif and, uniquely, the bubri or stylised tiger stripe, were especially associated with Tipu. Described as the 'Tiger of Mysore', tiger imagery adorned most of his possessions as expressions of his power.

The finial was of outstanding significance for the art historical study of royal propaganda. Although many rulers often associated themselves with particular symbols to project their identity, Tipu did so to a greater extent than was usual. The throne was broken up after his defeat by the British and the whereabouts of only one other throne finial was known (Powis Castle), while three others were in private collections. This finial would contribute to a greater understanding of Tipu's court, the study of which had been challenging due to the wide dispersal of surviving objects associated with him. Its presence in a public collection would also enable links with South Asian diasporic communities in the UK. Objects associated with Tipu's reign

represented some of the most important artefacts for the study of 18th century Anglo-Indian history. They allowed scholars and curators to tell multiple stories as they not only illustrated the vibrant culture of Tipu's court, but their provenance allowed us to examine British imperial history critically.

The applicant did not comment on whether they considered the finial met any of the Waverley criteria.

We heard this case in May 2021 when we saw the finial and concluded that it met the first and third Waverley criteria for its outstanding significance to the study of 18th century Anglo-Indian history.

The finial was an extremely interesting object that provided insight into the rich history of Tipu's throne after it arrived in the United Kingdom. After the throne was disassembled some of its elements were given to Queen Charlotte and Lady Clive. It was not known how the finial arrived at Featherstone Castle, but this may have been via Jane Dundas (née Hope, later Lady Wallace), which provided a great avenue for research into the history of female collectors of Tipu items. The tiger motif on the finial was very important as a symbol and there was more to learn about Tipu's propaganda and the relationship with the Mughals and the East India Company.

It was also an important symbolic object in Anglo-Indian history in the last years of the 18th century. The defeat of Tipu was of great historical importance to national life and generated a contemporary fascination with Tipu's story and objects. The composite nature of the object and its unique elements required further research on craftsmanship and attribution.

We were unable to recommend a fair matching price and recommended that the Secretary of State should obtain point an independent valuation of the finial.

The applicant was given the option to agree to be bound by the valuer appointed by the Secretary of State once their identity was



known or to appoint their own independent valuer with a view to the two independent valuers agreeing a valuation. In the event that they were unable to agree, the Secretary of State would appoint a third person to act as an arbitrator (not as an expert) by whose decision the parties would be bound. The applicant agreed to this procedure.

The Secretary of State agreed the Committee's recommendation and appointed Robert Hales (an expert in antique Islamic and Oriental objects) to undertake the valuation. This valuation was £1.5m which the applicant was content with and which the Secretary of State agreed that as the fair market price.

Having regard to that fair matching price, we recommended to the Secretary of State that the decision on the export licence should be deferred for an initial period of three months to allow an offer to purchase the finial to be made at £1.5m. We further recommended that if, by the end of the initial deferral period, a potential purchaser had shown a serious intention to raise funds with a view to making an offer to purchase the finial, the deferral should be extended by a further four months.

At the end of the initial three-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.



**Case 7** Tiger's head finial from the throne of Tipu Sultan

The independent assessors for this case were Emily Hannam (Curator of Islamic and South Asian Collections, Royal Collection Trust), Charles Greig (Art Historian) and Irène Momtaz (Momtaz Islamic Art).

## Case 8 *Allegorical Painting of Two Ladies*, English School, circa 1650

**English School, circa 1650, *A Portrait of Two Ladies wearing Beauty Patches*, oil on canvas, measuring 64 cm by 75 cm.**

**The inscription reads: 'I black with white bespott: yu white wth blacke this Evill: proceeds from thy proud hart: then take her: Devill:'**

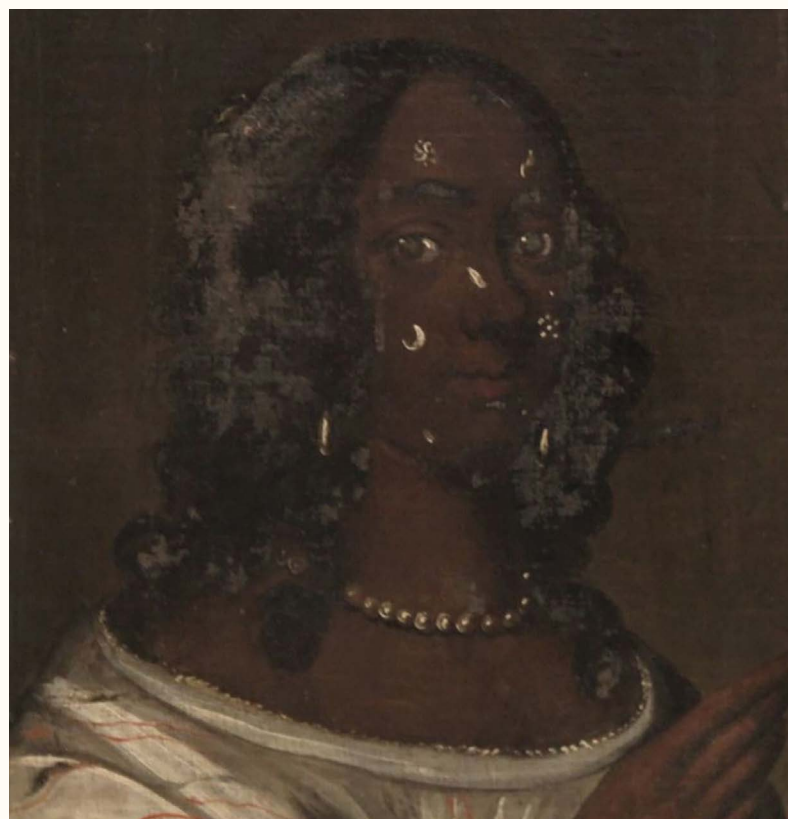
The applicant had applied to export the painting to the USA. The value shown on the export licence application was £272,800 which represented the hammer price at auction of £220,000 plus the buyer's premium of £44,000 and VAT on the buyer's premium of £8,800.

The Curator of British Art, 1500–1750 at Tate Britain acting as expert adviser had objected to the export of the painting under the third Waverley criterion on the grounds that it was of outstanding significance for the study of early modern debates about gender hierarchy, female agency, beauty and blackness, ethnicity, morality and sin as well as to critical thinking on these subjects that were significant and relevant today.

The work shows two women, one Black, one white, side by side. Their dress, hair and jewellery are similar, the white sitter in pink silk with a pearl necklace, the Black sitter in striped, white with a pearl necklace and pearl drop earrings. The depiction of a Black female sitter in a 1650s English painting was extremely rare, especially a woman of adult age rather than a child occupying a position of subservience. Here, the two women were presented as companions and equals, the composition inviting comparison between them. The other unusual and remarkable aspect of the work was the depiction of beauty patches, for which there was a fantastic vogue at the time, together with a correspondingly large body of literature condemning them. The white sitter wears multiple black patches of various shapes, the Black sitter white ones, the two women appearing as opposite images of each other. The latter points with her finger at her companion and speaks via the inscription above them - through her voice the viewer is told that the wearing of 'spots' was a sin that came of pride. Rather

than a portrait, it was clear that the picture is allegorical. The manner in which it conveys its message, through image and text supporting each other, had an affinity with popular woodcut prints of the period. It was most likely from this world – of polemical tracts, satirical verse, pamphlets and sermons – that the picture, by an unknown and relatively unsophisticated hand, as well as its moral admonition, had its origin.

The picture was unknown to scholars until its recent appearance at auction in June 2021. The only prior mention of it was a letter sent to *Country Life* by Lord Kenyon in 1949 seeking opinions on 'the curious picture which has hung here [Gredington] for many years, but of which I know of no real explanation'. It was not known when the picture entered the Kenyon collection, or who commissioned it. Its agenda, and the role of the Black sitter within it, therefore to some extent remained ambiguous. The price paid at auction was testament to the intense interest in this picture. It visualised in a way that no other painting of the period does the early modern debates concerning the morality of cosmetics use; discourses on ideal beauty and blackness; issues concerning gender hierarchy and female agency; as well as attitudes to race and ethnicity, especially so in an age that witnessed increasing



global contact through trade and colonial expansion.

The applicant said that as neither the artist nor the sitters had been identified it could not be said that the painting was closely connected with our history and national life nor that it was of outstanding importance for study. It was the work of a provincial artist who might be said to have some awareness of the patterns of portraiture established by Van Dyck, but it would be difficult to make a case for it being of outstanding aesthetic importance.

Prior to the meeting, the applicant circulated another article from *Country Life*, 1949, which featured an image of a similar picture, but including a skeleton on the left, rather than the Black figure, possibly by the same artist. They asserted that this was additional evidence that the painting in question was not unique and did not meet the Waverley criteria.

We heard this case in November 2021 when we saw the painting. It was an extremely rare and fascinating painting, which had tremendous potential for further research in many subjects. We found the early date of this picture particularly significant, given the subject, as all known comparisons were from much later.

We also considered the possibility that this could be part of a set, noting the parallels with generic

miniature female heads with sets of allegorical overlays in mica, that were common at this time. In addition, the painting had affinities with the woodcut tradition, and its relationship to 17th century British print culture, and potentially to European print culture, was of great interest and merited further exploration. We agreed that further study could shed light on whether there may have been additional related sets, as well as lost woodcuts of same subject. The spirit of the image appeared to be a critical one, as expressed in the inscription 'spoken' by the left-hand sitter.

The painting had suffered much damage, especially to the bottom left corner, and to the hair of the left-hand figure. Despite this, the majority felt that its representation of a Black woman with equal status to a white woman at such an early date was of outstanding significance. The painting could be an important contribution to the development of historical debate about race and gender in the 17th century and had enormous potential for future scholarship. We concluded that it met the third Waverley criterion for its outstanding significance to the study of race and gender in the 17th century.

We therefore recommended that a decision on the export licence application should be deferred for an initial period of three months to enable an offer to purchase it to be made at the agreed fair market price of £272,800 with a further three months if there was a serious expression of interest to purchase the portrait and the owner granted an Option Agreement. At the end of the first deferral period on 9th March 2022 we were informed by Compton Verney of a serious intention to raise funds with a view to making an offer to purchase the painting. At the time of publication of this report the parties are in the process of completing the Option Agreement.

The independent assessors for this case were Karen Hearn (Historian of 16th and 17th century British Art and Culture and Honorary Professor, University College London), Diana Dethloff (Lecturer, History of Art, University College London) and Anthony Mould (Anthony Mould Ltd.)

**Case 8** *Allegorical Painting of Two Ladies*, English School, circa 1650



## Case 9 Early Charles II ebony longcase clock

**An eight-day duration ebony veneered architectural longcase clock signed “A. Fromanteel Londini Fecit”, dated circa 1660-2. The height of the case is 6 feet 1½ inches. The clock has an earlier style of signature used by Fromanteel and incorporates the date using a comparatively heavy disc behind the dial, rather than ring which became commonplace.**

The applicant had applied to export the clock to the USA. The value shown on the export licence application was £2,950,000 which represented an agreed sale price subject to the granting of an export licence. VAT would be payable on this in the event of a UK sale.

The Keeper, Department of Britain, Europe and Prehistory at the British Museum, assisted by the Curator of Horology, Department of Britain, Europe & Prehistory, The British Museum acting as expert adviser had objected to the export of the clock under all three of the Waverley criteria because it was an exquisite and rare Fromanteel longcase clock from a small group made at the beginning of the golden age of English clockmaking in the 17th century.

Ahasuerus Fromanteel (1606/7-1693) was a Briton of Flemish descent, a pre-eminent maker of his time who had the support of the Lord Protector, Oliver Cromwell.

This clock not only marked the beginning of the golden age of English horology, but it was made at a pivotal moment following the Restoration. It was the earliest extant purpose-made longcase clock, a type which was the bedrock of precise mechanical, scientific, and domestic timekeeping from the late 17th century well into the 20th century. It fully embraced the new application of the pendulum in its design, and it was there to meet and drive the needs of the burgeoning scientific community, economy, and demand for objects of status.

The clock was an important element of the tastes and material culture relating to theoretical, navigational, and engineering innovations stimulated by the Royal Society and the Restoration. The case style also incorporated cues from the interiors in which it might have been placed, with its dark colouring and the fielded panels on the door, mimicking “contemporary doors wall panelling and window shutters”. However, no English furniture of the period came near to the quality seen in clocks, especially in terms of the colour and finish that were achieved using fine veneers.

It was an instrument that linked Huygens, Fromanteel, Wren and the Earl of Arundel, Henry Howard with the newly formed Royal Society, and indeed John Evelyn confirmed that they had all either met or else were connected by just one degree of separation. That there is no definitive proof that the Earl of Arundel first owned this clock, or that Wren designed its case, is all the more reason for keeping it to hand for future research.

The clock was also evidence in the often-discussed matter of the attribution of the invention of the pendulum clock, which presently rests with Huygens. On the matter of attribution, the invention of the longcase clock was itself highly significant and since this clock is thought to be the earliest extant example of a longcase clock proper, this honour might well fall to Fromanteel, thus making it even more valuable to the nation.

The applicant did not dispute that the clock was important in its original conception, as possibly the first-conceived longcase clock and with rare roller-cage assembly. The case hood and plinth, however, were both subject to historical alterations and restorations and the roller cage was a reinstatement, conjecturally based on that in the (later) Oxford clock, from which it probably differed in detail as originally constructed. Examples of



**Case 9** Early Charles II ebony longcase clock (detail)

other early Fromanteel clocks could be found in national collections.

The provenance was not academically secure, having been deduced from the tympanum mount engraved insignia and the clock's restored specification and deduced provenance should not constitute qualification under the rigorous requirements of the Waverley criteria to warrant its retention in the UK as a designated national treasure.

We heard this case in November 2021 when we saw the clock. We noted that it was an extremely interesting object, and that the restoration work was not unusual for an object that was over 300 years old. It seemed that no one example stood as an unadulterated original. Although the provenance for the clock had not been completely established, it was undoubtedly a founder clock and a typically English object. It seemed that there was still much to understand about the clock on every level and that there were few of these clocks that could serve as the basis for new research. The arguments about John Webb and its creation to fit a particular interior were quite interesting and this clock had the potential to open further avenues for research. We concluded that it met the third Waverley criterion for its outstanding significance for the study of the golden age of English clockmaking in the 17th century.

We therefore recommended that a decision on the export licence application should be deferred for an initial period of three months to enable an offer to purchase the clock to be made at the agreed fair market price of £3,009,000 (inclusive of VAT) with a further four months if there was a serious expression of interest to enter into an Option Agreement.

At the end of the initial three-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Richard Edgcumbe (Independent Scholar) and Richard Garnier (Independent Consultant).

## Case 10 *Portrait of Prince William*, Benjamin West

**Benjamin West, P.R.A. (1738-1820), *Portrait of Prince William, later King William IV of Great Britain (1765-1837), when a midshipman, in naval uniform, standing on the deck of HMS Prince George, 1781, oil on canvas, measuring 53.5 cm by 43.2 cm.***

The applicant had applied to export the painting to the USA. The value shown on the export licence application was £329,238 which represented the hammer price at auction (£240,000), the buyer's premium (£60,000), the overhead premium (£2,400) and New York Sales Tax at 8.875% on that total (£26,838). In the event of a UK sale, VAT would be payable on the Buyer's and Overhead Premiums.

The Curator of Art (pre-1800), Royal Museums Greenwich, assisted by the Curator of Art (post-1800), Royal Museums Greenwich acting as expert adviser had objected to the export of the painting under the first and third Waverley criteria as it was closely connected to the history of the British-American conflicts, as well as a rare example of naval portraiture, an important genre in the history of 18th century art.

In Benjamin West's exceptional portrait of the young Prince William, who was destined to become the 'sailor king', the sitter stood wearing his midshipman's uniform on the quarterdeck of the Prince George during the American War of Independence (1775–1783). The setting may represent Gibraltar, where French and Spanish forces, allied with the American colonists, laid siege to the British garrison between 1779 and 1783.

According to a label attached to the reverse of its frame, the painting was apparently commissioned as a personal gift from the sitter's father, King George III, to thank Admiral Robert Digby, who had commanded Prince George and watched over the prince during his service onboard the flagship.

This portrait had only recently emerged and was unknown to Helmut von Erffa and Allen Staley when they wrote West's catalogue *raisonnée* published in 1986. However, its composition was well-known through an etching by Francesco Bartolozzi and Paul Sandby, published in January 1782, and a second lithograph by W. Day, published by Rudolf Ackermann in 1832. Another version of the portrait was sold in West's posthumous sale, but, as its location was unknown, the portrait under consideration remained the only version known to the expert adviser.

By 1779, the American painter Benjamin West was an established member of the British artistic establishment. Appointed historical painter to the king from 1772, with an annual fee of £1,000, West painted thirty-one portraits of members of the royal family, including six of George III himself. This portrait of Prince William was among the most original of any he produced in his career.

As such, it exemplified the royal family's use of portraiture during the American War, during which time they took pains to present William as an ordinary midshipman, working his way up the ranks without "parade" or "marks of distinction." This reinforced the king's simple, moralistic public image, appealing to the 'middling sort' who saw the royal couple as the living embodiment of respectable family life. The painting was undoubtedly one of West's most creative portraits and an exceptional example of royal propaganda during the American War.

Benjamin West's *Portrait of Prince William* was a rare work that exemplified the role of royal portraiture in a crucial period in British history. There were very few portraits of midshipmen in British collections, and indeed anywhere in the world, and as a portrait of the future 'sailor king' at this moment in his career, it was even rarer; it could not be known if the other version of this portrait would ever



**Case 10** *Portrait of Prince William* by Benjamin West

resurface. The export of this work would be lamentable for the study of naval portraiture in this country, and it would be a huge loss to our national holdings of material history relating to the American War.

The applicant said that George III was one of Benjamin West's most prolific patrons and the artist had painted over thirty portraits of the monarch and the Royal Family. At least thirteen of these portraits remained in the Royal Collection – including a portrait of Prince William with his younger brother Prince Edward. The painting under consideration was one of two identical versions of the subject, the other of which, contrary to the expert's submission, remained in a private collection in England.

While the painting was beautifully painted, as would be expected from an artist who was elected the second President of the Royal Academy, it was not of particular aesthetic distinction or importance within Benjamin West's oeuvre.

The painting was not of any particular significance to the study of the artist's work and his patronage at the hands of the Royal Family, or the history of the sitter and his iconography. There were a number of portraits of the sitter later in life, many of which were in public collections.

We heard this case in November 2021 when we saw the painting. We agreed that it was significant in terms of scale and format. It was broader and much more dramatic than similar images and was without comparison. Exceptional in its depiction of a prince, later a king, and commissioned by a king, the painting was not only significant for its connection to royal propaganda during the American war, but also for its relation to the cult of sensibility during the 1780s. During this time, it was important for gentlemen to appear to have tender hearts, but also to be courageous and strong. In this way, the

painting ties into a wider cultural phenomenon in Britain. We concluded that it met the first and third Waverley criteria for its outstanding significance for the study of naval portraiture in Britain.

We therefore recommended that a decision on the export licence should be deferred for an initial period of three months to enable an offer to purchase it to be made at the agreed fair market price of £314,880 (inclusive of VAT) with a further three months if there was a serious expression of interest and the owner agreed to grant an Option Agreement.

At the end of the initial three-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Brian Allen (Chairman, Hazlitt Ltd.), Ben Elwes (Ben Elwes Fine Art Ltd.) and Desmond Shawe-Taylor (Former Surveyor of the Queen's Pictures, Royal Collection).



## Case 11 *Banquet Still Life* by Jan Davidsz. de Heem

**Jan Davidsz de Heem (Utrecht 1606–1684 Antwerp), *A Banquet Still Life*, painted circa 1643, inscribed and signed 'V. E otmoedigen/ J-D heem.' (lower right, on the paper), oil on canvas, measuring 155 cm by 211 cm.**

The applicant had applied to export the painting to the USA. The value shown on the export licence application was £6,125,000 which represented the hammer price at auction of £4.8m plus the buyer's premium of £966,000, VAT on that buyer's premium of £193,200; ancillary costs of £125,000 and VAT on those costs of £25,000. In addition, this value included a disallowable amount of £15,800 which related to post acquisition conservation work that was not necessary to stabilise the painting.

The Director, The National Gallery, assisted by the Curator of Dutch and Flemish Paintings, 1600 to 1800, The National Gallery, acting as expert adviser had objected to the export of the painting under the second Waverley criterion due to its outstanding aesthetic importance.

The painting was an exceptionally beautiful and impressive example of a *pronkstilleven* (an exceedingly sumptuous still life) by Jan Davidsz de Heem, who was widely acknowledged to have been one of the most important still-life painters active in the Netherlands during the 17th century.

The painting depicts a heavily laden banquet table. In the background, between a pair of columns, a curtain has been drawn back to reveal a pastoral landscape. In front, two tablecloths have been covered with pewter platters of shrimp,

a crayfish, a crab and a half-eaten pie. Also prominent are a large silver-gilt columbine cup and cover, a lute and several flutes with their leather cases. To the right, a wicker basket holds a Chinese Ming dynasty bowl filled with grapes, plums, peaches, cherries, apples and pears. To the left are a silver tazza, a sugar shaker and a splendid shell ewer set with a ruby. The wealth on display is there to be enjoyed by the beholder but may equally serve as a *vanitas*, a reminder that all earthly wealth is ultimately ephemeral.

This large and ambitious picture was one of four monumental still lifes painted by Jan Davidsz de Heem in Antwerp between 1640 and 1643. One was in the Louvre; another in the Municipal Museum in Brussels; a third was sold at Christie's, New York, in 1988. They were considered to be the works that established De Heem as the pre-eminent still-life painter of his day in the Netherlands. The present work was regarded as the last in the series of four monumental 'calling cards' that



**Case 11** *Banquet Still Life* by Jan Davidsz. de Heem

made De Heem's name in the Netherlands as the foremost painter of elaborate still lifes. Works of this size were almost certainly made on commission rather than for the open market, as is indeed suggested by the inscription at lower right, which indicated that the work was likely commissioned by a wealthy or noble patron. The artist never again worked on a scale quite so monumental as seen here and in the other works from the group of four related paintings, in which the artist – to put it colloquially – pulled out all the stops. De Heem excelled in the depiction of a vast array of forms and textures, from the shiny surfaces of metal objects to the soft velvet tablecloth, the delicate woodwork of musical instruments, the nubby skin of a lemon and the crumpled texture of a piece of paper, leaving no stone unturned to impress the viewer with his painterly skills. The picture straddles the Dutch and Flemish schools in the way it married a Dutch precision in the depiction of details with the rich colours and elaborate setting seen in still lifes in the Flemish baroque style.

There were thirteen securely attributed works by De Heem in British public collections. Most were relatively small works with the exception of the painting in the Wallace Collection in London which was of a slightly more ambitious size and shows a similar subject, but it was not anywhere near the monumental scale of the present work, and it did not have the same pivotal importance within De Heem's oeuvre and the history of 17th century still-life painting in general.

The applicant said that the work was painted in Antwerp by a Dutch artist and throughout the time the painting had been in the UK, it had never been on public display, nor did it boast any illustrious British provenance or been integral to any famous British collection, public or private.

When compared to other works from De Heem's *pronkstilleven* series the painting was not of outstanding aesthetic importance. De Heem was already well represented in British public collections and this work was inferior to most of those.

We heard this case in December 2021 when we saw the painting and we found it to be strikingly beautiful on an impressive scale. As one of the most important Dutch still life painters, De Heem typically produced smaller paintings, making this painting incredibly rare within his oeuvre. In addition, the sumptuous detail of each of the elements, in the variety of textures, made this an outstanding example of the *pronkstilleven* style which the artist exemplified. The possibility that this was produced as a commission, potentially location-specific, added to its interest. The painting's long provenance in a single collection in England since the early 19th century was remarkable.

The painting had undergone restoration in the 19th century. The varnish had darkened overall which somewhat obscured its clarity. Although there was some concern over the repairs, we did not feel that this affected the overall beauty and importance of this painting within the genre of 17th century still life painting. Given the massive size and the exquisite detail, the painting was outstanding within De Heem's oeuvre and of extraordinary aesthetic significance. We concluded that it met the second Waverley criterion.

We therefore recommended that a decision on the export licence should be deferred for an initial period of three months to enable an offer to purchase it to be made at the agreed fair market price of £6,109,200 (inclusive of VAT) with a further six months if there was a serious expression of interest and the owner agreed to grant an Option Agreement.

At the end of the initial three-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Dr An Van Camp (Christopher Brown Curator of Northern European Art, Ashmolean Museum), Dr Mark Evans (Honorary Senior Research Fellow, Victoria and Albert Museum) and Dr Tim Hunter (Art Consultant and Director, Venator Fine Art Ltd.).

## Case 12 *Portrait of Omai* by Sir Joshua Reynolds

**A portrait of Omai by Sir Joshua Reynolds (1723-1792), painting circa 1776. Oil on canvas, measuring 230 by 140 cm.**

The applicant had applied in 2020 to export the painting. This was before the date binding offers were introduced. The value shown on the export licence application was £50,000,000 which represented an estimated value, a justification of which had been provided.

This painting had appeared before our predecessors in December 2002 and is reported as Case 17 in our 2002/2003 report.

The Director and Marlay Curator at the Fitzwilliam Museum, acting as expert adviser had objected to the export of the painting under all three of the Waverley criteria.

The portrait depicted one of the earliest and most celebrated Polynesian visitors to England in the 18th century. Both subject and composition offered key visual testimony to the British reception, understanding and representation of non-Europeans, in particular New World peoples. It was inextricably linked to the great voyages of discovery and exploration of the 18th century that contributed to the expansion of knowledge and of colonial empire, extending diplomatic and trade relations to new territories.

Reynolds's full-length, life-size, portrait depicted Omai in flowing white robes, reminiscent of a classical toga, but which also resembled Tahitian dress; the sash and turban in particular were probably made from tapa, a cloth made from tree bark. The bare-footed pose ultimately derives from the (sandaled) sculpture of the Apollo Belvedere (c.AD 120-140; Vatican City), which in Reynolds' day was considered among the finest statues of Antiquity, thus endowing the portrait with a nobility and 'general air of the antique' enhanced by the sheer scale of the canvas. The wild landscape background with winding river and lowering sky recall Reynolds's



**Case 12** *Portrait of Omai* by Sir Joshua Reynolds

portraits of military and naval commanders, hinting at distant adventure and exploration, the palm trees adding an allusion to exotic climes.

Joshua Reynolds was one of the foremost British painters of his day fêted by his contemporaries as 'the Modern Apelles'. Devon-born, he came to London at the beginning of the 1740s and soon befriended

the leading lights of the London intelligentsia, such as Samuel Johnson, Oliver Goldsmith, Henry Thrale, David Garrick and the philosopher and statesman Edmund Burke. His immense popularity as a portraitist brought him into contact with the most wealthy and powerful individuals of the day, and while he only slowly accessed royal circles, he became first President of the Royal Academy in 1768. His work and beliefs had a profound impact on subsequent generations of British artists and his published Discourses remain a fundamental source in the study of 18th century art and aesthetics.

The portrait was among the most original, ambitious and best-preserved portraits painted by Sir Joshua Reynolds (1723-1792), one of the most influential European artists and aestheticians of the 18th century. That Reynolds attached particular significance to the portrait was suggested by the fact that he kept it on display in his studio until his death in 1792.

The painting was of outstanding significance in the study of 18th century art, in particular portraiture. It was also a signal work in the study of colonialism and empire, scientific exploration and the history of the Pacific.

The applicant did not dispute that the portrait met the Waverley criteria.

We heard this case in June 2021 when we saw the painting. We unanimously agreed that the painting met all three of the Waverley criteria. There had been no material change to the arguments for or against the criteria since our predecessors had considered the painting in December 2002. The portrait was one of the great iconic works of the 18th century and arguably the greatest portrait by one of the greatest British portraitists. We concluded that it met all three of the Waverley criteria.

We considered the valuation provided by the applicant and noted that this was an exceptional work by Reynolds. The painting had an extraordinary status but the current value of £50m would be an unprecedented

price for an 18th-century portrait, therefore, we found that it would be prudent, given its history, that the valuation be verified by an independent process.

The process that was agreed is that now set out in the Arts Council's *Guidance for exporters* namely that the Secretary of State would seek an independent valuation and share the value with the applicant. If the applicant was not content with that valuation, they could appoint their own independent valuer.

The Secretary of State agreed with our recommendation and appointed Anthony Mould (an expert in British Art) as an independent valuer suitably qualified to advise on the painting. Anthony Mould agreed that £50m was a reasonable value for this outstanding painting. The Secretary of State therefore agreed the sum of £50m as the fair market price for the painting.

Having regard to that fair market price we recommended that the decision on the export licence should be deferred for an initial period of four months to allow an offer to purchase to be made. If, by the end of the initial deferral period, a potential purchaser had shown a serious intention to raise funds with a view to making an offer to purchase the painting, the deferral should be extended by a further eight months. During the first deferral period we were informed of a serious intention by the National Portrait Gallery to raise funds to purchase the painting. A decision on the export licence application was deferred for a further eight months ending on 10th March 2023.

The independent assessors for this case were Martin Postle (Art Historian), Lowell Libson (Lowell Libson & Jonny Yarker Ltd.) and Dr Tim Hunter (Art Consultant and Director, Venator Fine Art Ltd.).

## Case 13 An early 17th century manuscript of French and Italian lute music

### A manuscript of 285 leaves containing some 320 lute pieces in French lute tablature and measuring approximately 15 by 18 cm.

The applicant had applied to export the manuscript to Germany. The value shown on the export licence application was £214,200 which represented the hammer price at auction plus the buyer's premium and an overhead premium.

The Head of Music Collections at the British Library acting as expert adviser had objected to the export of the manuscript under the third Waverley criterion because of its outstanding significance to the study of 17th century lute music.

The contents of the manuscript were likely compiled and inscribed by or for its owner in the first half of the 17th century in South Germany/Austria. The binding was suggested to be the work of the *Federnelkenmeister* ('carnation master') from Cologne, who was active up to 1619. The work of the same scribe had been recognised in a kindred lute tablature manuscript located at the time of writing in Prague.

The lines of the tablature were typeset, with the music notation and verbal text added apparently by a single scribe, in brown ink. The hand was confident, fluent and clear, without being especially careful. Most pieces had titles, a small number identified composers, and a few bore neither title nor name of composer. The foliation was in a later hand, possibly 18th century. Most of the music notation was in French tablature, but two pieces used Italian tablature, and a further two began in Italian and reverted to French. Both styles of tablature were in the same hand.

A small number of crossings out showed the scribe correcting his own mistakes. The word 'suite' at the bottom of a recto leaf indicated that the music overleaf should follow continuously. Occasionally the scribe had added a few bars of tablature beneath those printed, in order not to turn the page. Later pencil annotations, probably in the hand of Arnold Dolmetsch, included the word 'volti' (cf. 'suite'), adding 'Eb' to clarify the pitch of a note, and indications of tuning on the lines of the tablature. Elsewhere numbers had been added in pencil to keep a tally of how many 8-bar phrases a piece contains.



Case 13 17th century manuscript of Italian and French lute music

The manuscript consisted of dance movements such as the courant, volta, galliard, sarabande, pavan, ballet, passamezzo, bergamasque, saltarello, allemande, branle, drawing on a rich repertory of music for dancing from all over Europe. Other pieces extended the international flavour even more conspicuously: 'Intrada polonica', 'Napolitane', 'Pavanne dangleterre'. The groupings of the various pieces by genre suggested that a certain amount of collation took place before the pieces were transcribed. The character of the handwriting was consistent throughout the book, even though the book may have been compiled over a period of time.

The manuscript was one of the most extensive and important lute sources of the early 17th century. Many of the pieces were unidentified and would be of particular musicological interest. More broadly, learning how such a rich and cosmopolitan anthology came to be compiled and used would increase our understanding of how culture could flourish and disseminate across national boundaries despite the hardships and restrictions of the Thirty Years War.

The rise of instrumental music was one of the most important musical developments of the 16th and 17th centuries. It supported a growing clientele beyond church, state or aristocracy. The repertory that developed for the lute was on a par with that of the keyboard. The compilation of personal manuscript anthologies by an increasingly literate and cultured middle class eager to enjoy music through performance not only helped preserve those repertoires but shows today how they were transmitted over time and place.

Compared to other branches of musicology, research into lute sources was a relatively modern discipline, stimulated by the revival of interest in music and instruments of the pre-classical era pioneered by Arnold Dolmetsch in the early 20th century.

There were composers represented in this manuscript of the highest standing, such as John Dowland. More important and interesting perhaps, because so few of his works were published, were the pieces by Michelangelo Galilei, whose pedigree links him to the Florentine camerata and the rise of opera. Many of the other composers so far identified or identifiable are not well known. In recent years, however, musicology has shown an interest in exploring composers and works outside established canons to rediscover the contemporary appreciation that has evidently been lost and is worthy of re-evaluation. Anthologies, both printed and manuscript, were valuable means of preserving and propagating music by composers who simply did not produce enough pieces in quantity to merit volumes of their own.

The cosmopolitan character of the musical content brought together music from a variety of countries, including France, Italy, England, Germany and Poland. If it is correct that this manuscript was created in central Europe in the first half of the 17th century, then it demonstrates that, despite the privations of the Thirty Years War, music and/or musicians could and did travel. The lute (unlike the keyboard), was very portable, as were its music books and manuscripts were needed because far less lute music was being published.



**Case 13** 17th century manuscript of Italian and French lute music

The applicant said that the manuscript was made in Germany (probably Bavaria) and was notated in French lute tablature. The paper and binding were identifiably German, and the early marks of provenance were German. It contained predominantly Italian and French lute music by composers such as Michelangelo Galilei and Jean-Baptiste Besard. Until its acquisition by Arnold Dolmetsch in c.1905 the manuscript had been located in continental Europe: first in Germany, and then Zurich, where it was acquired. Though attractive, the manuscript was clearly made for practical musical purposes, for playing or as a reference source for lute pieces. The German pigskin binding was attractive, but no different from other bindings of the period. Although the manuscript was as yet unpublished and was the unique source for 89 of the 320 pieces, it was already known to scholarship and had been mentioned in multiple works.

We heard this case in February 2022 when we saw the manuscript and concluded that it met the third Waverley criterion. We found that there was the potential for further study, particularly in the 89 pieces unique to this source, and the significance of this manuscript was undeniable. The transitory repertoire of lute dance music was of particular importance, and specifically the music as a compilation. Also significant was the manuscript's binding and its similarity to autograph albums of the period. The binding and style of compilation suggested it was owned by a gentleman who may have been accompanied by a professional compilationist, which provided further scope for research.

The provenance was also significant, in particular the relationship to Dolmetsch and

his importance to the discovery of a great deal of early music. The manuscript was vital to understanding how music spread throughout Europe during this period, as well as how it was produced and replicated.

We therefore recommended that a decision on the export licence should be deferred for an initial period of three months to enable an offer to purchase it to be made at the agreed fair market price of £214,200 with a further three months if there was a serious expression of interest and an Option Agreement was granted by the owner.

During the first deferral period we were informed of an offer from the University of Edinburgh to purchase the manuscript at the fair matching price. The owner agreed to grant them an Option Agreement and this was concluded on 29 June 2022. A decision on the export licence application was therefore deferred for a further three months from that date. Before the end of the second deferral period the sale was concluded and the manuscript was purchased by the University of Edinburgh with the assistance of grants from the National Heritage Memorial Fund, National Fund for Acquisitions, Friends of the National Libraries, the Friends of St Cecilia's Hall and anonymous supporters. The manuscript will initially be exhibited at St Cecilia's Hall alongside a lute also dating from c.1620.

The independent assessors for this case were Donovan Rees (Bernard Quaritch), Chris Banks (Assistant Provost (Space) & Director of Library Services, Imperial College London) and Richard Andrewes (Former Head of Music Collections, Cambridge University Library).



**Case 13** 17th century manuscript of Italian and French lute music

## Case 14 *Caernarvon Castle* by J.M.W. Turner

**Joseph Mallord William Turner (1775-1851), *Caernarvon Castle*, North Wales, painted in 1799, watercolour over pencil, heightened with scratching out and stopping out, measuring 57 cm by 82.2 cm.**

The applicant had applied to export the watercolour to Jersey. The value shown on the export licence application was £800,000 but the applicant submitted when we heard this case in December 2021 that since the date the application had been submitted in July 2021 there had been a movement in the market and that the open market value of the watercolour was £850,000. They had supplied an insurance valuation to support this.

The Senior Curator, Historic British Art, Tate Britain acting as expert adviser had objected to the export of the painting under the first, second and third Waverley criteria because it was so closely connected with our history and national life by virtue of its subject, its maker and its early provenance., it was of outstanding aesthetic importance as a pivotal example of both Turner's intellectual investment and technical mastery of the watercolour medium and it was of outstanding significance for the study of British history of art.

The watercolour depicts Caernarvon Castle in north Wales, built by Edward I from 1283 as part of a scheme to establish English rule in Wales. Occupying a site on the Menai Strait fortified since Roman times, the castle is now designated a UNESCO World Heritage Site. It has played a prominent role in British public life, notably as the site of the investiture of Charles, Prince of Wales, in 1969.

The watercolour was by the most famous and internationally renowned British landscape artist Joseph Mallord William Turner. Its first owner was John Julius Angerstein, who was a key figure in the cultural life of Britain, and

whose collection of Old Masters became the foundation for the National Gallery upon his death in 1823.

This work was an important example of Turner's adoption of French painter Claude Lorrain as a prime influence. With its glowing light effect and harmonious tonal gradations, this exceptionally powerful watercolour was Turner's first public expression of what would become a lifelong quest to emulate and surpass the luminous effects of sunlight he so admired in Claude's work.

The watercolour was of outstanding significance for the study of two tenets of British art: the evolution of landscape art (and within this the dual phases of fascination with Welsh subject matter and Old Master practice) and the making and collecting of exhibition watercolours. This watercolour was transformative to both spheres, and both landscape art and watercolour practice were elevated enough to become focal points for national pride. Internationally these practices remain noted as particularly British achievements.



**Case 14** *Caernarvon Castle* by JMW Tuner



The applicant said that whilst connected to UK history, there were numerous Turner paintings and drawings of Caernarvon Castle available to view or study at Tate Britain, as well as numerous Turner works in other outstanding collections including the Royal Academy, the V & A and other leading Institutions. In the context of the whole oeuvre of Turner's works this watercolour was not of outstanding aesthetic importance and there were many other Turner paintings of the same scale and impact in British museums. There were other major Turner historical castles in British Museums, including, but not limited to, other paintings of Caernarvon, Norham, Dolbadarn and Windsor which limited the relevance of this work to the study of art, learning or history.

We heard this case in December 2022 when we saw the watercolour and found it was a beautiful and intriguing work, with a significant provenance. Although it was produced at a key moment in Turner's life, we were not certain that it was pivotal within Turner's career as he produced several watercolours of this subject.

We concluded that, while it was an interesting picture, its degree of national importance was not so great as to justify the withholding of an export licence.

The independent assessors for this case were Brian Allen (Chairman, Hazlitt Ltd.), Lowell Libson (Lowell Libson & Jonny Yarker Ltd.) and Colin Harrison (Senior Curator of European Art, Ashmolean Museum)

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## **Case 15** *A Pair of Group Portraits of Mr and Mrs Joseph May and their Children, 1780* by Angelica Kauffman (1741-1807)

**A pair of paintings by Angelica Kauffman (1741–1807). The first depicting Mary May (1745–1824) with her daughters Maria Emilia, Louisa and Sophia Margaret. The second of Joseph May (1730–1796) with his sons Joseph (born 1767), Thomas Charles (1772–1837) and John (1775–1856), oil on canvas, each 144.5 cm by 176.5 cm.**

The applicant had applied to export the paintings to the USA. The value shown on the export licence application was £1.5m which represented an estimated value, a justification of which had been provided. VAT would be payable on this in the event of a UK sale.

The Director, The National Gallery assisted by the Jacob Rothschild Head of the Curatorial Department and Curator of British Paintings, The National Gallery acting as expert adviser had objected to the export of the paintings under the third Waverley criterion because of

their outstanding significance for the study of family portraiture during a key moment in the development of modern European art.

The paintings represented a unique format in Angelica Kauffman's oeuvre. The paired family portrait format, where the sitters were divided by gender, was otherwise unattested in the work of any of the major painters of the neoclassical period. This made this pair of paintings by Kauffman significant for the study of family portraiture during a key moment in the development of modern European art.

This striking pair of portraits by Angelica Kauffman (1741-1807) depicted the family of the prosperous merchant Joseph May and his wife Mary. Mary was shown with their daughters (from left to right) Louisa, Sophia Margaret, and Maria Emilia; and Joseph was accompanied by their sons (from left to right) Thomas Charles (1772-1837) aged 8, Joseph

(b. 1767), aged 12, and John (1775-1856), aged 5. The Mays were a wealthy family and Joseph, like his father before him, lived and worked primarily in Portugal, where he owned the British wine factory in Lisbon. Mary, daughter of the Lisbon-based merchant John Coppendale (d. 1824) and his wife Rose, was born in that city in 1745. She and Joseph were married there on the 18 September 1764. In 1775 Joseph and his family left Portugal and the following year bought Hale Park in Hampshire from the Hon. Andrew Archer, the great nephew of the architect, Thomas Archer (1668-1743), who had designed and built the house in 1715.



**Case 15** *A Pair of Group Portraits of Mr and Mrs Joseph May and their Children* by Angelica Kauffman

These paired family portraits were unprecedented in Kauffman's work. From her known oeuvre, which comprised some 800 works, there was no evidence of any other paired family portraits in which the parents and children are separated by gender. While paired portraits of married couples by Kauffman were attested, they followed the standard three-quarter length portrait format. Indeed, on current evidence, the format of the May portraits appeared to be an exceptional phenomenon not only in the artist's extant work but also in European art of the late 18th century.

It was in this context that the individual merits of these two portraits as works of art should be evaluated and appreciated. The portrait of Mrs May and her daughters was particularly attractive and accomplished, and both portraits bore comparison with some of the best works by Kauffman currently in UK public collections. Within the discipline of art history, it was

important to note that the first published study to explore English family portraiture in the 18th century, *The Art of Domestic Life* (2006, Yale University Press) by Kate Retford, discussed the traditional values of patriarchy and hierarchy in the context of country house collections and how portraits were used in displays that emphasised ancestry and inherited virtue. Such an approach related to the compositions and style adopted by Kauffman in the May portraits, probably in response to their original location, Hale Park. While their exceptional format was evident, the significance of the May portraits has yet to be fully explored and understood.

The applicant said that both adult sitters had been born in Portugal where they had lived until Joseph May was 46 and Mary May was 32. Both adults were connected to successful Lisbon-based wine merchant families but neither they nor their children were celebrated in England.



**Case 15** *A Pair of Group Portraits of Mr and Mrs Joseph May and their Children* by Angelica Kauffman

The paintings were charming and arresting in scale rather than outstanding. The artist's reputation as a portrait painter was moderate in comparison to her formidable contemporaries. It was for her history and genre subjects, which she had developed in Rome and which she popularised in Great Britain, that she was most esteemed.

In addition, the sitters' connections to the Anglo-Portuguese wine trade, either iconographically or literally was remote, given the fact that Joseph May had retired to England by the time the paintings were commissioned. The study of Angelica Kauffman herself was already profoundly saturated in this country: according to *British and Irish Paintings in Public Collections*, by Christopher Wright (Yale University Press, 2006) there were 89 paintings in the United Kingdom in public collections (44 being portraits and 45 being history or genre subjects) as well as a further nine on HMRC's Heritage Assets Database. The same argument

could be used for the study of female artists in the 18th century.

We heard this case in March 2022 when we saw the paintings and concluded that they met the third Waverley criterion. The paintings had an unusual and purposeful composition of the two group portraits, particularly the distinct details within each group and their relationship to gender and the female group and its Marian quality was especially beautiful. The portraits differed from other paintings by Kauffman in this country due to the unique nature of the pairing which therefore opened up avenues for further research into different traditions of

portraiture in the 18th century. Additionally, the significance of Lisbon and the Portuguese wine trade suggested that there would be room to further investigate that connection.

We therefore recommended that a decision on their export licence should be deferred for an initial period of four months to enable an offer to purchase them to be made at the agreed fair market price of £1.5m (plus £300,000 VAT) with a further four months if there was a serious expression of interest and the owner agreed to grant an Option Agreement.

At the end of the initial four-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Jonny Yarker (Lowell Libson and Jonny Yarker Ltd), Alastair Laing (Former Curator of Pictures and Sculpture at the National Trust) and Anthony Mould (Anthony Mould Ltd.).

## Case 16 *Ferme normande, été (Hattenville) 1882* by Paul Cézanne

**Paul Cézanne (1839-1906), *Ferme normande, été (Hattenville) (Farm in Normandy, Summer (Hattenville))*, oil on canvas, measuring 49.5 cm by 65.7cm, unsigned.**

The applicant had applied to export the painting to France. The value shown on the export licence application was £10m which represented an agreed sale price subject to the granting of an export licence.

The Director, The National Gallery, assisted by the Neil Westreich Curator of Post 1800 Paintings, The National Gallery acting as expert adviser had objected to the export of the painting under the first and second Waverley criteria.

The painting had been acquired by Samuel Courtauld (1876-1947) in 1937, the last of 12 Cézanne paintings he bought as he assembled the most important collection of Impressionist and Post-Impressionist art formed in the United Kingdom. Beginning in 1923, Courtauld also established and personally monitored the Courtauld Fund which, between 1923 and 1929, acquired major Impressionist and Post-Impressionist paintings for the National Gallery. The Samuel Courtauld Collection indisputably played a central role in the reception of international modern art in the United Kingdom.

*Farm in Normandy, Summer (Hattenville)* was one of four depictions of a site in Normandy with close personal connections to Cézanne. In 1882, the artist's first important patron and collector, Victor Chocquet, acquired a farm at Hattenville. There, Cézanne painted four vivid landscapes of fields and trees in and around Chocquet's estate. All four were improvisatory in execution, exhibiting myriad shades of green. Indeed, they were among the artist's loosest creations of the early 1880s, exercises in free and rapid paint-handling. At the same time, they were among Cézanne's

most densely composed sous-bois landscapes, in all four cases using trees and tree trunks to establish strict architectonic structure. This was especially true in the present work, with a commanding tree trunk in the foreground at far left. As John House pointed out in 1994, it was an early example of Cézanne's so-called 'constructive brushstroke', so important for his later work, especially in the over-arching leaves. None of the four canvasses was signed and all four were given to Chocquet by the artist. This small, simple and sublime landscape was a testament of Cézanne's allegiance to a friend and rare supporter at a turning point in the artist's career.

The applicant said that it was noteworthy that Cézanne did not spend time or exhibit his work in the UK during his lifetime, nor did he depict any local landscapes or subjects from this country. Therefore, considerations of the painting's connection to our national life depended strictly on the provenance of the work. Like most of Cézanne's oeuvre which resided in the UK, the painting arrived through Alex Reid and Ernest Lefèvre who sold it through their gallery in London. However, it was important to note that there were 14 paintings and watercolours by Cézanne, sold by Reid & Lefèvre, that remained in UK public collections. In addition, the legacy of Samuel Courtauld was very well established in the UK through his donation to the Courtauld Gallery, which included 11 works by Cézanne, and through the establishment of the Courtauld Trust Fund (and the legacy of the iconic art works bought through it which are at The National Gallery). Samuel Courtauld was not the only collector to gift works by Cézanne to public collections, there were numerous other philanthropists and collectors who had also donated works by Cézanne to UK public collections. The Courtauld Gallery provided the opportunity for the study of both his activities as a collector and the influence he had on the UK artistic life.

*Ferme en Normandie, été (Hattenville)* of c. 1882, was one of several paintings depicting this specific subject of landscape by Cézanne. In addition, within the context of the Courtauld Gallery Collection there were four other magnificent examples of landscape paintings of bigger dimensions, three of which were from the same period (ranging between the years 1877-87).

There were currently 65 works by Paul Cézanne in public collections in the UK, 26 of these focused on very similar subjects and executed at around the same period in Cézanne's life.

We heard this case in February 2022 when we saw the painting and concluded that it met the second and third Waverley criteria. We agreed that it was a fascinating painting with a significant history in Samuel Courtauld's collection. Courtauld was inextricably bound to impressionist collecting in the UK, and this painting was one of his last acquisitions showing that it was a highly considered purchase. We also found the painting's connection to Lady Aberconway extremely intriguing as it added an additional facet to its importance to British history and could provide greater insight into the role of women in the formation of collections.

The aesthetic rarity of the painting showed a transitional moment in the artist's career as Cézanne moved toward his constructive period. The developing style of the use of brushstrokes, as well as the intense re-working and shifting light in middle ground linked Cézanne to modernism. This painting was an outstanding example of his work and represented a turning point in the artist's style development as well as being of significant academic interest.

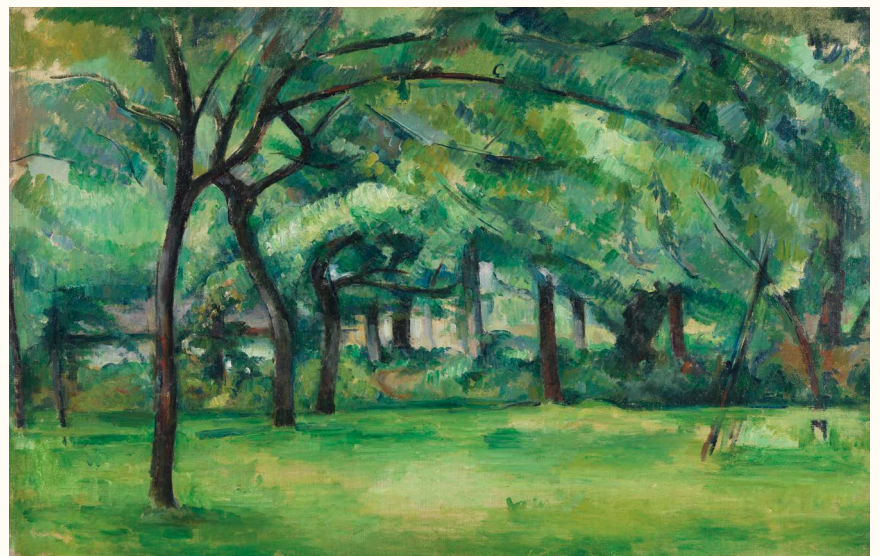
The inclusion of the painting in Courtauld's collection was noteworthy in terms of the history of collecting in Britain, and further

research was needed around its late inclusion in the collection, as well as the painting's relationship with Lady Aberconway. Although there was some disagreement as to whether the painting was of outstanding significance, the majority agreed that it was a completely absorbing painting with the potential to inform further research and that it had an extraordinary history within the UK.

We therefore recommended that a decision on the export licence application should be deferred for an initial period of four months to enable an offer to purchase it to be made at the agreed fair market price of £10m with a further six months if there was a serious expression of interest and the owner agreed to grant an Option Agreement.

At the end of the initial four-month period, no offer to purchase the painting had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Frances Fowle (Chair of Nineteenth-Century Art, University of Edinburgh and Senior Curator, French Art, National Galleries of Scotland), Colin Harrison (Senior Curator of European Art, Ashmolean Museum) and James Roundell (Director, Impressionist & Modern Art, Simon Dickinson).



**Case 16** *Ferme normande, été (Hattenville)* (1882) by Paul Cezanne

## Case 17 *View of Verona with the Ponte delle Navi* by Bernardo Bellotto

**Bernardo Bellotto, called il Canaletto (Venice 1721–1780 Warsaw) *A View of Verona with the Ponte delle Navi*, painted about 1745–47, oil on canvas, measuring 133.3 cm by 234.8 cm.**

The applicant had applied to export the painting to the USA. The value shown on the export licence application was £10,885,000 which represented the hammer price at auction plus the buyer's premium and ancillary costs. The value also included £15,000 for a post-acquisition Art Discovery report which could not be taken into account by the Committee in arriving at a recommended fair market price as it was not a cost incurred by the new owner as being necessary to stabilise the condition of the painting. In the event of a UK sale VAT on the buyer's premium and agent's commission would be payable.

The Director, The National Gallery, assisted by the Associate Curator of Paintings 1600–1800, The National Gallery acting as expert adviser had objected to the export of the painting under the second and third Waverley criteria because it was of outstanding aesthetic importance as an early masterpiece by the

18th century view painter Bernardo Bellotto, and it was of outstanding significance to the study of view painting in this country.

In this expansive view of the north Italian city of Verona, Bellotto took his viewpoint from the banks of the river Adige, looking south. It is late afternoon: the sun falls from the right, imbuing the sky with a pinkish hue, and the bridge and buildings cast long shadows. In this and its companion picture at Powis Castle, Bellotto drew on features that were familiar to him from Venice: bridges, waterways lined with palaces, scattered boats and figures going about their daily business. He brilliantly described the varying textures of the buildings, from the stained, crumbling brick- and plasterwork of the Ponte delle Navi bridge to the elegant whitewashed and rusticated facades of the palaces along the waterfront. He was equally attentive to conveying the poetic effects of light and atmosphere, particularly evocative in the reflections on the water and the River Adige's moving currents.

This spectacular view was one of Bellotto's rare, early masterpieces. Painted in about 1745–7, it marked an important turning point in

the young artist's career. From about 1740, Bellotto – then just eighteen years old – had begun to undertake a series of journeys around Italy, driven by a desire to expand his client base and search for subject matter outside of his native Venice. In 1745, seven years after his reception into the Venetian painters' guild, the *Fraglia dei Pittori*, he received his first royal commission for Charles Emmanuel III (1701–1773), King of Sardinia and Duke of Savoy.

Measuring well over two metres in width, the format of *A View of Verona with the Ponte delle*



**Case 17** *A View of Verona with the Ponte delle Navi* by Bernardo Bellotto

Navi and its pendant, now at Powis Castle, set the bar for Bellotto's great cityscapes. The fact that Bellotto took full-size replicas of this and the Powis Castle composition with him to Dresden in 1747, selling them to Augustus, Elector of Saxony (who would become his most important patron), underlines the pivotal role this painting played in launching his international career.

Although we do not know for whom *A View of Verona with the Ponte delle Navi* and its pendant were painted, they entered Britain early: a note on a related drawing in Darmstadt suggests that the painting was 'per ingiltera' ('for England'), and both pictures appeared at auction in London in 1771.

Although there were today 14 paintings by Bernardo Bellotto in British public collections, none represented the artist's early career so dramatically or beautifully as *A View of Verona with the Ponte delle Navi*. The importance of view painting to British art and collecting could not be overstated, yet it would be a mistake to assume that all 18th century view paintings performed the same function. *A View of Verona with the Ponte delle Navi* was a remarkable early canvas by an artist whose pictures have featured substantially in the teaching and appreciation of view painting over the last 70 years.

The applicant did not consider this work to be closely connected with British history and national life as the scene depicted was Verona and the artist, unlike his uncle Canaletto, did not visit Britain and his patronage was predominantly Prussian/central European.

This view of Verona, they said, should not be considered alongside the very best vedute of the 18th century as it neither depicted Venice nor one of the Prussian subjects for which Bellotto was best known. Bellotto was generally considered inferior to his uncle Canaletto when it came to Italian view paintings. His great contribution to art history was his views of Northern European cities such as the views of Königstein.

We heard this case in March 2022 when we saw the painting and concluded that it met the second and third Waverley criteria. This was a stunningly beautiful and innovative painting and represented a turning point in Bellotto's career. It was the first, along with its pendant at Powis Castle, that was painted on a large scale, and the last work he produced before leaving Italy. The painting has a striking and unexpected composition, particularly the contrast of the vertical tower with the horizontal bridge and considered the modulations of light and rhythmic application of paint outstanding. We agreed this was one of the most beautiful paintings produced by Bellotto, and that it represented a stylistically important moment in his artistic development.

The use of perspective and detail, especially the figures, was intriguing and the composition developed here was similar to that used in later work. The potential to reunite this painting with its pendant could be extremely beneficial for the study of this category of view painting. This painting could provide significant insight into the development of Bellotto's style in particular, as well as 18th century view painting in general.

We therefore recommended that a decision on the export licence application should be deferred for an initial period of four months to enable an offer to purchase it to be made at the agreed fair market price of £11,244,000 (inclusive of VAT) with a further six months if there was a serious expression of interest and the owner agreed to grant an Option Agreement.

At the end of the initial four-month period, no offer to purchase had been made and we were not aware of a serious intention to raise funds. An export licence was therefore issued.

The independent assessors for this case were Lucy Whitaker (Independent Art Historian and Curator), Charles Beddington (Director, Charles Beddington Fine Art) and Xavier Bray (Director, The Wallace Collection).

## Case 18 *Confirmation* (1637) by Nicolas Poussin

**Nicolas Poussin (Les Andelys 1594-1665 Rome), *Confirmation*, oil on canvas, measuring 95.5 cm by 121cm.**

The value shown on the export licence application was £19m which represented an agreed sale price subject to the issue of an export licence.

The Director, The National Gallery assisted by the Associate Curator of Paintings 1600–1800, The National Gallery acting as expert adviser had objected to the export of the painting under the first, second, and third Waverley criteria because it had been in Britain for almost 240 years, it was the most compositionally complex and innovative of Poussin's first series of *The Seven Sacraments*, and it was of outstanding significance for the study of Nicolas Poussin's career.

*Confirmation* has on several occasions, hung on the walls of some of the UK's most prestigious museums. It has exceptional aesthetic importance, both in itself and for the canon of Western art more broadly. In addition to noting this painting's long British provenance and its deep ties to this country, every major Poussin publication of the last sixty years has noted the significance of *The Seven Sacraments* and the pivotal role they played as a turning point in Poussin's career, at the birth of the French classical tradition which stretched from Poussin in the 17th century through to Cézanne and Picasso at the dawn of the 20th century.

In this picture, we see the rite of confirmation as performed by the early church. On the right, a seated priest anoints the head of a young boy. Further back, a second priest binds the head of another confirmand. In the foreground, distinct groups wait to partake in the ceremony: a child in red kneels beside his mother, hands pressed together; another, nervously biting his thumbnail, is encouraged by a maternal gesture. Were it not for the

flash of white at the extreme right, we might miss the altar altogether (it features far more prominently in the only surviving drawing for this painting at Windsor). A Paschal candle burning on the altar tells us that it is Easter Eve, when the early Church administered the rite of confirmation. The architecture, with its distinctive fluted columns is, as Anthony Blunt noted, based on the church of Sant'Atanasio dei Greci which stood opposite Poussin's house in Rome.

The importance of the arrival of these paintings in England could not be overstated. Sir Joshua Reynolds, founding President of the Royal Academy, wrote in September 1786 that 'Rome...is now much poorer, as England is richer than it was, by this acquisition.' Indeed, outside France, Britain has the strongest holdings of Poussin's work in the world. From the moment of its completion, *Confirmation* and the other Sacraments were deemed to be hugely significant. In Cassiano dal Pozzo's palace, the room in which they were hung was named after them. The first British collector to try and acquire the Dal Pozzo Sacraments was Sir Robert Walpole sometime before 1745, but, recognising their importance, the Pope blocked their departure from Rome. It was only due to a ruse that the series was eventually sold to the Duke of Rutland in the mid-1780s.

The first series of *The Seven Sacraments* was widely regarded as Poussin's most important commission; within it, *Confirmation* was recognised as the most ambitious and successful canvas. *Confirmation's* composition, woven together by glance and gesture, was arguably the most sophisticated. Poussin had taken great care over its setting: indentations along the lines of the architecture and floor are visible with the naked eye, and the whole composition must have been executed using Poussin's 'grande machine' (a large box with side apertures to control the fall of light, within which he used wax figurines to choreograph his compositions).



There were no direct precedents for Poussin's decision to depict the Sacraments in painting. The commission spoke to Poussin's extraordinary formal inventiveness, and to the intellectual circle around Dal Pozzo and its fascination with the history of the early Church. While certain of Poussin's Sacraments did have pictorial precedents, the subject of confirmation was unprecedented in Western art, a fact that made the rhythms and sophistication of this composition all the rarer. The importance of the series to Poussin was reinforced by the fact that he later painted a second series from 1644 (on loan to the National Galleries of Scotland).

The applicant did not dispute that the painting met the second and third Waverley criteria.

We heard this case in May 2022 when we saw the painting and found it an extraordinary painting with a fascinating British history, and that its importance could not be overstated. Poussin was a seminal European artist, and this painting epitomised his technique of visual expression, intense emotion and harmony of design based on abstract form. In addition, the subject was unprecedented, and the profound story was carefully articulated in a masterful way, making this painting the most interesting and beautiful of the Seven Sacraments series.



**Case 18** *Confirmation* by Nicolas Poussin

This painting had an extraordinary impact on Western art in general and on British art in particular. It was a cornerstone of Poussin's oeuvre and its arrival in Britain was of great importance, especially as it was rare for such an historic picture to be displayed at the Royal Academy. The painting held outstanding scholarly potential in terms of its enduring influence on French and British art and culture in comparison with Poussin's later painting of the subject. Consequently, there was a great deal more to learn from the physical characteristics of the painting itself, and about the patronage of the 4th Duke of Rutland. We concluded that it met the first, second and third Waverley criteria for its outstanding significance to the study of Nicolas Poussin's work and its influence on British art and culture.

We therefore recommended that a decision on the export licence should be deferred for an initial period of seven months to enable an offer to purchase it to be made at the agreed fair market price of £19m with a further six months if there was a serious expression of interest and the owner agreed to grant an Option Agreement. The painting had been exempted from capital taxation and the requested three months' notice of an intention to sell it had not been given to the Arts Council. The initial deferral period we recommended, which ends on 9th January 2023, included an additional three months to take into account that omission.

The independent assessors for this case were Lucy Whitaker (Independent Art Historian and Curator), Alastair Laing (Curator Emeritus of Pictures and Sculpture at the National Trust) and Anthony Mould (Anthony Mould Ltd.).

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## Case 19 Sheffield Football Club Archive

**This item consists of the early rules and archive of Sheffield Football Club. It includes the club's earliest minute book (1858-1859), which contains its first heavily revised draft of the rules of football. The archive also includes: two further minute books; the club's earliest printed rules (The Rules, Regulations and Laws of the Sheffield Foot-Ball Club, 1859); the revised rules printed in 1862; a set of printed rules for the Sheffield Football Association (1875); a notebook of match reports (1862-66); a file of correspondence and papers relating to the early history of the club.**

We heard this case in March 2019 when we saw the archive and concluded that it met the first and third Waverley criteria. The application for an export licence was subsequently withdrawn before our submission was made to the Secretary of State.

In 2022 the owner applied for a temporary licence to export the archive to Qatar for public exhibition at the QMA Sports Museum in Doha to be shown with the FIFA rules which it was lending for the duration of the FIFA World Cup. The Head of Western Heritage Collections at the British Library, acting as expert adviser, inspected the material and confirmed its fitness to travel subject to a number of additional conditions for the protection of the archive over and above those normally added to temporary licences for objects that have been found to be national treasures as detailed in Appendix J of the Arts Council's *Guidance for exporters of works of art*. Guarantees were also obtained for its return by 31st December 2022.

In accordance with the policy whereby items that have been found by us to be national treasures can be exported temporarily for a maximum period of three years, and normally only for the purposes of display in a public institution, the temporary licence was granted.



