



Department for
Digital, Culture,
Media & Sport

Export of Objects of Cultural Interest

2018–19 and 2019–20



ARTS COUNCIL
ENGLAND

1577

Export of Objects of Cultural Interest

2018–19 and 2019–20

Presented to Parliament pursuant to Section 10 (1) (a) of the Export Control Act 2002



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Department for
Digital, Culture,
Media & Sport

Export of Objects of Cultural Interest

2018–19 and 2019–20

1 May 2018 to 30 April 2020

- I Report of the Secretary of State
- II Report of the Reviewing Committee on
the Export of Works of Art and Objects
of Cultural Interest



The decision was taken not to publish the 2018–19 report in 2020, given that priorities were directed elsewhere as a result of Covid-19 and the difficulties that presented for producing a hard copy publication.

Annual report to Parliament

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



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

I am pleased to lay before Parliament the fifteenth annual report on the operation of the export controls on objects of cultural interest, as required by the Export Control Act 2002. The report covers the two-year period 1 May 2018 to 30 April 2020.

In the UK, we are fortunate to have access to a wide variety of exceptional cultural objects: our 'national treasures', which we have a duty to protect and preserve, both for current audiences and for future generations. We are able to retain many of these outstanding objects thanks to the export control system and deferral process, of which the Reviewing Committee and their expert advisers are a fundamental part.

As Sir Hayden mentions, my Department held a public consultation on strengthening the process for retaining national treasures in 2018. One of the key questions we asked was whether owners of export-deferred objects should be invited to sign a legally binding agreement to sell to a UK buyer, where such an offer is made. This would avoid wasted fundraising efforts by our museums and galleries in the event that an owner pulls out of a sale, whilst respecting their rights. The Government published its response to the consultation in December 2020, in which we announced that legally binding offers would be introduced from 1 January 2021.

This report highlights some of the fascinating and diverse items that have been referred to the Committee, as a result of which 12 items worth £7.6m have been saved for collections throughout the UK. This includes some outstanding examples of fine art but also items which have been saved because they are symbolic of our history and national identity and offer scope for further research and learning. A perfect example from 2018–19 are the notebooks of Charles Darwin's mentor, Charles Lyell, which were acquired by the University of Edinburgh. This archive reveals the workings of one of the most influential scientists of the last 200 years and provides us with an extraordinary insight into a time when science was changing long-held beliefs about the world.

There is no let up in quality and excitement in the objects saved and reported in the 2019–20 section of the report and there are three that deserve a special mention.

The annotated copy of *Lady Chatterley's Lover* used by the judge who presided over the 1960 obscenity trial, with its fabric bag made by the judge's wife to carry the book to and from court, is representative of a pivotal point in changing cultural attitudes. The book was acquired by the University of Bristol.

The large anthropomorphic crab, is a brilliant and engaging example of the work of the Martin Brothers who produced a distinct type of ceramic sculpture and pottery inspired by gothic art and the natural world. The crab, with its row of teeth and human looking features will delight audiences at its new home, The Box in Plymouth.

Finally, I must mention the flag and sledge from Ernest Shackleton's Nimrod expedition to the Antarctic in 1909, which have been acquired by the National Maritime Museum, part of Royal Museums Greenwich, an arm's length body of my department, and the Scott Polar Research Institute. The expedition was the greatest advance to the Pole in history until Amundsen and Scott reached the South Pole separately three years later in 1912. Together, the flag and sledge help to tell the story of one of the most daring moments in the twentieth century.

I would like to thank the many organisations and individuals without whose help many of these objects would not be saved. It is their support, together with the tireless work of museum experts and volunteers and supporters throughout the UK which makes this such a huge success. My special thanks go to Sir Hayden Phillips and the members of the Committee, for their specialist knowledge and reasoned judgements and to the staff at the Arts Council who work so tirelessly to support them and ensure the smooth running of the system.

Oliver Dowden CBE MP

Secretary of State for Digital, Culture, Media and Sport

Operation of the Control

The following figures cover the period of this report (1 May 2018 to 30 April 2020).

	1 May 2018 – 30 April 2019	1 May 2019 – 30 April 2020
(a) Number of applications for individual export licences ¹	11,500	9,511
(b) Number of above applications which were for manuscripts, documents or archives	1,661	1,434
(c) Number of items licensed after reference to expert advisers on the question of national importance	37,942	21,090
(d) Total value of items in (c)	£1,871,229,721.24	£1,670,505,289
(e) Number of Open Individual Export Licences (OIEL) in operation having been issued in previous years to regular exporters for the export of (i) manuscripts, documents, archives and photographic positives and negatives; (ii) objects imported into the UK in the past 50 years; (iii) UK origin coins; (iv) the temporary export of a Rolls-Royce; (v) the temporary export of objects owned or under the control of national institutions or institutions holding designated collections	64	66
(f) Number of items licensed after the Export Licensing Unit was satisfied of import into the UK within the past 50 years	12,675	8,537
(g) Total value of items in (f)	£13,060,855,196.89	£8,077,631,440
(h) Number of items in (f) which were manuscripts, documents or archives	941	905
(i) Total value of items in (h)	£60,877,055.73	£99,138,766
(j) Number of items given an EU licence without reference to the question of national importance because they were either: valued at below the appropriate UK monetary limit ² ; owned by a museum or gallery that had an OIEL; manuscripts valued at £1,500 or less or coins valued at £500 or less and the exporter held a valid OIEL; musical instruments exported for less than six months for use in the course of work by a professional musician; a motor vehicle exported for less than six months for social, domestic or pleasure purposes; a foreign registered motor vehicle exported following importation for less than six months for pleasure purposes; imported into the UK in the last 50 years and were being exported on a temporary basis	2,929	2,207
(k) Total value of items in (j)	£3,062,081,794.39	£4,740,545,853

1 One application may cover several items.

2 In some cases, an EU export licence may be required to export items that are valued below the relevant UK monetary limit. In such cases, an EU licence will normally be given without referring the licence application to the expert adviser on the question of national importance.



Department for
Digital, Culture,
Media & Sport

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

1 May 2018 to 30 April 2020

To:
The Rt Hon Oliver Dowden CBE MP,
Secretary of State for Digital, Culture, Media & Sport

65th Report of
the Reviewing Committee



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

Members of the Committee 2018–19 and 2019–20

Sir Hayden Phillips (Chair)

Mr Christopher Baker (appointed 1 October 2019)

Mr Peter Barber

Mr Richard Calvocoressi

Mr Lowell Libson (appointment expired 2 June 2019; appointment extended until 30 September 2019)

Mr Stuart Lochhead (appointed 1 October 2019)

Mr Christopher Rowell

Ms Pippa Shirley (appointed 15 October 2018)

Ms Leslie Webster

Mr Aidan Weston-Lewis (appointment expired 9 May 2019; appointment extended until 30 September 2019)

Secretary

Mr Peter Rowlands

Postal Address

Secretary

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

Arts Council England

21 Bloomsbury Street

London WC1B 3HF

A register of interests held by Committee members

is posted on Arts Council England's website:

www.artscouncil.org.uk

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Reviewing Committee Report for 2018–19 and 2019–20

1 May 2018 to 30 April 2020

Introduction

During the last two years the Reviewing Committee met on 20 occasions. In this document, we describe the outcome of 45 works of art and items of cultural interest which were considered by the Committee. The aggregate value of the 34 objects which were export-deferred was £119.4 million (£119,471,391.20).

When the Secretary of State's expert adviser makes an objection to the issuing of an export licence, the Committee is tasked with carefully considering the arguments put forward as to whether the item meets the Waverley criteria and should therefore be considered a 'national treasure'. Providing advice to Ministers is both a privilege and a responsibility. The Waverley criteria, rightly, set a very high standard. Not all objects that come before us can pass the bar they represent. We are reporting on five items which, while interesting, and, in the case of Monet's depiction of *Charing Cross Bridge*, beautiful, were found not to be of 'outstanding importance' and Ministers agreed that export licences should be issued. Expert advisers should not be discouraged when this happens. They play a crucial role in ensuring that objects potentially of Waverley standard come before the Committee. In cases of doubt where objects are felt to be borderline they should bring them forward.

The array of items to come before us in 2018–19 was extremely varied; ranging from two Neo-Assyrian reliefs carved over 2,800 years ago to a double-manual harpsichord by Joseph Mahoon, particularly evocative of the world of Hogarth and Handel, and an iconic Rolls-Royce Silver Ghost from 1907. Of particular note is a rare depiction of the *Spanish Armada in the Year 1588*. It is one of only a small group of near contemporary painted representations that survive and has been acquired by National Museums Northern Ireland to be displayed in an area of the country that has particularly close links to this historic event. This was also a strong year for works from the 20th century. We are pleased that the pair of Champagne Standard Lamps by Salvador Dalí and Edward James has been acquired by the Victoria and Albert Museum and will join the *Mae West Lips Sofa* (reported 2017–18) on display to the public in the museum's furniture galleries in South Kensington. Three hand-knotted rugs by Francis Bacon illustrate some of

the earliest artistic output of one of the most important British artists of the 20th century. Known above all for his triptychs, another object by Bacon which came before the Committee, the painted screen is his earliest surviving large-scale work in this format and contains the first of his large figures. These decorative items, which informed and prefigure so much of his later painting, are particularly significant considering how much of his own work the artist destroyed. Finally, two cases which relate to the history of science and evolution, three manuscript leaves by Charles Darwin from two of his seminal works, *On the Origin of Species* and *The Expression of the Emotions in Man and Animals*, provide a tangible connection to Darwin and his pioneering work. Also of great academic significance are the notebooks of Sir Charles Lyell. The work of these two close friends and colleagues fundamentally changed our understanding of the relationship between man and the natural world.

The objects considered by the Committee in 2019–20 ranged from a manuscript of poetry by John Donne which was acquired by the University of Bristol, to a large anthropomorphic crab sculpture by the Martin Brothers. This impressive and unique piece of late 19th-century ceramic sculpture was acquired by The Box, Plymouth. The Committee also considered a selection of paintings and watercolours. An atmospheric view of Lake Albano and the Castel Gandolfo by John Robert Cozens is an evocatively beautiful watercolour produced by one of the most innovative watercolourists of the 18th century. A painting of the Russian ballet dancer Vaslav Nijinsky by Glyn Philpot was found to be of outstanding significance for the study of 20th-century dance history. One of Turner's watercolours, *The Dark Rigi, the Lake of Lucerne*, provides an impressive demonstration of Turner's skills as the painter defines the emerging sunlight, delicate purples and greens of the mountainside, and reflections in the lake. *Le Palais Ducal* by Claude Monet shows evidence of the combination of formal structure and scintillating brushwork and is part of the artist's Venetian series. The Committee also considered an annotated Penguin paperback copy of D H Lawrence's *Lady Chatterley's Lover* that belonged to Sir Laurence Byrne, the presiding judge in the 1960 criminal trial. The book in its hand-stitched bag, with two folios of manuscript notes, now resides in the University of Bristol. The British Library acquired a manuscript on parchment, containing the collected

Part I continued

scientific works (in Latin) of the physician and astronomer Lewis of Caerleon. These works of unique contents hold the potential of shedding important new light on the status of late-medieval mathematical astronomy. Another interesting case was the sledge and flag from Shackleton's *Nimrod* expedition. These were used on the British Antarctic Expedition ('*Nimrod Expedition*'), 1907–09 and both items belonged to Dr Eric Marshall, surgeon and Polar explorer. The items were acquired and the sledge is currently housed at the National Maritime Museum and the flag at the Scott Polar Research Institute.

Role of expert adviser

We recognise that the following points are relatively well known, having frequently been raised at the annual meeting of the Advisory Council; however, it seemed an appropriate opportunity to record our view.

Firstly, and most importantly, we want to thank all expert advisers for the work they do and the expertise they bring to the Committee's proceedings. We are much indebted to their continuing commitment. Expert advisers act *ex officio*, meaning that while they are appointed by virtue of their professional position, as advisers they act in a personal capacity and not on behalf of the institution of which they are a part. We appreciate that this can be challenging for individuals who have to balance their departmental workload with this particular national personal responsibility.

Only expert advisers who are appointed to advise the Secretary of State should be signing off forms objecting to the export of an item. However, they can consult colleagues in their own or indeed other institutions. When there is an objection to an export licence application, they can delegate the preparation of the submission and attendance at the Reviewing Committee hearing to colleagues in their own department if this is helpful. When expert advisers consult their colleagues, it is critical that they pass on the need for confidentiality and ensure that those colleagues receive a copy of the 'Guidance to Expert Advisers'.

When an expert adviser is unable to act for any reason, he or she should pass the application back to the Export Licensing Unit at the Arts Council, and not forward it to colleagues in their own or another institution.

When we recommend that an export licence is deferred we invite the expert adviser to act as a Champion for the item in trying to raise an interest in purchasing it. We know this is not always an easy task and can be time consuming, but we would urge in cases where there appears to be little institutional interest that expert advisers look more widely.

Display

We operate under the assumption that, should a licence be export-deferred, applicants will allow the item under consideration to be viewed by individuals and institutions that may be interested in making an offer to purchase. Additionally, in advance of the Committee meeting applicants are asked to confirm that they will allow items to be displayed for fundraising purposes. We appreciate that there may be special circumstances, for instance, if an item is particularly delicate or fragile, where public display may not be possible or advisable. The Committee will take into account the owner's willingness to allow an item to be exhibited in recommending a deferral period to Ministers. Where the owner is unwilling to allow an item to be put on public display, the Committee will generally recommend a longer deferral period, especially where it seems unlikely that a public institution would be able to offer to buy the item without raising funds by public appeal.

Following an export-deferral, interested parties may need to view the item. Applicants should bear this in mind when considering how they choose to store items that have been export-deferred. Any costs incurred to allow access to view an item during the deferral period normally sit with the applicant. However, if during an export-deferral an item needs to be transported and displayed in a different location, for example to assist with an application to funding bodies, costs would normally sit with the institution seeking to acquire.

Provenance

We have previously emphasised the importance of providing full provenance information. As detailed in last year's report, not only is it necessary to establish whether or not the item has been in the UK for over 50 years, but provenance can be a significant factor in deciding whether

an item under consideration meets the Waverley criteria. We would like to clarify that applicants are expected to have undertaken thorough provenance research before bringing the item to the Committee. If this research has not been undertaken we may choose not to consider the case, or postpone making our recommendation to Ministers, until reasonable steps have been taken to obtain this information.

Funding for local government record offices and libraries

The Working Party on Manuscripts, Documents and Archives (DWP) is a sub-committee of the Reviewing Committee. Its terms of reference are as follows:

'To consider the present arrangements for the export control of manuscripts, documents and archives, and the sources of funds available (to UK institutions) for their acquisition and to make recommendations resulting from this consideration.'

At its meeting on 21 May 2018 the Working Party expressed deep concern about the funding of local government record offices and libraries and the effect this had on their ability to identify and acquire significant items and catalogue existing collections. The Committee noted that it was challenging to access even relatively small sums for the acquisition and retention of archival and manuscript material. It was, however, particularly grateful to those funding bodies and organisations that enable the acquisition of material and observed that the national endorsement they provided to local institutions is particularly valuable.

Confidentiality

In last year's report we noted that the Committee has received requests from those involved in the export licensing process for a greater degree of anonymity. We would reiterate that the Committee's proceedings are confidential and that there is an expectation that confidentiality will be maintained by all parties. The Committee's policy is that the identity of those involved in the process should normally be disclosed to the full Committee including independent assessors. However, having carefully listened to applicants' concerns we

are content that this matter should be considered on a case-by-case basis. For instance, where the purchase has not completed but is subject to the granting of an export licence and identifying the prospective purchaser would endanger the sale, it may be reasonable to depart from our normal policy. In this situation, applicants or their representatives can request that the identity of the purchaser be limited in some way; for example, so that only the Secretariat and Chairman are aware in the first instance. Of course, the Minister and his or her officials would need to know this information if the item meets the Waverley criteria. If the Secretariat subsequently decides that the identity of the purchaser should be shared in a way that exceeds an agreed limitation, they would first inform the applicant, who would be entitled to withdraw the application.

Export-deferral consultation

The Department for Digital, Culture, Media & Sport launched a public consultation on 'strengthening the process for retaining national treasures' in December 2018, with respondents invited to submit their views by February 2019. The consultation outlined proposals to introduce a legally binding mechanism – often referred to as 'binding offers' – so that owners of cultural objects found to be national treasures, who had confirmed that they were prepared to sell to a museum or gallery or relevant private purchaser at an agreed fair market price, are legally bound to follow through on their commitment to do so. The Department has now considered the views of respondents on these proposals and announced the introduction of binding offers for applications received from 1 January 2021.

Sir Hayden Phillips GCB DL

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

Operation of the Control

During the period covered by this report (1 May 2018 to 30 April 2019):

- There were 11,500 applications for export licences
- 1,661 of these applications were for the export of manuscripts, documents or archives
- The applications covered a total of 53,546 items
- 37,942 items with a value of £1.87 billion (£1,871,229,721.24) were issued with export licences after they had been referred to expert advisers
- 64 Open Individual Export Licences (OIEL) were in operation over this period: a) nine for the export of manuscripts, documents, archives and photographic positives and negatives; b) four for the export of goods over 50 years of age imported into the UK within the past 50 years; c) one for the export of UK origin coins; d) one for the temporary export of a Rolls-Royce; and e) 49 for the temporary export of objects over 50 years of age owned by or under the control of a national institution or an institution holding a designated collection
- 12,675 items with a value of £13 billion (£13,060,855,196.89) were issued with export licences after the Export Licensing Unit was satisfied that they had been imported into the United Kingdom within the past 50 years. Of these items with proof of import, 941 were manuscripts, documents or archives, with a total value of £60,877,055.73
- 2,929 items with a value of £3 billion (£3,062,081,794.39) were given an EU licence without reference to the question of national importance because they were either: valued at below the appropriate UK monetary limit; owned by a museum or gallery that has an OIEL; manuscripts valued at £1,500 or less or coins valued at £500 or less and the exporter holds a valid OIEL; musical instruments exported for less than six months for use in the course of work by a professional musician; motor vehicles exported for less than six months for social, domestic or pleasure purposes; foreign-registered motor vehicles exported following importation for less than three months for pleasure purposes, or imported into the UK in the last 50 years and being exported on a temporary basis.

Cases referred to the Committee

In 2018–19, 26 cases considered by the Committee because the appropriate expert adviser had objected to the proposed export on the grounds of national importance were reported. This is a fraction of the items covered by the export licensing system and shows that expert advisers think very carefully before referring cases to us.

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?
<i>Waverley 1</i>	<i>Waverley 2</i>	<i>Waverley 3</i>

Items found to be national treasures

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

- Case 1** *An Academy by Lamplight* by Joseph Wright of Derby
- Case 2** A pair of Champagne Standard Lamps, Salvador Dalí and Edward James
- Case 3** A William IV mahogany table owned by Charles Dickens
- Case 4** *The Spanish Armada in the Year 1588*
- Case 5** *Bust of Peace* by Antonio Canova
- Case 6** *Trumpeters* by Nainsukh of Guler
- Case 7** *Walton Bridges* by Joseph Mallord William Turner
- Case 10** A double-manual harpsichord by Joseph Mahoon
- Case 11** The Archigram archive
- Case 12** A tear-shaped Bidri tray
- Case 14** Three autograph manuscript leaves by Charles Darwin
- Case 15** One autograph manuscript leaf by Charles Darwin
- Case 16** *In the Austrian Tyrol* by John Singer Sargent

Part II continued

Case 17 An Italian Baroque cabinet by Giacomo Herman

Case 18 A 'Kunstammer' Renaissance casket from Newbattle Abbey

Case 19 The notebooks of Sir Charles Lyell

Case 20 *A Young Man Standing* by Lucas van Leyden

Case 21 *Painted Screen* by Francis Bacon

Case 22 A rug by Francis Bacon

Case 23 A rug by Francis Bacon

Case 24 A rug by Francis Bacon

Case 25 A 1907 Rolls-Royce Silver Ghost

Case 26 A flintlock sporting gun of Tipu Sultan

Items found not to be national treasures

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

Case 8 Two Neo-Assyrian reliefs

Case 9 *Charing Cross Bridge* by Claude Monet

Case 13 The Goodwood Cup by Edward Barnard & Sons

National treasures referred to the Secretary of State

20 cases were referred to the Secretary of State for deferral.

There was one case where the object met the criteria, but was not deferred as the Secretary of State decided to issue a licence on the basis that the overriding importance was that, as an archive, it should remain intact:

Case 11 Archigram archive

The aggregate value of the remaining 19 deferred items was £44.8 million (£44,796,201.20).

Items where the licence application was withdrawn following a serious expression of interest

Following a serious expression of interest one case was withdrawn:

Case 21 *Painted Screen* by Francis Bacon

Items where the licence application was withdrawn following the case hearing

Three applications for items found to meet the Waverley criteria were withdrawn following the hearing and consequently not referred to the Secretary of State:

Case 15 One autograph manuscript leaf by Charles Darwin

Case 25 A 1907 Rolls-Royce Silver Ghost

Case 26 A flintlock sporting gun of Tipu Sultan

Deferred items that were acquired

Of the 19 deferred items, the following seven were acquired by institutions or individuals in the United Kingdom:

Case 2 A pair of Champagne Standard Lamps, Salvador Dalí and Edward James

Case 4 *The Spanish Armada in the Year 1588*

Case 6 *Trumpeters* by Nainsukh of Guler

Case 7 *Walton Bridges* by Joseph Mallord William Turner

Case 10 A double-manual harpsichord by Joseph Mahoon

Case 12 A tear-shaped Bidri tray

Case 19 The notebooks of Sir Charles Lyell

These had a total value of £6.3 million (£6,310,160) which represents 14 per cent of the total value of objects placed under deferral and 37 per cent of the total number.

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 11 items listed below:

Case 1 *An Academy by Lamplight* by Joseph Wright of Derby

Case 3 A William IV mahogany table owned by Charles Dickens

Case 5 *Bust of Peace* by Antonio Canova

Case 14 Three autograph manuscript leaves by Charles Darwin

Case 16 *In the Austrian Tyrol* by John Singer Sargent

Case 17 An Italian Baroque cabinet by Giacomo Herman

Case 18 A 'Kunstammer' Renaissance casket from Newbattle Abbey

Case 20 *A Young Man Standing* by Lucas van Leyden

Case 22 A rug by Francis Bacon

Case 23 A rug by Francis Bacon

Case 24 A rug by Francis Bacon

These have a collective value of £36 million (£35,984,468.70), which represents 80 per cent of the total value of objects placed under deferral and 58 per cent of the total number.

Part II:

Operation of the Control

During the period covered by this report (1 May 2019 to 30 April 2020):

- There were 9,511 applications for export licences
- 1,434 of these applications were for the export of manuscripts, documents or archives
- The applications covered a total of 31,834 items
- 21,090 items with a value of £1.67 billion (£1,670,505,289) were issued with export licences after they had been referred to expert advisers
- 66 Open Individual Export Licences (OIEL) were in operation over this period: a) nine for the export of manuscripts, documents, archives and photographic positives and negatives; b) four for the export of goods over 50 years of age imported into the UK within the past 50 years; c) one for the export of UK origin coins; d) one for the temporary export of a Rolls-Royce; and e) 51 for the temporary export of objects over 50 years of age owned by or under the control of a national institution or an institution holding a designated collection
- 8,537 items with a value of £8.08 billion (£8,077,631,440) were issued with export licences after the Export Licensing Unit was satisfied that they had been imported into the United Kingdom within the past 50 years. Of these items with proof of import, 905 were manuscripts, documents or archives, with a total value of £99,138,766
- 2,207 items with a value of £4.74 billion (£4,740,545,853) were given an EU licence without reference to the question of national importance because they were either: valued at below the appropriate UK monetary limit; owned by a museum or gallery that has an OIEL; manuscripts valued at £1,500 or less or coins valued at £500 or less and the exporter holds a valid OIEL; musical instruments exported for less than six months for use in the course of work by a professional musician; motor vehicles exported for less than six months for social, domestic or pleasure purposes; foreign-registered motor vehicles exported following importation for less than three months for pleasure purposes, or imported into the UK in the last 50 years and being exported on a temporary basis.

Cases referred to the Committee

In 2019–20, 19 cases were considered by the Committee because the appropriate expert adviser had objected to the proposed export on the grounds of national importance. This is a fraction of the items covered by the export licensing system and shows that expert advisers think very carefully before referring cases to us.

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?
<i>Waverley 1</i>	<i>Waverley 2</i>	<i>Waverley 3</i>

Items found to be national treasures

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

- Case 1** Judge's annotated copy of *Lady Chatterley's Lover*
- Case 2** Manuscript of poetry by John Donne
- Case 3** A large anthropomorphic crab by the Martin Brothers
- Case 4** *The Lake of Albano and Castel Gandolfo* by John Robert Cozens
- Case 5** *Nijinsky before the Curtain* by Glyn Philpot
- Case 6** *The Dark Rigi, the Lake of Lucerne* by Joseph Mallord William Turner
- Case 7** *Le Palais Ducal* by Claude Monet
- Case 8** *Ferdinand Lured by Ariel* by J E Millais
- Case 9** *Two Boys with a Bladder* by Joseph Wright of Derby
- Case 11** A bronze figure of Apollo by François Girardon

Case 12 *The Temptation of Mary Magdalene* by Johann Liss

Case 13 *Going to Market, Early Morning* by Thomas Gainsborough

Case 14 A Middle English manuscript, *The Myrowr of Recluses*

Case 15 Mark Catesby, *The Natural History of Carolina, Florida, and the Bahama Islands* (two volumes) and William Bartram and others, *A Commonplace Book*

Case 16 A sledge and flag from Shackleton's *Nimrod Expedition*

Case 18 A Flemish ebony cabinet with painted panels

Case 19 Collected scientific works in Latin by Lewis of Caerleon

Items found not to be national treasures

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

Case 10 *Portrait of a Lady* by Frans Hals

Case 17 *The Adams Shipyard* by John Cleveley the Elder

National treasures referred to the Secretary of State where an Announcement was Made

Sixteen cases were referred to the Secretary of State for deferral.

There was one case where the object met the criteria, but its deferral was suspended by the Secretary of State:

Case 14 A Middle English manuscript, *The Myrowr of Recluses*

The aggregate value of the remaining 15 deferred items was £74.7 million (£74,675,190).

Items where the licence application was withdrawn following submission to the Secretary of State

Following submission to the Secretary of State, one further case was withdrawn before an announcement was made:

Case 18 A Flemish ebony cabinet with painted panels

Deferred items that were acquired

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

Case 1 Judge's annotated copy of *Lady Chatterley's Lover*

Case 2 Manuscript of poetry by John Donne

Case 3 A large anthropomorphic crab by the Martin Brothers

Case 16 A sledge and flag from Shackleton's *Nimrod Expedition*

Case 19 Collected scientific works in Latin by Lewis of Caerleon

These had a total value of £1.3 million (£1,320,950), which represents two per cent of the total value of objects that were deferred.

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 *The Lake of Albano and Castel Gandolfo* by John Robert Cozens

Case 5 *Nijinsky before the Curtain* by Glyn Philpot

Case 6 *The Dark Rigi, the Lake of Lucerne* by Joseph Mallord William Turner

Case 7 *Le Palais Ducal* by Claude Monet

Case 9 *Two Boys with a Bladder* by Joseph Wright of Derby

Case 11 A bronze figure of Apollo by François Girardon

Case 12 *The Temptation of Mary Magdalene* by Johann Liss

Case 13 *Going to Market, Early Morning* by Thomas Gainsborough

Case 15 Mark Catesby, *The Natural History of Carolina, Florida, and the Bahama Islands* (two volumes) and William Bartram and others, *A Commonplace Book*

These have a collective value of £63.9 million (£63,854,240), which represents 86 per cent of the total value of objects placed under deferral and 47 per cent of the total number.

Individual export cases

2018–19







Case 1 *An Academy by Lamplight* by Joseph Wright of Derby

Joseph Wright of Derby (1734–97), *An Academy by Lamplight*, 1769, oil on canvas, measuring 127cm by 101.6cm.

The applicant had applied to export the painting to Hong Kong. The value shown on the export licence application was £7,456,440, which represented the hammer price at auction plus buyer's premium and VAT on the premium.

The Director, The National Gallery, acting as expert adviser, had objected to the export of the painting, on the grounds that its departure from the UK would be a misfortune, under the second Waverley criterion.

The expert adviser had provided a written submission stating that this was one of Joseph Wright of Derby's most ambitious and elegant early paintings. A member of enlightened circles, he was a highly intellectual and singular artist and one of the most important and distinctive British painters of the 18th century. The most notable characteristic of Wright's work was his use of dramatic chiaroscuro effects – a boldness which was nowhere more evident than in the candlelit scenes he produced early in his career – which earned him the nickname 'Painter of Light'. Wright was part of The Lunar Society, which included philosophers, scientists and artists, among them Josiah Wedgwood, Benjamin Franklin and Joseph Banks. Together they challenged accepted beliefs and pushed the boundaries of scientific and intellectual exploration. In his early candlelit scenes such as *An Academy by Lamplight*, Wright celebrated a new appetite for learning and captured the spirit of enlightened enquiry perhaps more than any other contemporary painter.

Painted in 1769 and exhibited at the Society of Artists of Great Britain the same year, the present version of *An Academy by Lamplight* was almost certainly the first of two versions Wright painted of the subject, the second held at the Yale Centre for British Art in New Haven. The greater simplicity of this version seems to point towards it being the first version. The picture's brilliance lies in its dramatic use of light; chiaroscuro effects of a quality which could only be found in a handful of Wright's early candlelit scenes. In this work, Wright displayed the full range of his

talent, achieving perfection in exploring what happened to colours as they recede from light, or in suggesting the ability of warm flickering light to give inanimate marble the appearance of sensuous flesh. This purity of its composition lent the picture an essential quality, which made it the most balanced and refined of Wright's candlelit works. In this picture, perhaps more than in any other, Wright paid homage to the transformative, enlivening, even magical powers of light.

While there were a significant number of works by Joseph Wright of Derby in British public collections, the candlelit scenes for which he was so well known only accounted for seven of these works. *An Academy by Lamplight* was undoubtedly a masterpiece which should be considered as the culmination of the chiaroscuro work for which he was most celebrated. Keeping *An Academy by Lamplight* in the UK would enable the public and scholars alike to study and enjoy this most important work from the early and most significant period of Joseph Wright of Derby's career.

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

We heard this case in March 2018 when the painting was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of art education and the early history of the Society of Artists of Great Britain. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £7,456,440 (inclusive of VAT). 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 painting, the deferral period should be extended by a further six months.

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

Plate 1 *An Academy by Lamplight* by Joseph Wright of Derby

Case 2 A pair of Champagne Standard Lamps by Salvador Dalí and Edward James

A pair of standing lamps designed by Salvador Dalí (1904–89) and Edward James (1907–84) in 1938 for Monkton House, West Dean, Sussex. Made by Green & Abbott, London, in 1938 and 1939. Each lamp made from a stack of 10 oversized, undecorated copper alloy (probably bronze) champagne coupes standing on a base in the form of a Victorian papier-mâché tray but in the same metal painted black overall with gold ivy tendrils, berries and leaves. Six of the coupe bowls on the two lamps (four on one, two on the other) have two-part ashtray inserts, possibly added after their original manufacture. The lampshades are later replacements. Each lamp measures 160cm high overall.

The applicant had applied to export the lamps to Hong Kong. The value shown on the export licence application was £425,000, which represented the hammer price at auction plus the buyer's premium.

The Keeper of Furniture, Textiles and Fashion, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the lamps, on the grounds that their departure from the UK would be a misfortune, under the first, second and third Waverley criteria for their outstanding significance for the study of furniture and interior decoration as well as to the wider history of modern design and (Surrealist) art.

The expert adviser had provided a written submission stating that these lamps were one of two pairs designed especially for Monkton House, the most important Surrealist interior ever created in Britain. Monkton House in West Dean, West Sussex, was originally designed by Sir Edwin Lutyens and built in 1902–03 for Edward James's parents as a retreat from their Edwardian mansion, West Dean, now a College of Arts and Conservation and part of the Edward James Foundation. The two pairs of lamps remained at Monkton until the sale by the Edward James Foundation of the house and most of its contents after Edward James's death and were in store at West Dean until one pair was sold at Christie's in December 2016. These lamps were the joint creation of Salvador Dalí, one of the most important, influential and, today, best-known artists of the 20th century, and Edward James, not only Dalí's most significant British patron but also one of the key figures in the international history of Surrealism. The Monkton furniture added a British dimension to the story of European Surrealism. The impetus for the creation of the lamps – as with most of the Dalí/James objects – probably came from James rather than the better-known artist, as it was James who passionately wanted to realise these objects for his interiors at

Monkton House. One pair of lamps was apparently made to flank the marble fireplace in the Monkton dining room and thereby the lamps stood adjacent to the pair of the Dalí/James *Mae West Lips Sofas* (one recently acquired by the Victoria and Albert Museum through the export-deferral process). The other pair of lamps was made for another room in the house, the Business Room.

The provenance of these lamps and other Monkton pieces, as well as the circumstances of their creation, was exceptional in the annals of modern art and design in Britain. Edward James was Britain's most distinguished supporter of Surrealism. His vision of a Surrealist interior at Monkton, which artfully combined Victorian and Edwardian objects, remained intact for nearly half a century (even after his death) until when, despite the objections of English Heritage, the Twentieth Century Society, SAVE Britain's Heritage and leading architectural critics, the Edward James Foundation decided to sell Monkton and numerous contents rather than attempt to preserve the house and/or its contents. The fact that Monkton was sold did not rule out that this hugely important house could – eventually – be restored and opened to the public much in the way that, say, Spencer House or Croome Court have once again become accessible to visitors after much longer periods of private ownership and an even more extreme dispersal of their original contents and furnishings.

That the Edward James Foundation still owned a pair of the same lamps was no guarantee that a pair would remain in the UK. The same body chose to sell both *Mae West Lips Sofas* original to Monkton and had a long history of selling objects privately as well

Plate 2 A pair of Champagne Standard Lamps, Salvador Dalí and Edward James. Victoria and Albert Museum







as at public auction. The Dalí/James lamps under consideration were among the most original and important examples of modern lighting ever designed in the UK.

The applicant disagreed that the lamps met the Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that this pair of lamps was from a group of two identical pairs, which were created for and delivered to Monkton House in 1938–39. While certain key elements of the fixtures and fittings utilised in Monkton and elsewhere may be credibly argued to be of national importance, this pair of lamps was of peripheral interest. Another pair of lamps was currently retained in the collection of the Edward James Foundation, so this pair was not unique.

Regarding the second Waverley criterion, the applicant stated that the lamps' interest lay primarily as a manifestation of the eccentric and obsessive personality of Edward James, who consistently revised, altered and adapted details of the basic design over approximately a 16-month period of production between the March 1938 design drawing and delivery of the final pair to Monkton in summer 1939. James's adaptations included the altering of the height, the incorporation of ashtrays to the wells, and the application of gilt ivy-leaf detail to the black-painted bases. Therefore, their interest was in the process of manufacture, rather than in their aesthetic value.

Regarding the third Waverley criterion, the applicant stated that this pair of lamps may be described as being of supporting interest, rather than of representing outstanding significance, to the study of British art, design and architecture. The lamps' cultural or historic interest was confined to the connection with Monkton House and Edward James, and their creation in 1938-39 came too late to exert any influence upon either the waning international taste for Surrealism, or not nor upon broader aspects

Plate 2 A pair of Champagne Standard Lamps, Salvador Dalí and Edward James. Victoria and Albert Museum

of British interior design/furniture/art of either the late-1930s or the period of post-War reconstruction.

We heard this case in April 2018 when the lamps were shown to us. We found that they met the first, second and third Waverley criteria on the grounds that their departure from the UK would be a misfortune because they were so closely connected with our history and national life, they were of outstanding aesthetic importance and they were of outstanding significance for the study of furniture and interiors as well as the history of design and Surrealist art. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £425,000 (plus VAT of £15,000). 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 lamps, the deferral period should be extended by a further three months.

During the initial deferral period, the Victoria and Albert Museum, which acted as Champion for the lamps, informed us that it had decided, having exhausted every other possibility of purchase by another public body, that it had an obligation to the national interest to try to raise funds to purchase the lamps. Although the expression of interest came from the Secretary of State's expert adviser, confirmation was obtained at the time of the objection and at the meeting that the institution with which they were connected was not making enquiries with a view to purchasing or in the process of purchasing the item. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the lamps had been purchased by the Victoria and Albert Museum with assistance from the National Heritage Memorial Fund, Art Fund and V&A Members.

Case 3 A William IV mahogany table owned by Charles Dickens

A circular table made of mahogany (solid and veneered), oak and softwood, with a blind-tooled dark green leather top above eight drawers (four locking drawers alternating with four false drawers), the pedestal with an acanthus collar on a triform base with paw feet, and iron and copper alloy castors. The table measures 74cm high and 107.5cm diameter. The table was retailed or made by 'M. Wilson, London' (the name impressed on one drawer). One drawer contains an oval silver plaque, which bears the hallmark of Robert Hennell, London, and the date cypher for 1873, and is engraved: 'Charles Dickens' Library Table / which stood in / his Library at Gad's Hill.' This table can be stylistically dated to about 1835.

The applicant had applied to export the table to the United States. The value shown on the export licence application was £67,600, which represented the hammer price at auction plus the buyer's premium and VAT on the premium.

The Curator of 19th Century Furniture, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the table, on the grounds that its departure from the UK would be a misfortune, under the first Waverley criterion.

The expert adviser had provided a written submission stating that in the 19th century the cult of objects with historical associations or having belonged to famous people grew, along with the art market. Charles Dickens' furniture and effects provided good examples of this phenomenon. The wording on the plaque may have been calculated to capitalise on the desirability of objects associated with Dickens' career as an author, rather than as a journalist.

The significance of the table hinged on the fact that it was a study or library table that belonged to Charles Dickens, which was used by him during most of his career: firstly in his London home at Devonshire Terrace; then, as a journalist, in his London offices on Wellington Street where he published the literary magazines *Household Words* and *All the Year Round*.

The applicant had stated in a written submission that they did not consider the table to meet the first Waverley criterion. It did not play a significant role in the life of Charles Dickens and, by extension, was not of great national or historic importance to British culture. There was no evidence to suggest that this was his primary table for work or for readings, and there was nothing to suggest that this was his favourite table. The piece was not commissioned by Dickens and did not represent any of his personal design choices.

The table did not have a strong association with any single one of Dickens' residences or business premises; it did not feature in any known depiction of the writer or his houses, even in the known photographs of Gad's Hill Place, and there was no evidence that it was his primary writing table at any period. Likely acquired second-hand, and possibly originally reflecting the taste of Catherine Dickens rather than that of her husband, it seemed to have been treated by Dickens as a work-horse, moved from home to office and back again as the need arose. As it was used as much by Dickens at his office as at his home, it could not be described as a domestic object with any particular importance for Dickens; rather it was a utilitarian item and treated as such by the writer.

It could not, therefore, be argued to have had a central place in Dickens' life, and its position in the history and national life of the British people was very far from the bar set by the first Waverley criterion.

We heard this case in June 2018 when the table was shown to us. We found that it met the first Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £67,600 (inclusive of VAT). 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 table, the deferral period should be extended by a further three months.

During the initial deferral period, we received a serious expression of interest from a private company to purchase the desk and to secure public access to it under the 'Ridley Rules'. A decision on the export licence application was deferred for a further three months. At the end of the second deferral period, no offer to purchase the table had been made and we were not aware of any serious intention to raise funds. An export licence was therefore issued.

Plate 3 A William IV mahogany table owned by Charles Dickens



Case 4 The Spanish Armada in the Year 1588

Unknown artist, monogrammist VHE (presumed Netherlandish School), cabinet miniature also known as *The Spanish Armada off the Coast of England*, variously dated, c. 1590-1600 and 1600-10, probably 1600-05. Gouache heightened with gold, within gold framing lines on panel; signed lower right with the artist's monogram 'V/HE' and inscribed upper centre 'SPAENSCH E ARMAD/INT IAR 1588' (Spanish Armada in the year 1588) in black, 14.4cm by 34.8cm.

The applicant had applied to export the miniature to the United States. The value shown on the export licence application was £177,000, which represented €200,000 converted into Pounds Sterling at the time of the licence application.

The Head of Arts and Curator of the Queen's House, National Maritime Museum, acting as expert adviser, had objected to the export of the miniature, on the grounds that its departure from the UK would be a misfortune, under the first, second and third Waverley criteria for its outstanding significance for the study of the Armada as a near-contemporary representation and as a marine subject to the study of European marine art.

The expert adviser had provided a written submission stating that this exceptionally rare miniature, known as a 'cabinet miniature', commemorated the most celebrated event of Elizabeth I's reign, the failed invasion of England by Philip II's 'invincible Armada' in the summer of 1588. There were only two large-scale miniatures known that represented the Armada events as pure marine paintings: the example under consideration and one held in the National Maritime Museum, Greenwich (PAJ3949). Their compositions were very similar but not identical. Indeed, as an outstanding historical document, the merits of the work under consideration (in comparison to the National Maritime Museum version) were the greater detail (including inscriptions) within, and legibility of, the composition. Both included representations of the southern coast of England, with English troops assembled, and both included

Dutch, as well as English and Spanish ships, underlining the Dutch Protestant 'sea beggars' role in harrying the Armada in and after The Battle of Gravelines. Only the miniature under consideration alluded to Elizabeth I's famous visit to Tilbury. It represented in visual form the significant achievement of the monarch and the state in preventing Spanish success.

The expert stated that the miniature under consideration was signed by the unidentified monogrammist 'VHE'. The significant difference in style pointed towards different artists from the Netherlandish School. Only one other known miniature bore the same monogram (a landscape with a view of Antwerp). The miniature under consideration was more precise in style and more legible than the National Maritime Museum version, and thus more specifically informative of the known events of 1588.

It was also more expressly Dutch in style, with an inscription (top centre) in Dutch, 'SPAENSCH E ARMAD/INT IAR 1588', most likely to emphasise the Dutch role in defeating the Armada. Given that many Dutch artists were working in, or connected to, England at the time, it was possible that the work was commissioned by an English patron with Dutch connections, which may well explain the proliferation of English/St George's Cross flags alongside the representation of Elizabeth I. The present work was in excellent condition, lively and vibrant in colour, with a golden sunrise/sunset to the left contrasting with the darker, blue skies to the right, against which the smoke of the warning beacons could be seen in the distance.

The Armada miniature was of outstanding significance for the study of art history and history (including naval history), both in relation to the Armada of 1588 and the material culture that it inspired, and the study of marine painting, especially as this particular genre of art was inextricably linked to the history of the English Navy and England's rise as a global maritime power. Given that the Armada of 1588 was such a pivotal





Plate 4 *The Spanish Armada in the Year 1588: The Spanish Armada off the Coast of England.* © National Museums NI, Collection Ulster Museum

event, it was natural to assume that there were many Armada representations in UK collections today. This was not true of paintings (and even less so of miniatures), above all those created in the 10 years or so after the event itself. The miniature under consideration formed part of only a small group of painted representations that survived to the present that date from the period after 1588 to the early years of Elizabeth's successor, James I.

The applicant had stated in a written submission that they did not consider that the miniature met any of the three Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that, while the event depicted was closely connected to our history and national life, the painting itself was not. There were also better contemporary records of the defeat of the Spanish Armada and a very similar miniature by the same artist in the National Maritime Museum, Greenwich.

Regarding the second Waverley criterion, the applicant stated that the painting did not meet the bar of 'outstanding' as it was a modest work by an otherwise little-known artist.

Regarding the third Waverley criterion, the applicant stated that it did not meet this as it was a secondary source with no evident new information. The painting was not of outstanding significance of a type that was not already held by a national institution.

We heard this case in March 2018 when the miniature was shown to us. We found that it met the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life and it was of outstanding significance for the study of the Armada as a near-contemporary representation and, as a marine subject, to the study of European marine art. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £210,000 (plus VAT of £6,600). 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 miniature, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by National Museums Northern Ireland to raise funds to purchase the miniature. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the miniature had been purchased by National Museums Northern Ireland with assistance from the National Heritage Memorial Foundation, Art Fund, Department for Communities, NI Government, the Esmé Mitchell Trust and the Friends of the Ulster Museum.

Case 5 *Bust of Peace* by Antonio Canova

Antonio Canova (1757–1822), *Bust of Peace*, Rome, 1814. A white marble bust of a woman on a contemporary marble socle, measuring 53cm high, including socle.

The applicant had applied to export the bust to the United States. The value shown on the export licence application was £5,303,500, which represented the hammer price at auction plus buyer's premium.

The Senior Curator, Sculpture Collection, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the bust, on the grounds that its departure from the UK would be a misfortune, under the first and second Waverley criteria.

The expert adviser had provided a written submission stating that this white marble bust of a woman on a contemporary marble socle, described simply as 'a lady wearing a diadem', was one of Canova's celebrated *Ideal Heads*. The ringleted hair was elaborately looped up into the back of the diadem, with a curl falling on each of her cheeks and tendrils over her neck. She looked serenely straight ahead with her lips slightly open and the gentle hint of a smile.

Canova produced his *Ideal Heads* (female heads carved in marble, just under life size) to be presented as gifts to those who had helped him. The first two, Helen and Clio, dated from 1811. The present *Bust of Peace*, given to Lord Cawdor in 1815, was the first such Head to reach Britain, where it was displayed at the Royal Academy Summer Exhibition in 1817. It was also the first to be presented to a British patron after Napoleon's defeat. Canova recognised the fundamental role Lord Cawdor had played in the negotiations for the repatriation of works of art to Italy in the aftermath of the Napoleonic Wars and Lord Cawdor was a steadfast admirer of the sculptor's work.

Canova was recognised throughout Europe as the greatest artist of his day, perhaps one of the greatest sculptors of the post-classical era. Above all Canova was revered for his harmonious and subtle compositions, and for his exceptional handling of marble. Although he had assistants to rough out the marble blocks, Canova finished the sculptures himself, sensitively working the surface of the marble, and thereby giving his works a texture unparalleled in the work of any of his contemporaries, notably the sensuous rendering of flesh.

The coming of peace to Europe after years of turmoil was embodied in this small bust. Until the 20th century it was continuously owned by the family whose ancestor, 1st Baron Cawdor, had been given it personally by the artist soon after it was made.



Plate 5 *Bust of Peace* by Antonio Canova

Following the meeting, the Committee became aware of further documentation, cited in the work of Hugh Honour, which raised the possibility that the bust may potentially have been a work commissioned by Lord Cawdor rather than presented to him by the artist.

The applicant did not disagree that the bust met the Waverley criteria.

We heard this case in September 2018 when the bust was shown to us. We found that it met the first Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £5,303,500 (plus VAT of £160,700). 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 bust, the deferral period should be extended by a further five months.

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

Case 6 *Trumpeters* by Nainsukh of Guler



An Indian miniature painting c.1735–40, *Trumpeters*, by Nainsukh of Guler (c.1710–78). Opaque watercolour on paper, measuring 16.3cm by 23.7cm.

The applicant had applied to export the miniature to Switzerland. The value shown on the export licence application was £550,000, which represented the price at which the owner had agreed to sell the miniature subject to the granting of an export licence.

The Curator, South and South-East Asia, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the miniature, on the grounds that its departure from the UK would be a misfortune, under the first, second and third Waverley criteria for its outstanding significance for the study of the history of Indian painting.

The expert adviser had provided a written submission stating that the miniature under consideration depicted seven musicians blowing

Plate 6 *Trumpeters* by Nainsukh of Guler

the exceptionally long Pahari horns called 'turhi'. It was an interesting representation of a musical performance in the hill region of northern India in the mid-18th century. It was painted by Nainsukh of Guler, the most famous and highly regarded artist of the Pahari or 'Hill' schools of northern India, which were a major and popular genre of Indian miniature painting. Examples of this calibre were rare, especially given the unique composition of the painting.

Regarding the first Waverley criterion, the expert stated that the provenance of the painting was of great interest. Its original owner, the artist Winifred Nicholson (1893–1981) was a renowned colourist whose work was represented in public institutions such as the Tate, was extensively published and had appeared in many exhibitions. Married to the artist Ben Nicholson from 1920 (just after she acquired this painting) to 1938, Winifred had often been discussed in relation to

that partnership, but she enjoyed considerable success and critical acclaim and had recently become better understood as an artist in her own right. Winifred Nicholson visited India in 1919–20. There she acquired the miniature and a number of other works and was influenced by her experience of India and its art in her understanding of light and colour, which played such a central role in her work.

Regarding the second Waverley criterion, the expert stated that the painting of trumpeters was of outstanding aesthetic importance. The composition was highly novel and the painting showed a striking mastery of different postures, poses and individual facial types. The distinctive hill trumpets were shown to dramatic effect. The work demonstrated the artist's revolutionary use of space.

Regarding the third Waverley criterion, the artist, Nainsukh of Guler, was unquestionably the most acclaimed Pahari artist and the one about whom most was known. He was thus a highly important figure in the history of Indian miniature painting. The painting under consideration was an impressive and unusual example that seems to combine aspects of Nainsukh's early work with some of his later achievements. BN Goswamy, the leading scholar of Nainsukh's work, considered it to be an early work pre-dating the body of paintings made for the artist's major patron, Balwant Singh of Jasrota, but he also noted that the handling of the figures was very close to the later group. WG Archer, in *Indian Paintings from the Punjab Hills* (1973), dated the painting later, to c.1750. Another expert, Jeremiah P Losty, also argued against an early date and had commented that the painting was 'on a much higher level of achievement than most of the early work, showing a wonderful mastery of different postures and profiles melded into a highly unusual composition'. The importance of the artist and the unique composition of this painting indicated that it would be of high significance for the study of the history of painting in India. Although a number of Nainsukh paintings existed in UK collections, this was a remarkable example of this work.

The applicant had stated in a written submission that they did not consider that the miniature met any of the three Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that the painting was a purely Indian subject, executed by a local artist in a period and place of India that was not significantly affected by the British involvement in India. Nainsukh worked for a provincial prince whose personal interest in painting was not affected by British activities or influence in India.

Regarding the second Waverley criterion, the applicant stated that the painting depicted village trumpeters and was executed as a watercolour on plain paper. It was a delicate work and a good example of mid-18th century miniature painting from northern India, and could be ascribed to the early oeuvre of the painter Nainsukh of Guler, c.1740. However, the work was neither signed nor dated, and therefore it was a purely art-historical assumption, which might well be proven wrong in the course of time. It revealed no outstanding stylistic traits or unique motifs, sketching only seven trumpeters against a plain ground. At the time Nainsukh painted this work, he was still a member of his father's workshop and the painter had not yet developed his personal style.

Regarding the third Waverley criterion, the applicant stated that the painting revealed no extraordinary features not otherwise known from this painter's early oeuvre. Works described as 'early works by Nainsukh' were well represented in public British collections: The British Museum, Fitzwilliam Museum and Victoria and Albert Museum – in total at least 18 works. The largest and most important group of works by this Indian painter outside India was owned by the Victoria and Albert Museum, consisting of more than seven paintings.

We heard this case in September 2018 when the miniature was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and for its outstanding significance to the study of Pahari and Indian painting. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £550,000. 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 miniature, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by The British Museum to raise funds to purchase the miniature. The deferral period was extended by a further three months in order for agreement to be reached regarding a private treaty sale at the tax remitted price of £440,000. We were subsequently informed that the miniature had been purchased by The British Museum with assistance from the Art Fund and the National Heritage Memorial Fund.





Case 7 Walton Bridges by Joseph Mallord William Turner

Walton Bridges by Joseph Mallord William Turner (1775–1851), 1806. Oil on canvas, measuring 92.7cm by 123.8cm.

The applicant had applied to export the painting to the Netherlands. The value shown on the export licence application was £3,484,000, which represented the hammer price at auction plus the buyer's premium and VAT on the premium.

The Senior Curator, 19th Century British Art, Tate

Plate 7 *Walton Bridges* by Joseph Mallord William Turner

Britain, acting as expert adviser, had objected to the export of the painting, on the grounds that its departure from the UK would be a misfortune, under the first, second and third Waverley criteria for its outstanding significance for the study of the development of Turner's work.

The expert adviser had provided a written submission stating that *Walton Bridges* depicted the double-span bridge across the Thames between the locks at Sunbury and Shepperton. Turner probably exhibited this picture at his own gallery in Harley Street in 1806.



Exhibitions in the gallery were not documented in any detail until 1808 but available evidence suggested that – with certain exceptions – he used it from the outset for intimate, personal and specifically English subjects, presented in series, rather than the larger, grand manner pictures he showed at the Royal Academy.

During extensive summer painting expeditions, he worked in sketchbooks, and painted in watercolour and oil, often in the open air, collecting material for exhibited pictures. Focusing on unchanging, stable aspects of rural life and river activity, these works had strong patriotic appeal at a time when wartime hardships were increasing as a result of the Napoleonic blockade. The body of work arising from Turner's Thames campaigns in the early 1800s was extensive, comprising sketchbooks, large watercolour studies and finished pictures. Some formed part of the Turner Bequest but many were now in collections overseas.

Demonstrably based on observation, this painting was a working landscape, showing the type and management of river traffic. What elevated the mood of the picture (or at least must have done when it was fresh and had not lost some of its colour) was the warm and tender lighting that bathed the landscape and was reflected in the river. Whereas *The Thames at Weybridge* evoked the Italianate landscapes of Claude Lorrain, *Walton Bridges* took its more embracing glow from the Dutch landscapes of Aelbert Cuyp.

The Cuykish lighting of *Walton Bridges*, achieved by painting in thin glazes over a white ground, explained Turner's designation around this time as a 'white painter'. This was not always meant as a compliment, but the effects it described were widely admired. It could be argued that *Walton Bridges* paved the way, and created the taste, for *Pope's Villa at Twickenham*, of 1807, *Tabley, Cheshire, the Seat of Sir J.F. Leicester, Bart.: Calm Morning*, that followed in 1809, and 1807's *The Sun Rising through Vapour*, purchased in 1818 to seal Turner's prime position in Sir John Leicester's Hill Street gallery.

Walton Bridges played a significant part in developing Turner's English pastoral aesthetic; his naturalism in the depiction of a working landscape and in reviving a taste for Cuyp. However, its place in our collecting history was secured by its ownership by Sir John Leicester, and latterly by other major collectors (Thomas Wright, Joseph Gillott and Lord Wantage) as well as the recent loan to the Ashmolean Museum. Together with its Thames subject, so emotive at the time it was painted and of both regional and national importance, these factors seemed to meet the Waverley criteria in full.

The applicant had stated in a written submission that they did not consider that the painting met the first and third Waverley criteria, but did not seek to contest that *Walton Bridges* was of great aesthetic importance.

Regarding the first Waverley criterion, the applicant stated that *Walton Bridges* was a fine example of the work of a great British artist, depicting a British subject, which had been held in an important British collection and had been on public display in the Ashmolean Museum. However, in their view these facts by themselves were not necessarily sufficient to reach the high threshold of the first Waverley criterion. They would argue that while *Walton Bridges* was undoubtedly an important picture, it could not be said to be a national treasure, and it was not so closely connected with our history and national life that its departure would be a misfortune.

Regarding the third Waverley criterion, the applicant stated that in the context of the rich representation of works by JMW Turner on public display in the UK, they did not believe that *Walton Bridges* was of outstanding significance for scholarship. While they acknowledged its aesthetic importance, the study of the picture did not add significantly to what was already known about the artist or his work.

We heard this case in October 2018 when the painting was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance for its outstanding significance to the study of Turner's working practice and the history of collecting and patronage. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £3,484,000 (inclusive of VAT). 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 painting, the deferral period should be extended by a further four months.

During the initial deferral period, we were informed of a serious intention by Norfolk Museums Service to raise funds to purchase the painting. The deferral period was extended by a further four months in order for agreement to be reached regarding a private treaty sale at the tax remitted price of £2,431,687. We were subsequently informed that the painting had been purchased by the Norfolk Museums Service with assistance from the National Lottery Heritage Fund and Art Fund.



Case 8 Two Neo-Assyrian reliefs

Two Neo-Assyrian relief panels, c.870–860 BC, from the Northwest Palace of King Ashurnasirpal II (883–859 BC) at Nimrud. Each depicts the head and torso of a winged deity, one facing right and the other left, wearing a horned helmet, tunic and fringed tasselled shawl. Made of gypsum alabaster, each measures 91.5cm by 71cm.

The applicant had applied to export the reliefs to France. The value shown on the export licence application was £8,000,000, which represented an agreed sale price.

An application to export the reliefs had previously been considered by the Committee on 19 September 2018, however, the meeting was postponed to conduct further testing on the reliefs. The Committee reconvened to hear this case on 17 October 2018.

The Senior Curator of the Ancient Mediterranean, National Museums Scotland, acting as expert adviser, had objected to the export of the reliefs, on the grounds that their departure from the UK would be a misfortune, under the first, second and third Waverley criteria for their outstanding significance for the study of antiquarianism and Victorian design in Scotland, as well as having potential for the scientific study of Assyrian pigments.

The expert adviser had provided a written submission stating that the reliefs related to a significant episode in the history of Britain's political and archaeological involvement in Iraq. They also had significance in the history of Scottish antiquarianism, having been brought to the UK in 1856 by the diplomat Lord Schomberg Kerr, later 9th Marquess of Lothian and President of the Society of Antiquaries of Scotland. The decorative scheme of the crypt in his home at Newbattle

Abbey was designed around the reliefs by the celebrated interior designer Thomas Bonnar.

The detailed carving of the winged deities, from the delicate feathers of their wings to the curls of their hair, was exquisite. The reliefs of the Northwest Palace at Nimrud had been described by art historians as 'magnificent', 'splendid' and 'elegant'. Designed to inspire awe, these panels were no exception.

The reliefs were the subject of an article in 2010, which identified the specific panels they came from in Room L in the palace and discussed the significance of their Victorian treatment. The reliefs were also described in 2006 as having 'particular relevance to the history of Scotland [...] unique because they illustrate an aspect of Victorian antiquarian interest, nowhere else demonstrated'. The colour scheme was largely based on reconstructions in Austen Henry Layard's *The Monuments of Nineveh* (1849 and 1853), but it was also possible that there were traces of original paint on these reliefs that the modern artist used as his guide. If there were any surviving traces of original ancient paint, this would have been of great importance to the scientific study of ancient pigments and reconstructing the original colour scheme of the palace and other Assyrian reliefs.

Visible-induced infrared luminescence imaging of the reliefs was undertaken to test for the presence of ancient pigment, in particular Egyptian Blue. The results of the imaging suggested that there were trace amounts of Egyptian Blue concentrated around the eyes on both reliefs, where they were mixed with a white pigment, in layers visible to the naked eye. The practice of mixing Egyptian Blue with white pigment to give a naturalistic appearance to the whites of the eyes was attested

in Greek and Roman painting tradition, and was unknown to the Victorians. Particles of what appeared to be the same pigment scattered throughout the background may have been mobilised by, for example, a cleaning treatment.

When invited by the Chairman at the meeting to expand on their submission, or respond to the applicant's submission, the expert elaborated that prior study had been undertaken on the reliefs. The expert noted that the Keeper of Western Antiquities at The British Museum first became aware of the reliefs in 1981 and immediately recognised their provenance. The reliefs had then been studied at Newbattle by various curators from National Museums Scotland from 1985, and subsequently by various British Museum and National Museums Scotland curators in 2005.

The applicant disagreed that the reliefs met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that the reliefs were painted over in the 19th century to a Victorian aesthetic and subsequently came to be seen solely as decorative wall panels. It was not until 2005 that the reliefs' authenticity was confirmed, and that they had come from the Northwest Palace of Ashurnasirpal II at Nimrud. The two reliefs were brought to Newbattle Abbey in 1856 and had been painted by 1907 when they were briefly mentioned as 'painted marbles of Assyrian kings from Nineveh' in a 1908 publication. Both reliefs had been labelled as coming from Nineveh and there had been no particular interest in the reliefs to correct the misidentification of their find-spot. The painted reliefs at Newbattle Abbey (now a college of higher education) were previously displayed in the so-called crypt. Although they were in an area accessible to staff and students, apparently no importance had been given to

them apart from them being decorative features. In 2012 Midlothian Council, in consultation with Historic Scotland, had given permission for the reliefs' permanent removal from Newbattle Abbey subject to painted replicas being installed, and this had been complied with.

Regarding the second criterion, the applicant stated that both reliefs showed a standard Neo-Assyrian motif. The reliefs were fair examples of their type, but neither was outstanding in quality or detailing. There were other more complete reliefs from the Northwest Palace of Ashurnasirpal II in UK national museums, showing similar winged deities and of better quality. It was noted, also, that the Newbattle Abbey relief with the genie head facing to the right was not complete but had a diagonal repair running through the panel with a large triangular area of infill on the left side.

Regarding the third criterion, the Newbattle Abbey reliefs were of interest, but were not outstanding. The winged bearded deities wearing horned headdresses on these two reliefs were a standard repetitive motif seen on numerous examples of similar Neo-Assyrian reliefs from the Northwest Palace of Ashurnasirpal II at Nimrud. It was as examples of the Victorian Neo-Assyrian decorative style that the Newbattle Abbey reliefs had their significance. However the reliefs had been chemically and physically cleaned four years ago, with all the paint being removed, and the restorer had stated that there was no other pigment under the uniformly thick Victorian paint.

We heard this case in October 2018 when the reliefs were shown to us. We found that the reliefs did not meet any of the Waverley criteria and recommended that an export licence be issued. An export licence was issued.

Case 9 Charing Cross Bridge by Claude Monet

Claude Monet (1840–1926), *Charing Cross Bridge*, 1904. Oil on canvas, measuring 65cm by 94cm.

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £47,219,307, which represented the Pounds Sterling equivalent of the agreed sale price (\$63 million), calculated at the HMRC rate of 1.3342 for the month of June 2018 which was when the export licence application was made.

The Head of Displays, Tate Modern, acting as expert adviser, had objected to the export of the painting, on the grounds that its departure from the UK would be a misfortune, under the first, second and third Waverley criteria for its outstanding significance for the study of Monet's connection to London.

The expert adviser had provided a written submission stating that *Charing Cross Bridge* was one of the series of paintings of the Thames that Claude Monet made during and after his visits to London in 1899-1901. It showed the railway bridge with the sun reflected on the river and filtered through the smog which partially concealed the Houses of Parliament on the right of the composition. Waterloo Bridge, Charing Cross Bridge and the Palace of Westminster were the motifs that drew Monet back over three successive years. At an early stage he was preparing a series to be shown together and, while he was assiduous in resolving each of the paintings, his process involved continuous comparison and adjustment. He worked on at least 94 canvases which had survived the subsequent process of excising and destruction, and he eventually selected 37 for his exhibition *Vues de la Tamise à Londres* at the Galerie Durand-Ruel in Paris in May 1904.

Of the three Thames subseries that constituted the whole, 34 paintings depicting Charing Cross Bridge were recorded in the *catalogue raisonné*. As it was his practice to begin in front of the motif, it had been assumed that the present canvas was started in London in 1901. He continued to work on the paintings in his studio at Giverny, and inscribed this work in 1904.

It was, in addition, an object that was significant to the history of taste in Britain, as one of the few Thames paintings to have returned to and remained in this country. Monet saw London as a contemporary city through the modern haze of industrial pollution, turning this atmosphere into a sequence of chromatically charged images that changed how the city could be seen.

While Monet had been very widely studied and scrutinised, there continued to be new research associated with his work. Research into the social and political networks of Monet's London connections

had the potential to cast a new light on a crucial period locally, nationally and internationally.

The applicant disagreed that the painting met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that as a privately owned work of art, rarely exhibited and as part of a large series of works on the same subject, this painting was not closely connected with our history and national life. Consigned to auction in London anonymously in 1932, its earliest years were currently unknown. It was acquired by the 9th Duke of Marlborough at that sale, though he kept the work for only a brief moment before reselling it in 1934 to a French collector. The painting resurfaced in 1950 as part of the collection of the late Captain FC Gordon. It was not exhibited to the public until 1957, and was not seen again for a further 15 years until the Hayward Gallery held an exhibition on the same subject.

Regarding the second Waverley criterion, the applicant stated that at various times in his career, Monet painted many views of London, from his first trip in 1870 until his last sojourn in 1901. In 1899 Monet began an extended series of works based on views of London which would eventually number nearly 100 works. Of the 35 oils and two pastel views of Charing Cross Bridge painted between 1899 and 1901, only 12 were actually finished on site, most, including this one dated 1904, being completed in Monet's studio at Giverny, where he showed less interest in topographical accuracy than in the treatment of atmosphere as a whole. Painted in primarily orange and blue tones, the deconstructed brushwork and relatively flat surface of the present work endowed the composition with an extremely vaporous atmosphere that obscured most of the major architectural features.

Regarding the third criterion, the applicant stated that there were currently 48 paintings by Claude Monet in public institutions in the UK. Of particular note were the two other works from the Charing Cross Bridge series, *Pont de Londres* (1902, National Trust, Chartwell House) and *Charing Cross Bridge* (1902, National Museum of Wales, National Museum Cardiff), both of which were typical of the series. The relative obscurity of this painting in the artist's oeuvre, and the availability of several other highly important paintings in public collections in the UK, led the applicant to believe that it could not be considered of outstanding significance for the study of some particular branch of art, learning or history in a way that was not already achievable.

We heard this case in November 2018 when the painting was shown to us. We found that the painting did not meet any of the Waverley criteria and recommended that an export licence be issued. An export licence was issued.

Case 10 A double-manual harpsichord by Joseph Mahoon



Double-manual harpsichord, London, 1738, by Joseph Mahoon (d. 1773). Case of this instrument was in oak with walnut veneer and decorative crossbanding, keyboard of ivory naturals and 'skunktail' sharps of ebony/ivory/ebony, brass strapwork hinges, stop knobs and s-shaped lid hooks, measuring 248cm long, 94cm wide, case height including lid 29.5cm.

The applicant had applied to export the harpsichord to the United States. The value shown on the export licence application was £85,560, which represented the hammer price at auction plus the buyer's premium plus VAT on the premium.

The Curator, Musical Instrument Collection, University of Edinburgh, acting as expert adviser,

Plate 8 Double-manual harpsichord by Joseph Mahoon. Gainsborough's House and Anne Purkiss

had objected to the export of the harpsichord, on the grounds that its departure from the UK would be a misfortune, under the first and third Waverley criteria for its outstanding significance for the study of music, musical instrument-making, furniture styles and visual art, as well as social and cultural history.

The expert adviser had provided a written submission stating that this double-manual harpsichord, a plucked stringed keyboard instrument, was in many ways the predecessor of the piano. The general condition appeared to be good, although as was inevitable with an



instrument of this age it had undergone various interventions during its lifetime, the earliest being in 1742 as inscribed on the lower keyboard.

Musical instrument-making in the 18th century was led from the major cities of Europe with London being at the forefront of developments. Mahoon was innovative. This transitional double-manual harpsichord represented an important element of the bridge between the earlier British style of harpsichord-making and the later 18th-century instruments from large manufactories such as those of Hermann Tabel, Jacob Kirkman, Burkat Shudi and John Broadwood. Harpsichords were the preserve of the rich due to the cost of making them and were high-status instruments. The 1730s was a particularly important musical decade, with GF Handel leading the way in the development of both opera and oratorio amid much competition between rival companies. Surviving instruments from this period were crucial pieces of evidence which allowed us to paint an informed picture of musical and cultural life in Britain.

Born in Exeter, where he continued to own property, Joseph Mahoon was a spinet and harpsichord maker active in London in the mid-18th century. He was appointed as 'Harpsichord Maker to His Majesty' (King George II) in 1729. While he was active as a harpsichord-maker for more than 40 years (c.1729–73), only two harpsichords and about a dozen spinets bearing his name had survived. Indeed, the only surviving British harpsichords dated between 1730 and 1739 were those by Mahoon. This, the only surviving double-manual harpsichord, was therefore unique and of outstanding significance. Mahoon's significance in his day was emphasised by the remarkable fact that William Hogarth depicted an instrument by Mahoon in his most famous series of satirical engravings, *The Rake's Progress*, published in 1735.

The applicant disagreed that the harpsichord met the Waverley criteria. They did not feel that this instrument was a better example of harpsichords

from the mid-18th century than those of other more famous makers, for example Kirkman and Shudi. While this was the only double-manual instrument now known to be extant, there were 13 surviving spinets made by Joseph Mahoon, most of which still resided in England, including one at the Victoria and Albert Museum. The Joseph Mahoon 1738 double-manual harpsichord had also been out of England on exhibit for quite a long time at the Germanisches National Museum in Nuremberg and at the Stadtmuseum in Munich.

While some instruments were extremely beautifully decorated, which added to their uniqueness, the Mahoon harpsichord looked virtually identical to most other English harpsichords of the same period. The working mechanisms were also identical to that of other instruments such as those made by Kirkman and Shudi.

As far as could be ascertained, it was not known when Joseph Mahoon was born or his nationality at birth. In this time period, many harpsichord makers moved from Germany to begin production of instruments in England where there was a large market for them. The earliest record of Mahoon's practice was on 8 July 1729 when he was listed as a harpsichord maker in London.

We heard this case in November 2018 when the harpsichord was shown to us. We found that it met the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life, and it was of outstanding significance for the study of music, musical instrument-making and the history of performance. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £85,560 (inclusive of VAT). 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 harpsichord, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by Gainsborough's House to raise funds to purchase the harpsichord. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the harpsichord had been purchased by Gainsborough's House with assistance from Art Fund, ACE/V&A Purchase Grant Fund and the National Heritage Memorial Fund.

Case 11 The Archigram archive

An archival collection of material produced by the internationally recognised 1960s architectural group Archigram, comprised of around 18,000 drawings and photographic items, 17 models, over 400 video and audio tapes, and around 60 boxes of documents and correspondence. The items in the archive ranged in date from 1954 to around 1975, with a small amount of related material from the 1980s and 1990s.

The Chairman stated that the Committee's remit was to consider items over 50 years of age against the Waverley criteria. He noted that while much of the material the applicant had applied to export was over 50 years of age some of the material was under 50 years of age:

- The applicant stated that by acquiring the archive they had made a moral commitment both to the material and to its creators. The applicant viewed the archive as a single entity. Both the applicant and the creators were committed to the archive remaining intact.
- The expert adviser stated that the core productive period of Archigram was between 1961 and 1972. The bulk of the projects were from before 1968. Significant themes arose from this earlier work that were then explored and enhanced further by the later work. The expert also noted that eight of the nine (and a half) Archigram magazines were produced over 50 years ago. She confirmed that her objection still stood in relation to this material.

The Chairman agreed to proceed with the case hearing. He reminded the meeting attendees that the Committee's recommendation to the Secretary of State could only be made on that material which was over 50 years of age.

The applicant had applied to export the archive to Hong Kong. The value shown on the export licence application was £2,665,000, which represented an estimated value based on a valuation undertaken in 2016.

The Senior Curator, Designs, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the archive, on the grounds that its departure from the UK would be a misfortune, under the third Waverley criterion for its outstanding significance for the study of architectural history.

The expert adviser had provided a written submission stating that Peter Cook (b.1936), David Greene (b.1937) and Michael Webb (b.1937), who had all studied at the Architectural Association, came together in 1960 to produce the first issue of

a magazine which they called *Archigram* (a fusion of 'Architecture' and 'Telegram'). They were joined the following year in the production of the second issue by Ron Herron (1930–94), Dennis Crompton (b.1935) and Warren Chalk (1927–88), who were all working at the London County Council's architects' department.

Influenced by radical thinkers of the mid-20th century, such as Bruno Taut, Walter Gropius and Buckminster Fuller, the members of Archigram were provocative in their desire to reconfigure the relationship between society, architecture and technology. Their particular contribution to the critique of Modernism was to focus on the urban, the popular, the ephemeral and the idea of need-based architecture. They were recognised as some of the most iconoclastic and inventive architectural thinkers of the second half of the 20th century, whose work had a global impact. Their importance was formally acknowledged in 2002 when Archigram was awarded the Royal Institute of British Architects' Royal Gold Medal, despite it usually being reserved for architects who had produced a substantial body of built projects.

The influence of the group had been substantial, particularly on the ideas and forms of the high-tech movement and by pushing the boundaries of what kind of practice might actually constitute architecture. Both Richard Rogers and Norman Foster had spoken publicly about Archigram's influence on their approach to design, and the Pompidou Centre in Paris (1971–77) by Richard Rogers and Renzo Piano clearly related in its exposed structure and bright colours to Archigram's Plug-in City. Archigram's legacy was also to be found in a younger generation of architects, who were taught over a 30-year period by individual members of the group at the Architectural Association and The Bartlett, Britain's two most influential architectural schools.

Although their schemes remained unrealised, Archigram achieved significant impact through their architectural magazine of the same name. The fact that Archigram's practice generated conceptual architecture rather than actual buildings in no way diminished the significance of their ideas. On the contrary, their conceptual nature in many ways made them more mobile and adaptable. They made a vital and decisive contribution to architectural theory and practice in the late-20th century. The speculative status of their schemes arguably also increased the significance of the archive, as it was the principle material of their oeuvre.

The applicant had stated in a written submission that they did not consider that the archive met any of the three Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that the archive was not closely connected with British history and national life. The creators of the archive emphasised the transnational flow of ideas, people and images, taking inspiration from as far afield as California and Japan. They did not see themselves, nor did they operate, in terms of national borders or a nation's life, and so the archive's value did not specifically reflect British history or life. During the period in which the creators, called collectively Archigram, were active (1961–74), their work was mostly known among the circles of experimental architects considered their peers. However, none of their projects were ever built and therefore remained unknown to the broader public.

Regarding the second Waverley criterion, the applicant stated that the archive was not of outstanding aesthetic importance. The bulk of the archive consisted of technical and process drawings, photographic slides, publications, ephemera, documentary material, administrative and financial files, and other materials whose value and purpose was not primarily aesthetic.

Regarding the third Waverley criterion, the applicant stated that the archive's current state and condition and the lack of accessibility to it in

original and digital form during the 44 to 57 years since its creation meant that it had only limited significance to the study of a particular branch of art, learning or history. Any archive was only valuable to the study of a discipline if it was made accessible. Until now, this had not been possible as the archive had been held privately.

We heard this case in July 2018 when the archive was shown to us. We found that it met the third Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding significance for the study of architectural history. We noted the archive had been sold for £1,800,000 and recommended that the decision on the export licence application should be deferred for an initial period of four months to allow an offer to purchase to be made at the fair matching price of £1,800,000 (plus VAT). 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 archives, the deferral period should be extended by a further three months.

Having considered all the advice and representations on this case, the Secretary of State decided to issue a licence for the archive on the basis that the issue of overriding importance was that the archive should remain intact. An export licence was subsequently issued.

Case 12 A tear-shaped Bidri tray

Blackened zinc alloy inlaid with silver and brass, measuring 35cm by 29cm by 3cm, c.1650.

The applicant had applied to export the tray to the United States. The value shown on the export licence application was £75,000, which represented an agreed sale price.

The Acting Keeper, Asian Department, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the tray, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of Bidriware.

The expert adviser had provided a written submission stating that Bidriware of the 17th century was rare in any collection in the world, and barely represented in UK institutions. No UK public or private collection had any Bidri with such extensive or fine silver inlay, with the single exception of the Victoria and Albert Museum, which owned one piece. The vast majority of pieces in public and private UK collections dated from the 19th century. The largest Bidri collection in the UK was probably in the Victoria and Albert Museum, but only eight of the museum's 93 pieces were datable to the 17th century. Even here, dating was so uncertain that three may have been made in the 18th century.

The design of the silver and brass ornamentation of the tray under consideration found parallels on monuments in the Deccan. The scrolling lines bearing leaves and stylised flowers related particularly to the inlaid ornament on a bronze cannon, still to be seen in a fort near the city of Bidar. It bore an inscription stating that it was made in the workshop of the rulers of the Bidar sultanate; they were overthrown in 1619.

In its field, the Bidri tray was of outstanding rarity and aesthetic importance. To the expert's knowledge, it was one of only two Bidri objects to have its entire outer surface covered in this specific technique of silver inlay. The decoration determined by a complex intertwining of scrolling lines bearing leaves and stylised flowers was perfectly balanced. The shape was extremely rare in any class of metalwork from the Indian subcontinent.

The tray was of considerable importance for the study of Bidriware. Few 17th-century Bidri objects survived, and most could only be very approximately dated.

The rarity of such objects from the 17th century with this type of silver and brass decoration had been emphasised by the eminent Indian connoisseur Jagdish Mittal, whose museum collection of Bidri in Hyderabad, India, was pre-eminent internationally. The dating of this piece to the mid-17th century was made

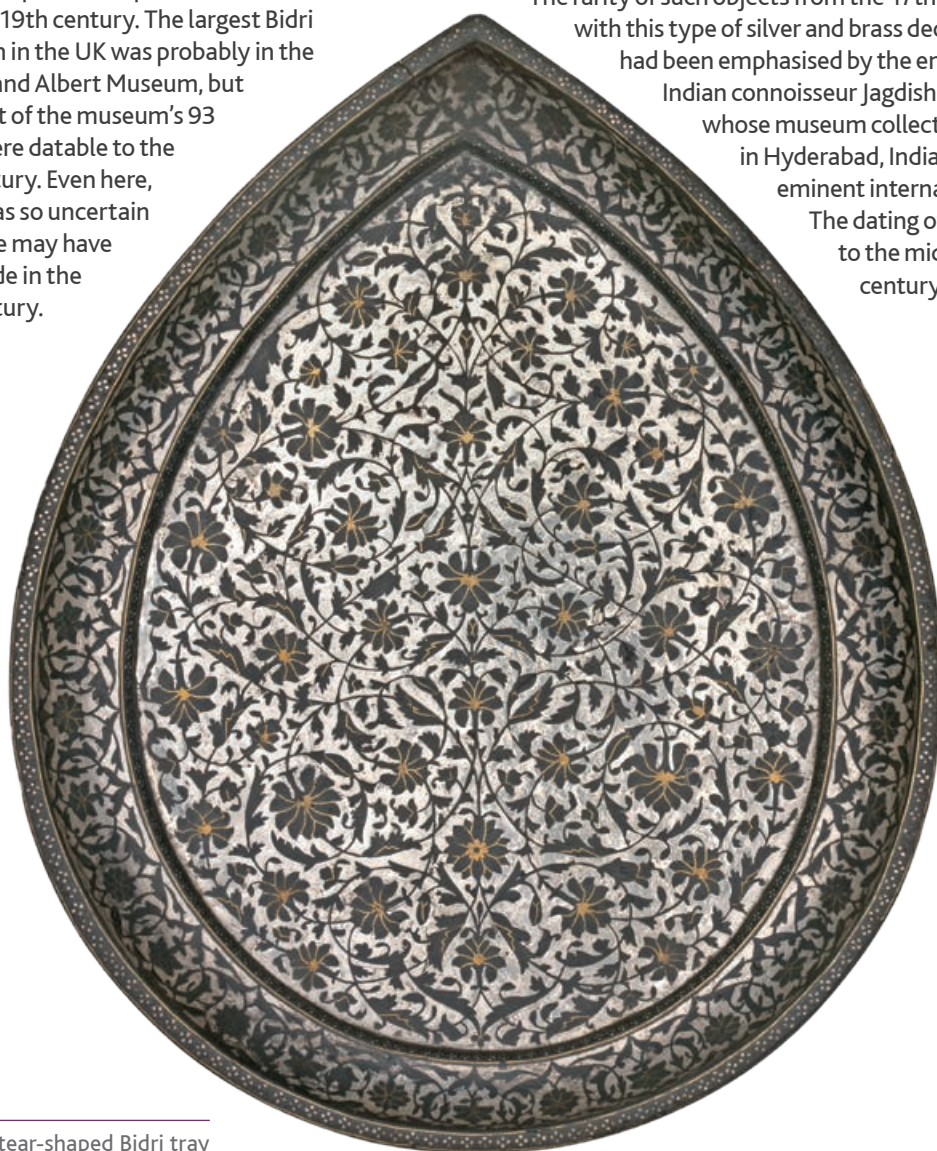


Plate 9 A tear-shaped Bidri tray

on the basis of the close comparison of its inlaid decoration to that of a ewer in the Victoria and Albert Museum. The specific form of the ewer was depicted in paintings produced between about 1650 and 1660. The tray and the ewer were probably made in the same workshop, providing an instance that was so far unique in the corpus of known Bidri artefacts predating 1800.

The tray may be linked indirectly to the transmission of metallurgical knowledge between India and England during the Industrial Revolution. A highly sophisticated process was required to produce metallic zinc: zinc ore vaporises and would be lost unless special arrangements were made to condense it. In the West, the zinc distillation process that allowed the metal to be produced on an industrial scale was not patented until 1738. In India, the technique was probably known by the 14th century, and it had been convincingly argued that knowledge of zinc smelting was transmitted from India to England as a direct result of British colonialism. This tray was tangible evidence of the superiority of a specific area of Indian metallurgy that would transform English industrial production.

The applicant had stated in a written submission that they did not consider that the tray met any of the three Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that during this period of Indian history, the Deccan, formerly ruled by its own sultanates, came under the control of the Mughal Empire. The technique of Bidriware had no relation to British history, British usage, British taste of the period or local Indian works of art made for export to Britain. It was entirely a local product for local consumption and completely un-influenced by the British market and its demands. It was not a product of the British Raj or the British Export Trade, but entirely a local product in Mughal taste.

Regarding the second Waverley criterion, the applicant stated that, while the Bidri tray was undeniably attractive and a fine work of art, it could not be considered an object of outstanding aesthetic importance. Firstly, the tray was not in good condition, with several pieces of silver missing. Secondly, the damage to the tray and the loss of silver prior to restoration must have resulted from the constant placement of a tear-shaped box of paan (betel) on top, and the friction and frequency of contact must have loosened the sheets of silver. This suggested that a pandan box and the tray were made as a set, like a basin and ewer, or round hookah base and ring, and got separated. If this was true, then the

tray was an incomplete part of a set of objects, which added to the condition problems already noted. This further detracted from it being of outstanding aesthetic importance. Thirdly, attention had been drawn to a tear-shaped tray standing on three feet in the collection of the Metropolitan Museum of Art, New York.

Regarding the third Waverley criterion, the applicant stated that the tray would have contributed to the study of Indian metalwork in the narrow field of Bidri but it was certainly not of outstanding significance to this study. There were many Bidri collections in the United Kingdom, the most significant of which was in the Victoria and Albert Museum, which had the best collection in the world outside India and, some may argue, even better. There was more than sufficient material in the United Kingdom for the thorough study of the field of Indian metalwork.

We heard this case in November 2018 when the tray was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of Indian and Deccan decorative arts. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £75,000 (plus VAT of £15,000). 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 tray, the deferral period should be extended by a further three months.

During the initial deferral period, the Victoria and Albert Museum, which acted as Champion for the Bidri tray, informed us that it had decided, having exhausted every other possibility of purchase by another public body, that it had an obligation to the national interest to try to raise funds to purchase the tray. Although the expression of interest came from the Secretary of State's expert adviser, confirmation was obtained at the time of the objection and at the meeting that the institution with which they were connected was not making enquiries with a view to purchasing or in the process of purchasing the item. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the tray had been purchased by the Victoria and Albert Museum.

Case 13 The Goodwood Cup by Edward Barnard & Sons

A monumental trophy jug cast from models supplied by the sculptor Joseph Edgar Boehm (1834–90), the tapering cylindrical barrel cast and chased in relief with figures. Maker's mark of 'J EBW & J.' for Edward, John and William Barnard & Sons and duty, sterling, leopard head, date letter O (1869-70) J.W.Benson, London, 1869. Inscribed 'GOODWOOD/1869/WON BY/Baron Mayer/De Rothschild's/RESTITUTION/4 years old', measuring 59.7cm high, weight: 412oz 13dwt (excluding inscribed plinth).

The applicant had applied to export the cup to Thailand. The value shown on the export licence application was £161,500, which represented an agreed sale price.

The Acting Keeper, Sculpture, Metalwork, Ceramics and Glass Department (Metalwork Section), Victoria and Albert Museum, acting as expert adviser, had objected to the export of the cup, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of 19th-century silver manufacture and the history of sporting trophies.

The expert adviser had provided a written submission stating that the 1869 Goodwood Racing Trophy was an outstanding monumental example from the best period of manufacture of sporting trophies – from the 1830s to the 1870s, a period in which 'some of the grandest, largest and technically unmatched sporting trophies were derived.' Barnard was one of the most prolific manufacturers – and this trophy was one of their most technically proficient. It was professionally designed by a celebrated Victorian sculptor Joseph Edgar Boehm who had considerable skill as an animalier, evidenced by his own passion for horsemanship and his rising fame as a portraitist in society. In 1869 he was also commissioned to make a huge marble statue of Queen Victoria for Windsor Castle.

From the late-18th century, sporting trophies were usually designed as cups with covers in the Neo-

classical style, often in the form of famous antique models such as the Warwick, Buckingham and Portland Vases. Such silver prizes were regularly ordered from silversmiths by local retailers or race stewards for the winners of horse races. Race prizes were in great demand from all over the country from Buxton to Newcastle, York to Nottingham and Cheltenham to Brighton and from overseas as far away as Melbourne, Australia, and Madras and Calcutta, India. The ubiquity of the cup form, especially for horse racing was lampooned by contemporary wits.

This was thought to be the only documented example of a silver trophy on which the subject of the relief had been copied from a celebrated contemporary painting. As there was a large demand for reproduction prints of Frith's *The Derby Day*, it was probable that the race stewards requested this design source. This trophy was thus a very special commission linking an innovative artist and royal sculptor to contemporary manufacture, resulting in a technically and artistically splendid piece of silver. The importance of its original varied surface finish, contrasting oxidation against polished silver, was a significant new development. The design also demonstrated contemporary humour; notably in the ingenious use of the inverted jockey cap as the lip, possibly suggested by the Goodwood race stewards.

The applicant disagreed that the cup met the Waverley criteria. They stated that it was not strictly an original artwork – the scene created was a replica of *The Derby Day* by William Powell Frith. Furthermore, they did not believe that a trophy/cup made to commemorate winning a horse race and sold by the owning family was sufficiently connected with our national life that its departure should be rejected.

We heard this case in December 2018 when the cup was shown to us. We found that the cup did not meet any of the Waverley criteria and recommended that an export licence be issued. An export licence was issued.

Case 14 Three autograph manuscript leaves by Charles Darwin

i. An autograph manuscript page from *On the Origin of Species* written in the hand of Charles Darwin (1809–82), 1858–59. One quarto leaf (22.4cm by 20.9cm), ink and graphite on blue wove paper, numbered '324' in top-right corner by Darwin.

ii. An autograph manuscript leaf from *The Expression of the Emotions in Man and Animals* written in the hand of Darwin, 1872. One page, oblong slip (c.10.2cm by 20.2cm), ink on paper, 44 words on six lines, unnumbered fragment, unrelated mathematical calculations on verso.

iii. An autograph manuscript page from *The Expression of the Emotions in Man and Animals* written in the hand of Darwin, 1872. One page, quarto leaf, roughly cut at the foot (19.2cm by 20.2cm), ink on blue wove paper, c.101 words on 12 lines, paginated 'p.8' in the hand of Darwin.

The applicant had applied to export the leaves to the United States. The value shown on the export licence application was £827,500, which represented the hammer price at auction plus the buyer's premium.

The Head of Special Collections, Library and Archives, Natural History Museum, acting as expert adviser, had objected to the export of the leaves, on the grounds that their departure from the UK would be a misfortune, under the first Waverley criterion.

The expert adviser had provided three written submissions, one for each of the leaves, stating that they were all manuscript pages in the hand of Charles Robert Darwin (1809–82), the English naturalist, biologist and geologist, and arguably one of the most influential and recognisable figures in human history. Darwin's ground-breaking scientific work on the evolution of species titled *On the Origin of Species* was first published in 1859. It was the first of three major works in which he sought to explain the diversity of life and the modification of evolutionary descent through natural selection; *The Descent of Man* (1871) and *The Expression of the Emotions in Man and Animals* (1872) completing Darwin's trilogy on evolution.

One leaf was from his draft for *On the Origin of Species* (leaf i), in which he sought to explain the diversity of life and the modification of evolutionary descent through natural selection. Regarded as the foundation of evolutionary biology, it caused an intellectual revolution and to this day remained one of the most important books ever published, especially when measured in terms of its impact

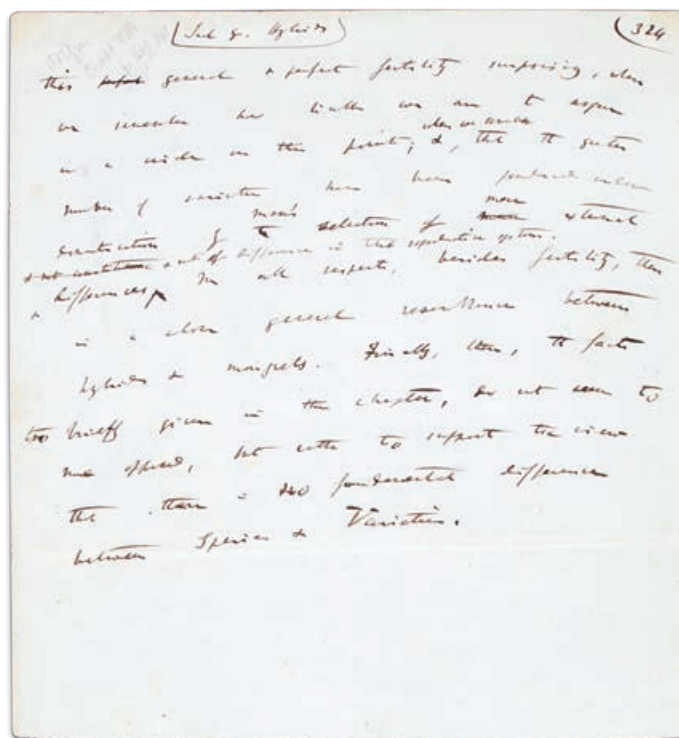


Plate 10 An autograph manuscript leaf from *On the Origin of Species* by Charles Darwin

on humanity. As a result of his working practice, Darwin often made stylistic changes in the proof stage. This manuscript page included corrections and two inserted passages and so, like other known manuscript pages, differed substantially from what was eventually published in the first printing of *On the Origin of Species*, making it unique.

Two of the leaves from his draft for *The Expression of the Emotions in Man and Animals* (leaf ii, leaf iii) were a physical manifestation of his manuscript draft, likely written at his house in Down, Kent, where Darwin completed the manuscript for the book in just four months in early 1872. Now preserved by English Heritage, Down House was internationally recognised as a significant place in the history of science and evolution and so this insertion not only represented a good example of Darwin's working practice – which was to revise continually and refine his prose – but as a physical manifestation held significant association to a place of outstanding significance. The text for leaf iii was considerably revised but not materially altered prior to its publication in the first edition of *The Expression of the Emotions in Man and Animals*, making it unique. The text for leaf ii was published on page 31 of the first edition of *The Expression of the Emotions in Man and Animals* with minor stylistic differences to the published version, making it unique.

The applicant had stated in a written submission that they did not consider that the leaves met any of the three Waverley criteria. The applicant stated that Darwin's work on evolution by natural selection was, of course, of the highest importance. The development of Darwin's text was therefore of significant interest and the surviving leaves of manuscript provided important information for this subject of study (although Darwin himself placed such little value on his drafts that he allowed them to be used as scrap paper, while his son, Leonard Darwin presented leaves of his father's manuscripts as mementoes to fellow eugenicists). The key scholarly work on these manuscripts had already been undertaken by the meticulous Darwin Manuscripts Project, led by the American Museum of Natural History, even though the vast bulk of the manuscripts were held in the UK. High-quality digital images (recto and verso) of all three leaves were freely available through this Project, their place within Darwin's overall scientific writing had been established, and an accurate diplomatic transcription of leaf i was also available. The original manuscript leaves themselves were not, therefore, any longer of outstanding significance for the study of some particular branch of art, learning or history – regardless of the significance of these portions of text to Darwin's overall argument. Nor, of course, were these leaves of outstanding aesthetic importance.

These autograph manuscripts had a value as they provided a potent and intimate link to the writing of a great and revolutionary work. The applicant argued, however, that this value did not mean that they were so closely connected with our history and national life that their departure would be a misfortune. The vast majority of Darwin's manuscript leaves were in UK institutions, and visitors to many places with connections to Darwin (especially Cambridge University but also, for

example, Down House and The Linnean Society) could already see similar trophies, if they were on public view. Darwin was, of course, British, but the theory of evolution by natural selection was of equal importance throughout the world, as the US funding of the Darwin Manuscripts Projects demonstrated.

We heard this case in December 2018 when the leaves were shown to us. We agreed that each of the leaves were individually significant and, therefore, agreed to recommend that the export of each leaf was deferred separately. The applicant subsequently submitted separate export licence applications for each. We found that each leaf met the first Waverley criterion on the grounds that their departure from the UK would be a misfortune because they were so closely connected with our history and national life. We recommended that the decision on the export licence applications should be deferred for an initial period of three months for each to allow an offer to purchase to be made at the fair matching prices: for the leaf from *On the Origin of Species* (leaf i), the Committee recommended the sum of £490,000 (plus VAT of £18,000) as a fair matching price; for the leaf from *The Expression of the Emotions in Man and Animals* (leaf ii), the Committee recommended the sum of £200,000 (plus VAT of £8,000) as a fair matching price; for the leaf from *The Expression of the Emotions in Man and Animals* (leaf iii), the Committee recommended the sum of £137,500 (plus VAT of £5,500) as a fair matching price.

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 leaves, the deferral period for each should be extended by a further four months.

At the end of the initial deferral period, no offer to purchase any of the leaves had been made and we were not aware of any serious intention to raise funds. Export licences were therefore issued for each.

Case 15 One autograph manuscript leaf by Charles Darwin

In December 2018, the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest considered an application to export an autograph manuscript leaf from *On the Origin of Species* by Charles Darwin. The Committee

concluded that the leaf met the first Waverley criterion. The application for an export licence was subsequently withdrawn. Consequently, no decision on the application has been made by the Secretary of State.

Case 16 *In the Austrian Tyrol* by John Singer Sargent

A painting by John Singer Sargent (1856–1925), *In the Austrian Tyrol*, 1914, oil on canvas, measuring 54.6cm by 69.9cm.

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £5,750,000, which represented an agreed sale price.

The Curator, British Art 1850-1915, Tate Britain, acting as expert adviser, had objected to the export of the painting, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of and understanding of Sargent's body of work.

The expert adviser had provided a written submission stating that *In the Austrian Tyrol* was painted in Southern Tyrol at Kolfuschg (modern-day Colfosco), then situated in Austria, at the very

beginning of the First World War. The oil painting most probably represented Sargent himself with a guide, resting by a watermill at the foot of the dramatic Sella range. It was significant that *In the Austrian Tyrol* was among the exhibits selected for the Sargent memorial exhibition at the Royal Academy in 1926, as one of the best examples of his work. That the landscape featured both in the permanent hang of a national museum and in Sargent's testament exhibition was a clear indication that it was of outstanding aesthetic importance and that, as such, it fulfilled the second Waverley criterion. Both 'performative and expressive', the painting epitomised what Sargent excelled at in his figures and landscape paintings: he captured the rocky structure of the Alps with great illusionism, while 'transgress[ing] the Claudean landscape tradition... the space was

Plate 11 *In the Austrian Tyrol* by John Singer Sargent



closed, and the eye confronted by [the scene]'. In typical fashion, Sargent actively framed the scene, here from below: figures were foreshortened, the Sella range and mill sharply cropped in the dappled light.

Richard Ormond and Elaine Kilmurray's *catalogue raisonné* of John Singer Sargent's oeuvre underlined how key this painting was within the important body of works executed by the artist during an extended trip in the Alps in the autumn of 1914, when he was trapped in 'enemy' country with a party of his friends. The Alps represented an essential motif in Sargent's oeuvre. From the late 1850s until 1873, the Sargent family made pilgrimages to the mountains almost every year, but he did not start to tackle Alpine landscapes as a mature artist until 1902, when he began regular painting campaigns in the region. His 1914 trip was the longest visit spent in the mountains since his childhood. It was therefore argued that *In the Austrian Tyrol* was of outstanding significance for the study and understanding of this important body of works, most of which were now abroad.

The applicant disagreed that the painting met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated *In the Austrian Tyrol* was a picture painted in Austria of an Austrian subject by an American. There was little to connect this painting with our history or national life.

Regarding the second Waverley criterion, the applicant stated that the painting was typical of Sargent's bravura technique. There was no denying the artist's technical proficiency, but this skill was repeated in almost all of his paintings. The applicant argued that the sombre, cold palette and central subject of the picture (a disused water mill that blocks out the view of the sky) precluded the work, however well painted, from qualifying as a picture of 'outstanding' aesthetic importance.

Regarding the third Waverley criterion, the applicant stated that it was difficult to argue that this painting was of 'outstanding significance' for the study of some particular branch of art, learning or history. In simple terms, the painting showed two hikers lying prostrate in front of an Austrian mill. There were a number of other works in UK public collections which would match the criteria described above

far more than this painting. There was little of significance that could be learnt from this painting that could not be gleaned from the works by the artist that were already in public collections.

When invited by the Chairman at the meeting to expand on their submission, or respond to the expert's submission, the applicant elaborated on their initial statement with further examples. The applicant did not believe that inclusion in the 1926 Sargent memorial exhibition at the Royal Academy made the painting of outstanding significance, noting that the exhibition was very inclusive and that the painting was one of 631 works. They further explained that Sargent had not submitted this painting to the Royal Academy at an earlier opportunity in 1915, despite including four others from the same period. This possibly indicated that the artist thought this was of lesser quality compared to the four he did include.

The applicant noted the large number of Sargent's paintings already in UK public collections, and regarded the Alpine scenes in these collections, especially those featuring crucifixes and graveyards, to be of greater significance. They also considered it unlikely that this was a self-portrait, as Sargent rarely produced these and the evidence was not conclusive.

We heard this case in January 2019 when the painting was shown to us. We found that it met the second Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £5,750,000 (plus VAT of £50,000). 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 painting, the deferral period should be extended by a further five months.

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

Case 17 An Italian Baroque cabinet by Giacomo Herman

An Italian Baroque cabinet (or 'studiolo') by Giacomo Herman, on an early-18th-century giltwood console table. The ebony veneered cabinet is mounted with lapis lazuli, jasper and gilt bronze, together with 14 gouache miniature paintings depicting views of Rome. Within the pediment is a nocturnal clock by Giovanni Wenderlino Hessler and, concealed within the base, a virginal by Giovanni Battista Maberiani, dated 1676. The later table, formed of two male figures, masks and scrollwork, supports a veneered verde antico and lumachella marble top. The cabinet is surmounted by a gilt bronze equestrian figure and measures 284cm by 172cm by 72.5cm.

The applicant had applied to export the cabinet to Monaco. The value shown on the export licence application was £3,250,000, which represented an estimated value.

The Senior Curator, Furniture and Woodwork, National Museums Scotland, acting as expert adviser, had objected to the export of the cabinet, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of Baroque decorative art and cultural history.

The expert adviser had provided a written submission stating that the ebony veneered cabinet (or 'studiolo') was one of a group of four similar cabinets, apparently completed between 1669 and 1678. It was mounted with lapis lazuli, jasper and gilt bronze, together with 14 gouache miniature paintings depicting Roman basilicas and the city-wide procession that would have taken place following the coronation of a new Pope. The other three cabinets, housed at Rosenborg Castle, Fredensborg Castle (both Denmark) and the Chapel of the Virgin of Loreto in Kraków, were of identical size and format, and each one contained the remarkable combination of nocturnal clock and virginal. They contained gouache miniatures depicting Biblical scenes derived from Raphael's Vatican Logge.

Giacomo Herman (1615–85) was Rome's leading cabinet-maker during the 1660s and 1670s, documented as working for four successive popes and noble Roman families. The cabinet was one of the outstanding productions in furniture of the Italian Baroque, which combined exceptional craftsmanship in several forms and media: the design and execution of the cabinet work itself, the nocturnal clock and virginal, and the later console



Plate 12 An Italian Baroque cabinet by Giacomo Herman

which had supported the cabinet since the early-18th century. Although additional to the original design concept, the console was an exceptionally dynamic and powerful piece of carving, clearly designed to maintain the status of the treasured cabinet within a contemporary palatial setting. Probably in the mid-20th century, the London cabinet was fitted with a 19th-century gilt bronze figure after the Capitoline Marcus Aurelius. This had now been replaced with what was probably the original bronze representing Constantine the Great, which was also based on the Capitoline antique bronze statue of Marcus Aurelius.

Documented work of significance from 17th-century Italian workshops was so rare that items like this cabinet formed the foundation of scholarly understanding in the subject. Although not signed by Herman, two of the four cabinets, including this one, were signed by the artisan Johannes Meisser of Freiburg, which offered a glimpse into workshop practice. In 17th-century Rome, furniture was a medium which partook of new architectural ideas, an extension of the inventive spirit which established a common language of dramatic form and narrative representation that informed the decorative arts throughout Europe.

It had been assumed that the present cabinet came to Britain during the 19th century as part of the general trade in Italian art. However, it was recently proposed that this cabinet could be

identified with one recorded by George Vertue at Cowdray House, Sussex, in 1738. If this proposition could be proven, the cabinet would have left Italy up to 50 years before those now in Denmark, and would represent a much earlier, and hence highly significant, interest in specifically Roman art and culture in this country.

The applicant did not disagree that the cabinet met the Waverley criteria.

We heard this case in October 2018 when the cabinet was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of Baroque decorative art and cultural history.

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

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 an arbitrator to act as an expert and by whose decision the parties would be bound. The applicant agreed to this procedure.

The Secretary of State agreed the Committee's recommendation and having been given the identity of the valuer appointed by the Secretary of State, Alexis Kugel of Galerie Kugel, the applicant agreed to be bound by their valuation which was £3.3 million and the Secretary of State recommended that as the fair matching price. Having regard to the fair matching price, the Committee agreed to recommend 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 to be made at the fair matching price of £3.3 million. 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 cabinet, the deferral should be extended by a further four months.

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

Case 18 A 'Kunstammer' Renaissance casket from Newbattle Abbey



A wooden casket of architectural form with decoration of perspectival geometrical marquetry relating to contemporary treatises, with engraved plaques and carvings; south German (probably Nuremberg), dated 1565; on a separate carved walnut stand with drawer, probably English, c. 1720–30. Measuring 34.5cm by 53cm by 36cm; stand measuring 89cm by 57.5cm by 39cm.

The applicant had applied to export the casket to the Netherlands. The value shown on the export licence application was £750,000, which represented an estimated value.

The Curator, Department of Furniture, Textiles and Fashion, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the casket, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of German renaissance cabinet-making.

The expert adviser had provided a written submission stating that the casket was superbly executed in a wide variety of materials including wood marquetry, engraved ivory and bone, and etched and gilded metalwork. The casket was remarkable for its panels of geometrical polyhedra depicted in perspectival marquetry of woods and mother of pearl. Within a series of aedicules ornamented with carved alabaster terms and masks, were engraved ivory and bone plaques derived from 16th-century German engravings.

The carved and veneered walnut stand with a feather-banded drawer was evidently made for the casket. Its similarity to small gilded tables for aristocratic patrons c.1718–30 suggested a speculative attribution to James Moore (c.1670–1726), cabinet-maker to the Royal Household from 1714, but other attributions could also be considered. If it was English, as presumed, the stand's sensitivity in form and materials to the casket was remarkable evidence of the high regard in which the latter was held in early-18th-century Hanoverian Britain. Further research may help identify the designer and commission.

It was the only piece employing this distinctive type of geometrical marquetry from a British collection; other examples were in the Kunsthistorisches Museum, Vienna, the Metropolitan Museum of Art, New York, and applied arts museums in Cologne and Frankfurt, as well as in private collections. Although neither a designer nor workshop had yet been identified, the group could be plausibly associated with the city of Nuremberg, c.1565, the date on this piece. This group was important for establishing the production of high-quality marquetry furniture in south Germany outside Augsburg, and in signalling continued interest in perspective.

The applicant accepted that the casket probably met all three Waverley criteria.

The applicant stated that the casket from Newbattle Abbey was of prime importance for British national history with regard to its prestigious provenance. The fact that a premium-quality stand was commissioned after its arrival in England in c.1720, possibly from James Moore, indicated the high esteem in which the Renaissance casket was held at that time.

The casket's cultural importance had a European dimension, for it testified to the interaction between art and science that was discussed in the 16th century in Italy, in the Holy Roman Empire and in England. Dated 1565, the casket was one of the earliest known pieces of *Kunstammer* furniture and could certainly be labelled as one of the most important pieces of south German furniture.

We heard this case in January 2019 when the casket was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of German Renaissance cabinet-making.

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

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 an arbitrator to act as an expert and by whose decision the parties would be bound. The applicant agreed to this procedure.

The Secretary of State agreed to the Committee's recommendation and appointed Martin Levy of H Blairman & Sons Ltd to undertake the valuation. The applicant agreed to be bound by Martin Levy's valuation, which was £750,000, and the Secretary of State agreed that as the fair matching price. Having regard to the fair matching price the Committee agreed to recommend 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 to be made at the fair matching price of £750,000 (inclusive of VAT). The Committee further recommended

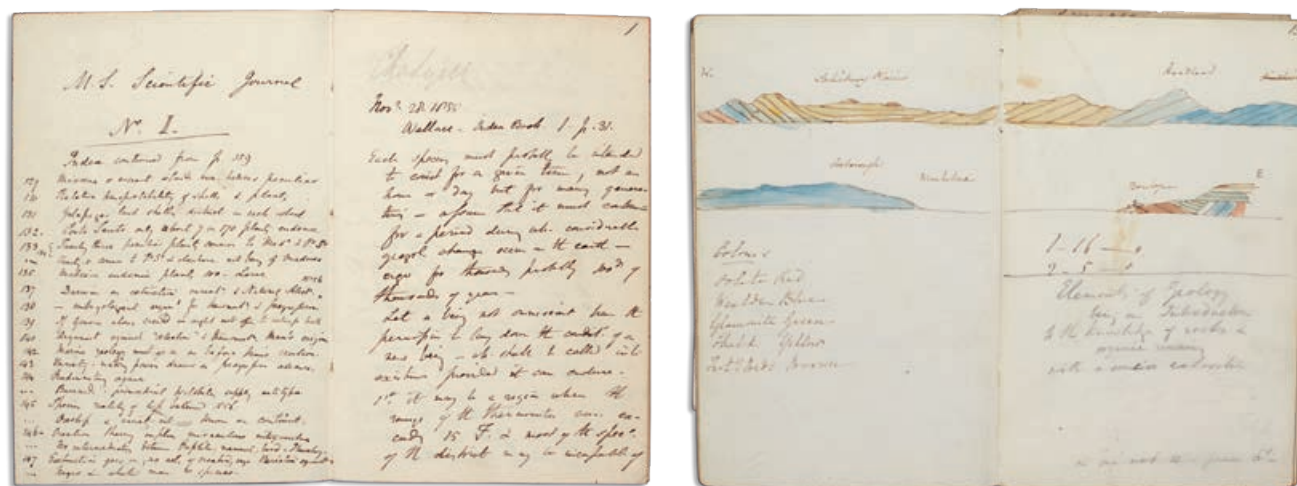
that if, by the end of the initial deferral period, a potential purchaser had shown a serious intention to raise funds with a view to making an offer to purchase the casket, the deferral should be extended by a further three months.

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



Plate 13 A 'Kunstammer' Renaissance casket from Newbattle Abbey

Case 19 The notebooks of Sir Charles Lyell



A total of 294 manuscript notebooks of the geologist Sir Charles Lyell (1797–1875), in two series: 263 numbered notebooks, 1825–74, on geology, natural history, social and political subjects; 31 additional notebooks, 1818–71, with indices. Mostly octavo format.

The applicant had applied to export the notebooks to the United States. The applicant confirmed the value shown on the export licence application should have been £1,444,000, which represented an agreed sale price plus commission.

The Head of Western Heritage Collections, British Library, acting as expert adviser, had objected to the export of the notebooks, on the grounds that their departure from the UK would be a misfortune, under the third Waverley criterion for their outstanding significance for the study of Lyell's work, the development of modern scientific knowledge, and late-Georgian and Victorian intellectual culture.

The expert adviser had provided a written submission stating that the notebooks were the raw material for the noted geologist Sir Charles Lyell's printed works. They recorded his developing ideas about the uniformity of nature and the possibility of explaining features such as climate change, species extinction and biodiversity through natural causes. They documented his field studies across Britain, France, Italy, Scandinavia, Madeira, the Canary Islands and North America.

Additionally, he recorded his conversations with fellow scientists and local informants and copied out letters sent and received. In combination

with his field investigations, Lyell's energetic engagement with past and contemporary fellow enquirers over the course of a long professional life presented a remarkable picture of a man 'doing science'. It was a more rounded portrayal than that found in any comparable scientific archive of the period, Darwin's not excepted.

The notebooks were an invaluable resource for understanding the evolution debates. When Darwin returned from the Beagle expedition, Lyell was his principal mentor. Darwin kept Lyell informed about his developing theory of evolution and, following the publication of *On the Origin of Species* in 1859, sent him copies of the letters that he received. Many of these, recopied by Lyell, were unique survivals. Lyell himself continued to write privately about Darwin's theory throughout his life.

The notebooks were also of great significance for palaeontologists. Lyell collected tens of thousands of fossils across Britain, Europe and America. Many were preserved in UK collections, under-researched because Lyell's notes were the only record of provenance and context that existed for them.

The expert adviser suggested that this was an exceptionally wide-ranging collection that revealed the working practices, experimental findings, intellectual development, political engagement and writing strategies of one of the most influential scientists of the past two centuries. The collection was of outstanding significance to scholars of earth and life sciences, who had long recognised its unavailability as a barrier to research in the period. Furthermore, the archive reflected the age.



Plate 14 The notebooks of Sir Charles Lyell

The discoveries of geology – the unstoppable forces of nature, the puniness of man when measured against geological time – contributed greatly to the crisis of faith that permeated Victorian culture. Lyell's many-faceted archive would therefore be of great significance to researchers in the literature, philosophy and broader culture of the period.

The applicant did not consider that the notebooks met either the first or second Waverley criteria. However, they did accept the notebooks met the third Waverley criteria.

The applicant had stated that Sir Charles Lyell was a key figure in the history of geology, and to the history of science more generally. Science by its nature transcended national borders. Lyell made his geological breakthroughs as a result of fieldwork undertaken throughout Europe and in North America, with a keen knowledge of geological findings further afield, and through correspondence with fellow scientists across the world. The applicant did not accept that the UK had a unique claim on Lyell's research. Lyell's work was part of humanity's shared intellectual heritage and therefore the departure of these notebooks from these shores would not be a misfortune.

The notebooks were undeniably of outstanding significance for the study of history of science and remained a resource that had not been fully exploited by scholars. The applicant therefore accepted that they met the third of the Waverley criteria.

We heard this case in February 2019 when the notebooks were shown to us. We found that they met the first and third Waverley criteria on the grounds that their departure from the UK would be a misfortune because they were so closely connected with our history and national life, and were of outstanding significance for the study of Lyell's work, the development of modern scientific knowledge, and late-Georgian and Victorian intellectual culture. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £1,444,000. 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 notebooks, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by the University of Edinburgh to raise funds to purchase the notebooks. The deferral period was extended by a further three months in order for agreement to be reached regarding a private treaty sale at the tax remitted price of £966,000. We were subsequently informed that the notebooks had been purchased by the University of Edinburgh with assistance from the National Heritage Memorial Fund, the John R Murray Charitable Trust, Friends of the National Libraries, The Friends of Edinburgh University Library, Heriot-Watt University, Edinburgh Geological Society and Geologists' Association Curry Fund.



Case 20 *A Young Man Standing* by Lucas van Leyden

Lucas van Leyden (c. 1494–1533), *A Young Man Standing*. A drawing with black chalk, watermark pot with two handles, above crown, cut out and laid down; measuring 27.9cm by 13.2cm.

The applicant had applied to export the drawing to the United States. The value shown on the export licence application was £11,483,750, which represented the hammer price at auction plus the buyer's premium.

The Simon Sainsbury Keeper of Prints & Drawings, The British Museum, assisted by the Print Curator: Northern European Prints, Monument Trust, The British Museum, acting as expert adviser, had objected to the export of the drawing, on the grounds that its departure from the UK would be a misfortune, under the third Waverley criterion for its outstanding significance for the study of the works of Lucas van Leyden.

The expert adviser had provided a written submission stating that Lucas van Leyden was the first Netherlandish artist of international fame, providing a model for others, such as Rembrandt, to follow. Van Leyden was renowned for his prints and was considered the Dutch counterpart to Albrecht Dürer. This drawing shed new light on our understanding of Lucas van Leyden, his draughtsmanship and his artistic development.

The applicant did not disagree that the drawing met the Waverley criteria but noted that the drawing was not as well preserved as the majority of the drawings by the artist in British collections and that the British provenance only extended to the 19th century.

We heard this case in March 2019 when the drawing was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance, and it was of outstanding significance for the study of the works of Lucas van Leyden. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £11,483,750 (plus VAT of £296,750). 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 drawing, the deferral period should be extended by a further five months.

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

Case 21 *Painted Screen* by Francis Bacon

Francis Bacon (1909–92), *Painted Screen*, c. 1930. Oil on plywood with metal hinges, each panel measuring 183cm by 61cm by 2.8cm; measuring 183cm by 183cm by 2.8cm overall.

The applicant had applied to export the screen to Italy. The value shown on the export licence application was £2,501,572.50, which represented the hammer price paid by the owner at auction, plus the buyer's premium, artist resale rights and VAT on the premium.

The Chief Curator, Scottish National Gallery of Modern Art, acting as expert adviser, had objected to the export of the screen, on the grounds that its departure from the UK would be a misfortune, under the first, second and third Waverley criteria for its outstanding significance for the study of the work of Francis Bacon, one of the greatest artists of the 20th century.

The expert adviser had provided a written submission stating that Francis Bacon was probably the most important British artist of the 20th century, and arguably of any century. He was known above all for his triptychs and Bacon acknowledged that these were his most important works. This was his first work in the triptych format, and indeed his earliest surviving large-scale work, and his earliest surviving figure painting.

Bacon was one of a very small number of British artists with undisputed, worldwide reputations, ranking alongside Constable and Turner in importance. He was such a magnetic, extraordinary figure that a group of acolytes emerged around him – the School of London – which itself occupied a major position in British art.

The screen was certainly of outstanding aesthetic importance. The recent five-volume *catalogue raisonné* by Martin Harrison and Rebecca Daniels (no.30-01: vol.2, p.112) rightly described it as 'Bacon's earliest surviving large-scale work and [it] contains the first of his large figures. In both respects, and in being conceived as a "triptych", it anticipates prominent characteristics of his mature oeuvre.' When it was offered for sale, it was described as: 'Shot through with the influence of Picasso, Léger and de Chirico, it contained Bacon's first large figures, anticipating the three biomorphic "Furies" that would inhabit his first canvas triptych, *Three Studies for Figures at the Base of a Crucifixion*, 1944. Compositionally, its geometric forms anticipated Bacon's later embrace of architectural framing devices as a means of spotlighting his subjects.' The *catalogue raisonné* listed only two other earlier works, both small and minor watercolours with gouache on paper.

For all the reasons stated above this was obviously a landmark piece. In terms of art history, it was slide no.1 for a lecture on Bacon, illustration no.1 in a book on his painting, and catalogue no.1 in an exhibition of his work. It was not a typical Francis Bacon; it was very much rarer than that, and should not be dismissed as 'furniture'. It showed a British artist at the start of a great career, finding the motif and format that would propel him to global fame.

The applicant disagreed that the screen met the Waverley criteria. Regarding the first Waverley criterion, they stated that Francis Bacon's *Painted Screen* (c.1930) was best understood in the context of the European avant-garde. The artist spent time in Berlin and Paris between 1927 and 1928, and was particularly inspired by his encounters with the work of artists such as Pablo Picasso, Fernand Léger and Giorgio de Chirico. The influence of all three was visible in the present work's biomorphic figures, surreal composition and geometric forms. More specifically, it echoed Picasso's own folding screens: the dealer Paul Rosenberg notably had one in his gallery's stock when Bacon attended an exhibition of drawings there in 1927. Bacon loved France and returned to Paris throughout his life, eventually taking a studio there. The work owed much more to the city's thriving artistic scene in the 1920s than to British culture of the same period.

Regarding the second Waverley criterion, the applicant stated that aesthetically, the work was something of an anomaly within Bacon's oeuvre. The folding screen was quickly abandoned, along with his broader interest in furniture. Much of its imagery was highly derivative, aping the language of his European contemporaries. The sleek, stylised figures were at odds with his later work, which favoured raw, visceral depictions of human flesh.

Regarding the third Waverley criterion, the applicant stated that Bacon's early furniture pieces, such as this work, were of minor significance within histories of design, and did not feature heavily in accounts of his own practice. During the early 1930s he abandoned his activities in the field in favour of painting on canvas, which would bring him to public attention and consume him for the rest of his career. He would later denounce much of the work he produced before 1944.

We heard this case in March 2019 when the screen was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of the work of Francis Bacon, one of the greatest



artists of the 20th century. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £ 2,501,572.50 (inclusive of VAT). 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 *Painted Screen*, the deferral period should be extended by a further four months.

Plate 16 *Painted Screen* by Francis Bacon

At the end of the initial deferral period, we were informed of a serious intention to raise funds to purchase the screen by a UK institution. A decision on the export licence application was deferred for a further four months. The applicant then withdrew their application. In accordance with normal policy, any subsequent re-application will normally be treated as if the Secretary of State had refused the licence. The screen remains in the UK.

Cases 22, 23 and 24

Three rugs by Francis Bacon

Case 22: A hand-knotted rug in wool with linen weft, designed by Francis Bacon, produced by Royal Wilton as part of their 'Wessex' range, 1929–30, measuring 212.5cm by 128 cm. The rug has a narrow cream-coloured border and is partially framed by black sections to the top left and bottom right corners. The design consists of rectangular grey shapes, interrupted by areas in lightly contrasting colours and motifs including a wavy edged section, three extended narrow lines and stylised leaves. 'Francis Bacon' in upper case letters is woven into the bottom-left corner.

The applicant had applied to export the rug to Monaco. The value shown on the export licence application was £146,742.90, which represented the hammer price paid by the owner at auction plus the buyer's premium and artist resale rights.

Case 23: A hand-knotted rug in wool with linen weft, designed by Francis Bacon, produced by Royal Wilton as part of their 'Wessex' range, 1929–30, measuring 212.5cm by 124.70cm. The rug is of a rich brown colour with a floating centralised geometric design, made up of overlapping elongated rectangles and semicircles. There are areas of contrasting spots and mottled weave in the outermost rectangles. 'Francis Bacon' in upper case letters is woven into the bottom-right corner.

The applicant had applied to export the rug to Monaco. The value shown on the export licence application was £186,642.90, which represented the hammer price paid by the owner at auction plus the buyer's premium and artist resale rights.

Plate 17, 18 & 19 Rugs by Francis Bacon (case 22 left, case 23 right and case 24 opposite page)



Case 24: A hand-knotted rug in wool with linen weft, designed by Francis Bacon and produced by Royal Wilton as part of their 'Wessex' range, 1929–30, measuring 206cm by 127cm. The background is bisected into roughly equal halves, one a light green and the other grey, on which sits a composition of overlapping and interlocking geometric shapes. Within the composition are wavy lines and two areas of spotted decoration. Two of the coloured sections have one jagged edge. The central rectangle extends upwards, intersecting the boundary of the background halves. The initials 'FB' are woven in black into the rug at the bottom-right corner.

The applicant had applied to export the rug to the United States. The value shown on the export licence application was £166,842.90, which represented the hammer price paid by the owner at auction plus the buyer's premium and artist resale rights.



The Keeper, Furniture, Textiles and Fashion Department, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the rugs, on the grounds that their departure from the UK would be a misfortune, under the second and third Waverley criteria for their outstanding significance for the study of Francis Bacon and his early work.

The expert adviser had provided a written submission stating that the rugs were of outstanding aesthetic importance in the history of British art and design. They were among the finest Modernist carpets ever produced in Britain, designed by one of Britain's greatest and best-known modern artists. The rugs were hand-knotted at Royal Wilton as part of their 'Wessex' range of highest-quality carpet weavings, which was initiated in 1929. The rugs showed Bacon working in a mode similar to his contemporary paintings, albeit in an especially abstract mode. They also shed light on the artist's early sources of inspiration.

Bacon's rugs were of great importance to his early work and required more research to be fully understood in the wider context of his life's work. Study of the objects themselves was key to such research. Until very recently, scholarship had not focused on this period in Bacon's life and both Bacon himself – as he became a successful fine artist – and certain scholars chose to ignore this work, preferring to adhere to the image Bacon fashioned for himself which focused solely on his painting. In addition, very little was known about the 'Wessex' range of rugs that the Royal Wilton carpet factory in Wiltshire (active since 1834 and given its royal title in 1904) produced around 1929. There was, remarkably, no published history of Wilton and their business archive needed further investigation. The subject could only be studied through surviving carpets and related documents, in particular the relationship between hand and machine production from the late-19th century until 1959, when hand-production ceased, and the role and significance of in-house designers versus independent, externally commissioned fine artists.

The applicant disagreed that the rugs met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that Francis Bacon's rugs were not integral to our cultural history. Primarily inspired by his travels in Berlin and Paris between 1927 and 1928, they owed much more to artistic developments in continental Europe than in Britain. Their bold geometric designs bore witness to

his encounters with Synthetic Cubism, Art Deco and the Bauhaus movement, as well as the tapestries of Jean Lurçat. Bacon spent much of his subsequent life in France, and felt a great affinity with European art and culture. The rugs are thus best understood in an international context.

Regarding the second Waverley criterion, the applicant stated the aesthetic significance of the rugs was minor within the grand scheme of Bacon's oeuvre. They were factory-produced, sometimes as part of commissions, and there were known instances of duplicated imagery. There were multiple extant rugs by Bacon, all similar in style, including one held in the Victoria and Albert Museum in London.

Regarding the third Waverley criterion, the applicant stated the rugs were not of outstanding significance in surveys of Bacon's art, nor in histories of design. His design practice was fleeting: during the early 1930s he abandoned his activities in this field in favour of painting, which would bring him to public attention and consume him for the next six decades. He would later denounce much of the work he produced before 1944.

We heard this case in March 2019 when the rugs were shown to us. We found that they each met the second and third Waverley criteria on the grounds that their departures from the UK would be a misfortune because they were individually of outstanding aesthetic importance, and they were individually of outstanding significance for

the study of Francis Bacon and his early work. We recommended that the decision on the export licence applications for the three rugs should be deferred for an initial period of three months to allow an offer to purchase to be made at the following fair matching prices:

Case 22 £146,742.90

Case 23 £186,642.90

Case 24 £166,842.90 (plus VAT of £6,500)

We further recommended that if, by the end of each of the initial deferral periods, a potential purchaser had shown a serious intention to raise funds with a view to making an offer to purchase any of the rugs, the respective deferral period should be extended by a further three months.

During the initial deferral period for case 22 and case 24, we received no expressions of interest in purchasing the rugs and we were not aware of any serious intention to raise funds. Export licences were therefore issued for each.

During the initial deferral period for case 23, we were informed of a serious intention to raise funds to purchase the rug by a UK institution. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the institution was unable to raise the funds to purchase the rug and an export licence was therefore issued.

Case 25 A 1907 Rolls-Royce Silver Ghost

In February 2019, the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest considered an application to export a 1907 Rolls-Royce Silver Ghost. The Committee concluded that the vehicle satisfied

the first Waverley criterion. The application for an export licence was subsequently withdrawn. Consequently, no decision on the application has been made by the Secretary of State.

Case 26 A flintlock sporting gun of Tipu Sultan

In December 2018, the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RCEWA) considered an application to export a flintlock sporting gun of Tipu Sultan. The

Committee concluded that the gun satisfied the second and third Waverley criteria. The application for an export licence was subsequently withdrawn. The gun remains in the UK.

Individual export cases

2019–20

Right *The Dark Rigi, the Lake of Lucerne* by Joseph Mallord William Turner



Case 1 Judge's annotated copy of *Lady Chatterley's Lover*



Annotated Penguin paperback copy of D H Lawrence's *Lady Chatterley's Lover* (LCL) in hand-stitched bag, with two folios of manuscript notes. Copy belonged to Sir Laurence Byrne, presiding judge in the 1960 trial of LCL for obscenity. Annotations mainly by Dorothy Byrne, wife. Part of text block detached from spine; item otherwise in reasonable condition for its age.

The applicant had applied to export the book to the United States. The value shown on the export licence application was £56,250, which represented the hammer price paid by the owner at auction plus the buyer's premium.

The Head of Western Heritage Collections, the British Library, acting as expert adviser, had objected to the export of the book, on the grounds that its departure from the UK would be a misfortune, under the first Waverley criterion.

The expert adviser had provided a written submission stating that D H Lawrence's final novel, *Lady Chatterley's Lover*, was first published in Florence in 1928 and Paris in 1929. It was not published unexpurgated in Britain for fear of prosecution. In 1960, Penguin decided to publish the unexpurgated work. Penguin's chairman, Allen Lane, saw the publication as a test of the 1959 Obscene Publications Act. The Act had been designed to protect literature while strengthening the law against pornography. Potentially obscene works had now to be considered in their entirety, and they could be defended in terms of their contribution to the public good.

The trial quickly assumed a wider significance. For social commentators, creative writers and historians, it became a symbol of the permissive, liberal values of the new decade. These values and their long-term consequences have been the subject of commentary and debate ever since.

Plate 20 *Lady Chatterley's Lover*, judge's copy (cover view)

The item was a paperback book in a bag. The book was a first impression of D H Lawrence, *Lady Chatterley's Lover* (Penguin Books: Harmondsworth), 1960. Two folios of manuscript pencil notes, written on Central Criminal Court writing paper, were attached by paperclip to the inside back cover. The notes were a list of page numbers in sequence, some bracketed together, with short content summaries against each. The blue-grey fabric bag was hand-stitched, secured by a long blue ribbon around its centre.

The annotations were the work of more than one hand. The principal hand was Dorothy Byrne's, who had worked through the book and made a list of the pages that she had annotated. A second hand was the judge's, Sir Laurence Byrne. He had annotated several pages that did not appear on his wife's list. The object occupied a central place in a drama that captured the public imagination. It evoked the occasion. Public interest in the trial was feverish; the bag was designed to avoid attention as the judge carried the book to and from court each day. It also evoked a social world. This was an age of the wife as helpmate: Dorothy Byrne made the notes for her husband, stitched the bag, and sat with him throughout the trial.

The Lady Chatterley trial was a sensation. As a courtroom drama, with its cast of well-known authors, clerics and literary scholars, its class tensions, and its explicit references to sex, it could hardly be bettered. Penguin's acquittal came to be viewed as a watershed moment: the point when the repressive upholders of tradition were decisively routed and a new era of social permissiveness was ushered in. Both at the time and in retrospect, the trial seemed to have fired the starting pistol for the 1960s. Several of its star performers, such as Jeremy Hutchinson and Gerald Gardiner, would go on to become significant figures in the new age.

For a few days in 1960, the Central Criminal Court was the focus of national attention. Directing proceedings was the presiding judge, consulting his personal copy of *Lady Chatterley's Lover*, his supportive wife beside him. Penguin's acquittal would help to bring about permanent social change; it also had far-reaching literary and legal significance. The book in its bag was at the centre of this dramatic moment in our national history. The expert adviser considered that its departure from the UK would be a misfortune.

The applicant had stated in a written submission that they did not consider that the book met any of the three Waverley criteria.

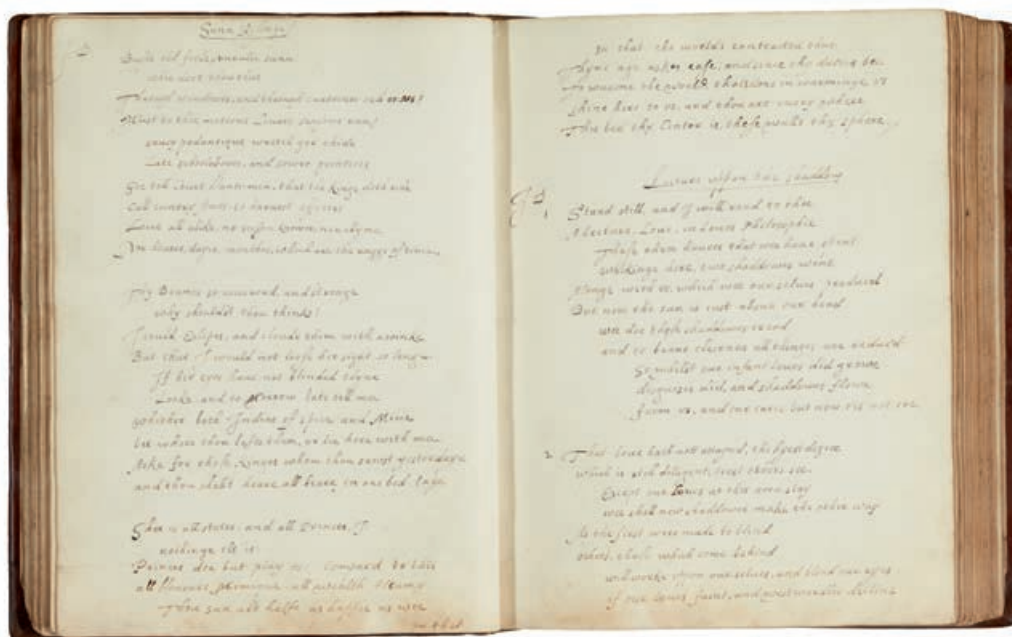
Regarding the first Waverley criterion, the applicant stated that the 1960 prosecution was undoubtedly an event of some significance to British literary, legal and social history. This book was an evocative relic of the trial but this did not mean it was so closely connected with our history and national life that its departure would be a misfortune. It surely did not rank with the examples of Waverley 1 books and manuscripts given for guidance by Arts Council England, which included manuscripts relating to Newton's *Principia Mathematica*, Benjamin Britten's complete draft score of *The Young Person's Guide to the Orchestra*, and a copy of the warrant for the execution of Mary Queen of Scots.

Regarding the third Waverley criterion, the applicant stated that the annotations present in the book were undertaken prior to the trial by the wife of the trial judge. The markings had a straightforward practical purpose: they were intended to draw to the attention of the judge those passages that might be deemed obscene. They did not offer insight into the judge's thinking or the trial itself, and gave little indication of his wife's personal response to the book. The trial was also copiously recorded elsewhere.

We heard this case in April 2019 when the book was shown to us. We found that it met the first Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £56,250. 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 book, the deferral period should be extended by a further two months.

During the initial deferral period, we were informed of a serious intention to raise funds to purchase the book by the University of Bristol. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the book had been purchased by the University of Bristol with assistance from Friends of the National Libraries, English PEN and other sources.

Case 2 Manuscript of poetry by John Donne



A bound quarto volume containing 139 poems by John Donne and a few additional poems by his contemporaries, possibly in more than one italic hand of c. 1625–35, with corrections and revisions in another hand. The volume also contains 10 lyrics of the mid-17th century and later prose and songs of the 18th century.

The volume is 250mm by 190mm, comprising 365 pages, some blank, and the binding is contemporary gilt panelled calf.

The applicant had applied to export the manuscript to the United States. The value shown on the export licence application was £466,000, which represented the hammer price paid at auction plus the buyer's premium.

The Keeper of Special Collections, Bodleian Libraries, acting as expert adviser, had objected to the export of the manuscript, on the grounds that its departure from the UK would be a misfortune, under the first and third Waverley criteria for its outstanding significance for the study of the poetry of John Donne, one of the most intensively studied English poets of the early modern era, and for furthering understanding of the literary currents of the 17th century through study of the manuscript's provenance and its later scribal annotations.

The expert adviser had provided a written submission stating that this manuscript was one of the five most significant and largest collections of manuscript poems by John Donne ever to have been identified, and the most important new witness to his poems to appear in the last

40 years. It was a major discovery and would add significantly to Donne scholarship.

John Donne (1572–1631) was a poet whose works circulated widely in manuscripts during his lifetime and even after his verse found the relative stability of print in his collected poems of 1633. Apart from brief epigrams in printed books, only one poem survives in Donne's hand (in the Bodleian), and therefore the evidence of manuscript copies was critical to our understanding of his works. Poems were copied, shared and disseminated among his coterie, helping to establish his canon and literary reputation. By comparing manuscripts of Donne's poetry, whether in the few substantial compilations that survive, or the very many widely distributed instances in commonplace books, scholars (such as those currently working on the huge Variorum Edition) have endeavoured to trace out patterns of dissemination and to consider questions of compositional chronology, variant texts, editorial interventions, literary context, patronage and the audience for his works.

While around 30 deliberately assembled collections of Donne's manuscript verse survived (and all but two in institutional collections), this current manuscript, rediscovered at Melford Hall, Suffolk, was comparable in extent and richness to just four other volumes: two in Harvard University, one in Cambridge University Library and the other at Trinity College, Dublin. The manuscript appeared to relate closely to three others in particular, in terms of content and the arrangement of verse; tracing the connections between them will be an important scholarly task.

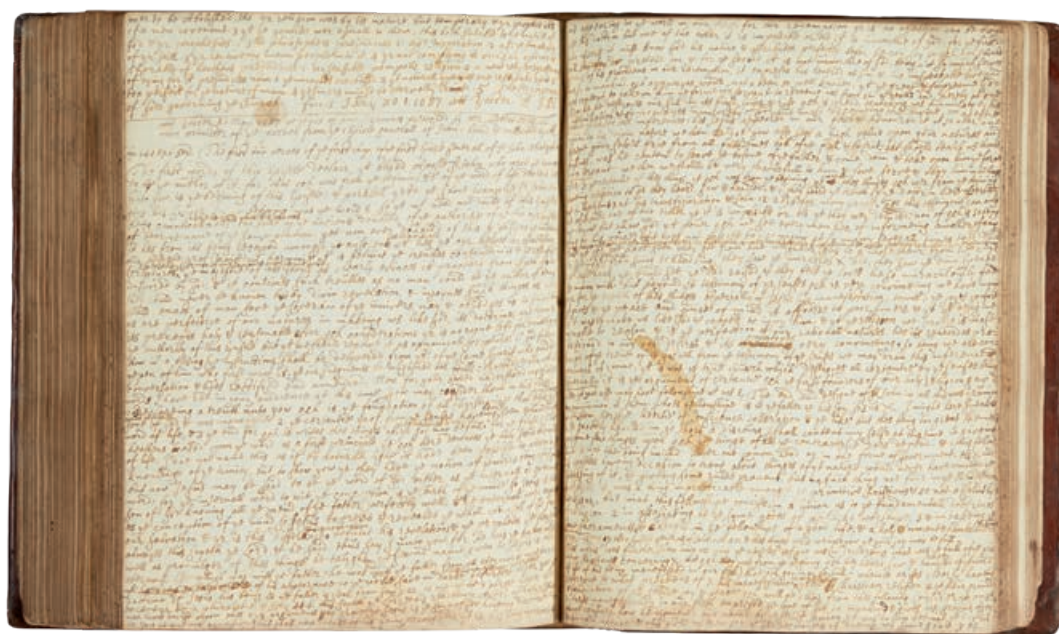


Plate 21 Manuscript of poetry by John Donne (inner page spread)

Beyond its outstanding research value, the manuscript is importantly connected with our history and national life. After Shakespeare, Donne was probably the poet of the 16th century best known and loved to generations of readers. The manuscript included the whole range of the poet's works, including famous verse such as 'The Storm', 'The Calm', 'The Breake of Daye' and 'Sunn Risinge'. As an outstandingly important record of the works of one of the nation's most beloved and important literary and religious figures, its loss abroad would be a great misfortune.

When questioned about the possibility of digital surrogates, the expert replied that certain key features of the manuscript could be lost, such as the almost invisible inky fingerprints. The expert was further asked if scholarship on this manuscript had been undertaken 'with a fine toothcomb' yet. He replied that such scholarship has not been done, and therefore access to the manuscript would be invaluable.

The applicant had stated in a written submission that they did not consider that the manuscript met any of the three Waverley criteria.

Regarding the first Waverley criterion, the applicant stated that the poetry of Donne was undoubtedly one of the treasures of the English language, but the departure of the manuscript in question would not necessarily be a misfortune. There were 30 manuscripts containing substantial groups of poems by Donne, 15 of which are in institutional collections in the UK.

Regarding the third Waverley criterion, the applicant stated that the manuscript was of outstanding significance only if key research could not be undertaken by surrogates.

We heard this case in April 2019 when the manuscript was shown to us. We found that it met the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life and it was of outstanding significance for the study of the poetry of John Donne and for the study of collectors and literary taste in the 17th century, as well as the study of the dissemination of poetic manuscripts in the period. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £466,000. 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 manuscript, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention to raise funds to purchase the manuscript by the British Library. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the manuscript had been purchased by the British Library with assistance from the National Heritage Memorial Fund.

Case 3 A large anthropomorphic crab by the Martin Brothers

Sculpture of a large anthropomorphic crab, by the Martin Brothers, sculpted by Robert Wallace Martin (1843–1923); 1880. Salt-glazed stoneware measuring 21cm by 48.5cm by 41.5cm.

The applicant had applied to export the crab to Canada. The value shown on the export licence application was £209,150, which represented the sterling equivalent of the hammer price at auction (\$275,000) at the time the export licence application was made.

The Senior Curator and Head of Ceramics & Glass, Sculpture, Metalwork, Ceramics & Glass Department, Victoria and Albert Museum, assisted by the Curator, Ceramics & Glass, Sculpture, Metalwork, Ceramics & Glass Department, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the crab under the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of English art pottery and the work of the Martin Brothers.

The expert adviser had provided a written submission stating that the large, grinning anthropomorphic crab made in salt-glazed stoneware by Robert Wallace Martin and his brothers in 1880 was a remarkable and unique piece of late 19th-century ceramic sculpture. Commonly known as Martinware, objects made by the Martin Brothers embodied the Arts and Crafts idealisation of the handmade, unique work of art, rejecting industrial mechanisation in an attempt to gain control over all stages of artistic production. Drawing inspiration from Medieval and Renaissance Europe and the arts of Japan, much of their output was functional objects as well as small-scale sculpture and architectural fittings. The Martins' contribution to art pottery in Britain cannot be overstated; their work represents the highest quality of both invention and production of art pottery when applied to vessels and sculptural forms, successfully elevating pottery to an art form. In their attitudes to their work and methods of production, the Martin Brothers can be considered the direct antecedents of the studio pottery movement in 20th-century Britain, if not the very first 'Studio Potters'.

Impressive, idiosyncratic sculptural pieces such as this crab exemplify the extent of creativity, ambition, imagination and technical accomplishment achieved by the Martin Brothers, and illustrate the full scope of the art pottery

movement in Britain. Robert Wallace Martin used his skills and traditional training in new, unconventional and individual ways, and this crab is an interesting early example of his return to sculpture, as well as a prime example of his characteristically innovative marriage of ceramics and sculptural form.

The crab under discussion, at once humorous, friendly, menacing and deeply unsettling, was one of the earliest, most striking, and most ambitious pieces of Martinware – so much so that 10 years after it was created, *The Pall Mall Gazette* chose to illustrate it as part of a profile on the Martin Brothers. Indeed, in its recent sale at auction it made a record price for a Martin Brothers piece. This was the pinnacle of their work, and was of a quality and scale lacking in UK public collections.

The applicant disagreed that the crab met the Waverley criteria. They stated that although an impressive work, the crab was not to be considered closely connected to our history or national life, any more than any other grotesques examples, therefore, its potential departure was not to be considered a misfortune as it would be greatly cared for and would form part of a privately owned collection. The appreciation of grotesques was only shared by a small cohort of reverent collectors and there was no popular interest for such grotesques.

The grotesque grinning crab exhibited the exaggerated traits that were depicted in most of the other grotesques and importantly it did not have any anthropomorphic traits that depicted a character of national interest or of national importance and its aesthetic beauty was comparable to other grotesques.

The significance of these works by the Martin Brothers was well documented in a myriad of extant works and archival documentation in UK collections, which would be readily available to potential researchers.

We heard this case in May 2019 when the crab was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of late Victorian art pottery, the work of the Martin Brothers and Robert Wallace Martin in particular. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £217,250





Plate 22 A large anthropomorphic crab by the Martin Brothers

(plus VAT of £43,450). This represented the agreed sale price converted to sterling on the date of sale (13 December 2018). 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 crab, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by The Box, Plymouth, to raise funds to purchase the crab. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the crab had been purchased by The Box, Plymouth, with assistance from the National Heritage Memorial Fund, the Art Fund, the ACE/V&A Purchase Grant Fund, the Henry Moore Foundation and the Decorative Arts Society.

Case 4 *The Lake of Albano and Castel Gandolfo* by John Robert Cozens

John Robert Cozens (1752–97), *The Lake of Albano and Castel Gandolfo*, c. 1785. Watercolour measuring 43.3cm by 62cm. Thomas Lawrence's monogram collector's mark on lower left, TL (Lugt 2445).

The applicant had applied to export the watercolour to Canada. The value shown on the export licence application was £2,900,000, which represented an estimated value.

The Simon Sainsbury Keeper of Prints & Drawings, The British Museum, assisted by the Curator of British Drawings and Watercolours before 1880, The British Museum, acting as expert adviser, had objected to the export of the watercolour under the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of the work of Alexander and John Robert Cozens, the development of the national school of watercolour painting in Britain, and understanding the work of Girtin, Turner, Constable and many later 20th-century British artists.

The expert adviser had provided a written submission stating that the glorious, atmospheric view of Lake Albano and the Castel Gandolfo was arguably John Robert Cozens' masterpiece and the most evocatively beautiful watercolour produced in the 18th century. Cozens was recognised as the greatest, most innovative watercolourist of the 18th century and good examples of his work that came up for sale reflected the value that collectors and scholars placed upon his work. Those who knew British watercolours were passionate about his work and cognisant of the vital role it played in the creation of the Romantic vision of landscape found in the work of Turner, Girtin and Constable.

This work had twice reached a record-breaking price (Sotheby's, 14 November 1991 – £179,131; Sotheby's, 14 July 2010 – £2,393,250) a price very seldom reached by even the best Turner watercolours. It was widely regarded as Cozens' finest, most evocative, deeply romantic



watercolour and probably the greatest British watercolour of the 18th century.

The applicant disagreed that the watercolour met the first Waverley criterion, but did not disagree that the watercolour met the second and third Waverley criteria.

We heard this case in May 2019 when the watercolour was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of the work of John Robert Cozens, and the development of the national school of watercolour painting in Britain. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £2,900,000. 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 watercolour, the deferral period should be extended by a further four months.

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

Case 5 *Nijinsky before the Curtain* by Glyn Philpot



A painting of the Russian ballet dancer Vaslav Nijinsky at curtain call, painted in 1913 by Glyn Philpot (1884–1937). Oil on canvas measuring 75.5cm by 62.5cm.

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £450,000, which represented an agreed sale price.

The Curator, Modern British Art, Tate Britain, acting as expert adviser, had objected to the export of

the painting under the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life and it was of outstanding significance for the study of 20th-century dance history.

The expert adviser had provided a written submission stating that the painting depicted Vaslav Nijinsky, premier danseur of Serge

Plate 24 *Nijinsky before the Curtain* by Glyn Philpot

Diaghilev's Ballets Russes company, taking a curtain call after a performance of *L'Après-midi d'un faune*. It showed Nijinsky in his costume as the Faun, coming out between the curtains of the Royal Opera House, Covent Garden, where the ballet received its UK premiere in 1913.

Diaghilev's Ballets Russes had a profound impact on British art and culture. They showed how serious and significant an art form ballet could be. Before they visited there was no national school of ballet, and there were no permanent companies, as there were in Russia and many other cities in mainland Europe. Both Ninette de Valois and Marie Rambert worked with Diaghilev's Ballets Russes and were inspired to create permanent companies in London. Diaghilev also transferred the values of the visual arts to the ballet and there was a profound effect on a generation of British artists who were excited by the exotic costumes and unconventional movements of the Ballets Russes. Philpot's painting was a unique representation of Vaslav Nijinsky on stage in London, and represented a specific moment in this important phase of British cultural history.

Philpot's painting was of importance for historians of dance. Nijinsky was the greatest male dancer of his generation, and an innovative choreographer. This painting showed him as dancer in the first ballet he choreographed and thus captured two important aspects of Nijinsky's significance. The painting not only showed a specific historical moment, but also approached the representation of the dancer in a very unusual way. Philpot explored the moment when the performer was no longer performing but was still in role, before acknowledging the presence and applause of the audience. Representations of Nijinsky in British collections were very rare and this was a major and unique work that was of national importance for the study of 20th-century dance history.

The applicant disagreed that the painting met the Waverley criteria. They stated in a written submission that *Nijinsky before the Curtain* by Glyn Philpot, although a fine painting, was not of particular national importance under any of the Waverley criteria. Regarding the first Waverley criterion, they stated that the work was not closely connected with our history or national life. Although painted by a well-respected British artist in the UK, it did not represent a British subject or icon. Nijinsky only lived his last few years here in the UK, by which time he was unwell, and was buried in Paris. The painting was owned by a great collector, Sir Philip

Sassoon, but only exhibited twice and within a year of being painted. It had been thought destroyed until rediscovered in the 1980s, and had not been part of British cultural life.

Regarding the second Waverley criterion, the applicant stated that although an elegant and well-painted image, this painting was not of outstanding aesthetic importance. It was not recognisable as a Glyn Philpot work and the subject was visually ambiguous. The dancer made up a very small proportion of the painting's surface as the canvas consisted principally of a red curtain. Furthermore, nearly all of Philpot's paintings in UK public collections were instantly recognisable both in terms of identity of sitter or the bravura of his painterly technique.

Regarding the third Waverley criterion, the applicant stated that it was not of outstanding significance for the study of some particular branch of art, learning or history. They noted there were 74 paintings by Glyn Philpot in UK public collections. While few paintings of Nijinsky exist in the UK (he was notoriously unwilling to pose), he had been exhaustively biographed, studied and was reproduced through photographic and textual media, and was not recognisable in this painting. Thought destroyed in the Blitz it was rediscovered in the 1980s but it had never been requested for loan. Furthermore, in the applicant's opinion, it did not contribute to the study of 20th-century British painting, Glyn Philpot, Nijinsky or the Ballets Russes.

We heard this case in June 2019 when the painting was shown to us. We found that it met the third Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding significance for the study of the history of dance. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £450,000 (plus VAT). 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 painting, the deferral period should be extended by a further three months.

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

Case 6 *The Dark Rigi, the Lake of Lucerne* by Joseph Mallord William Turner



Plate 25 *The Dark Rigi, the Lake of Lucerne* by Joseph Mallord William Turner (detail)

**Joseph Mallord William Turner (1775–1851),
The Dark Rigi, The Lake of Lucerne, 1842.
Watercolour and scraping out on paper,
measuring 30.5cm by 45.5cm.**

The applicant had applied to export the watercolour to Canada. The value shown on the export licence application was £11,000,000, which represented an estimated value.

The Director, European and Scottish Art and Portraiture, National Galleries of Scotland, acting as expert adviser, had objected to the export of the watercolour, on the grounds that its departure from the UK would be a misfortune, under the second and third Waverley criteria for its outstanding significance for the study of not only Turner's mature work, but more widely British and European landscape art and its history.

The expert adviser had provided a written submission stating that this watercolour depicted a Swiss mountain, known as the Rigi, at dawn. The expert stated that a strong case could be made for considering *The Dark Rigi* a profoundly impressive demonstration of Turner's skills as an innovative and technically accomplished painter, in which he distilled many years of practice to create a supremely beautiful work of art.

Turner first visited Switzerland in 1802 and made several subsequent tours, including that of 1841, when the study for this work was made. Travellers usually climbed the Rigi to view the panorama from its summit, however Turner favoured instead the view of the mountain from his inn on the shore of the lake. A number of watercolour studies were created from this point in 1841, most famously the views of the Rigi, *The Red*, *The Blue* and *The Dark Rigi* (currently

under consideration). Such a serial approach to a single motif was revolutionary and later employed by artists such as Cézanne.

There were relatively few highly resolved mature Swiss watercolours of the 1840s in UK public collections and the Rigi series had long been recognized as special, not only aesthetically, but also in terms of Turner's evolving view of sublime subjects and the inspiration he drew from his European travels. The way in which the three highly finished Rigi watercolours were made in London, being based on Swiss studies and the artist's prodigious memory and imagination, as well as being part of a financial speculation, was of great interest for understanding Turner's evolution as an artist and relationship both with a dealer and his clientele. The Scottish collector Munro of Novar, who selected *The Dark Rigi*, knew Turner from the 1820s, travelled with him to Italy in 1836, and built a major collection of his works in oil and watercolour.

On Turner's return to Britain, the dealer Thomas Griffith sought commissions for finished watercolours based on the Swiss study 'samples' from a group of collectors. His clients were Elhanan Bicknell, Benjamin Godfrey Windus, the Ruskin family and Munro of Novar, who selected *The Dark Rigi* study and acquired the related, newly commissioned watercolour from Turner. In the *Dark Rigi* the painter contrived with extraordinary delicacy to define the emerging sunlight, delicate purples and greens of the mountainside and reflections in the lake. The excellent condition of the watercolour made all these subtleties of tone and hue clearly visible. No contemporary artist was painting in this way and arguably such achievements with watercolour had never been surpassed.

The applicant disagreed that the watercolour met the first Waverley criterion. However, they did not disagree that the watercolour met the second and third Waverley criteria.

We heard this case in April 2019 when the watercolour was shown to us. Like our predecessors who considered this watercolour in May 2006 (reported as case 4 in the 2006/07 annual report), we found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of Turner's landscapes, artistic practice and patronage.





We were, however, unable to recommend a fair market price and recommended that the Secretary of State should obtain an independent valuation of the watercolour. 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 an arbitrator to act as an expert and by whose decision the parties would be bound. The applicant agreed to this procedure.

The Secretary of State agreed to the Committee's recommendation and having been given the identity of the valuer appointed by the Secretary of State, Guy Peppiatt, Guy Peppiatt Fine Art, the applicant agreed to be bound by their valuation which was £10,000,000, and the Secretary of State recommended that as the fair matching price.

Having regard to the fair matching price the Committee agreed to recommend to the Secretary of State 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 at the fair matching price of £10,000,000. The Committee 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 watercolour, the deferral should be extended by a further six months.

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

Case 7 *Le Palais Ducal* by Claude Monet

Claude Monet (1840–1926), *Le Palais Ducal*, 1908.
Oil on canvas, measuring 81cm by 93cm.

The applicant had applied to export the painting to Switzerland. The value shown on the export licence application was £27,534,000, which represented the hammer price at auction plus the buyer's premium.

The Head of Displays, Tate Modern, acting as expert adviser, had objected to the export of the painting on the grounds that its departure from the UK would be a misfortune under the second and third Waverley criteria for its outstanding significance for the study of Monet's work and his Venetian series.

The expert adviser had provided a written submission stating that Claude Monet painted *Le Palais Ducal* during and after his visit to Venice in 1908. It showed the sun-lit Doge's Palace with its reflection in the water reaching down the height of the canvas. As opposed to the campaigns of painting previously undertaken in London, Monet was seeking a rest from work on the water lily paintings and took the chance of a holiday with his wife Alice. While in Venice Monet began to paint and anticipated a second visit to follow in 1909, but the deterioration of Alice Monet's health prevented the couple's return.

As with other campaigns, Monet anticipated that related works would be shown together, although the Venetian paintings were, indeed, distinguished by a wider range of motifs and a smaller number of completed canvases than with previous series. Both are attributable to Monet scouting for promising subjects as he extended his stay and which he imagined pursuing on a later visit.

Monet worked on this motif in situ (as the date accompanying the signature suggests) but probably brought the present canvas to completion at Giverny during 1911–12. It was not included in his 1912 *Venise* exhibition, but it was shown in Paris a year later. The critical success of the water lily paintings when shown in 1909 created a demand for his contemporaneous Venetian views, and ensured the success of the 1912 exhibition at the Galerie Bernheim-Jeune. The combination of formal structure and scintillating brushwork was particularly evident in *Le Palais Ducal* which was of great aesthetic value in itself, and as part of Monet's last urban series.

While Monet was among the most widely studied artists there continued to be new research associated with his work, as its inclusion in the

Monet and Architecture exhibition (National Gallery) demonstrated last year. The Venetian series still remained relatively overlooked, with the scholarship concerned primarily with Monet's inability to return to the city to make a series. This – and the success of the water lily series – had overshadowed the place of the Venetian paintings in the growing international market for Modernism at the time, exemplified by the inclusion of *Le Palais Ducal* in Erich Goeritz's formidable collection.

The applicant disagreed that the painting met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that as a privately owned work of art it was rarely exhibited, and was not closely connected with our history and national life. It was acquired by the German industrialist Erich Goeritz in 1926 and remained in his family's collection ever since. Its longest exposure in public was in Canada from 1946 to 1950 when it was loaned to the Toronto Art Gallery, after which it was only sporadically exhibited in the UK. Its most recent appearance in 2018, as part of the *Monet and Architecture* exhibition, was the first time the British public had seen the painting in almost half a century, and therefore it has had little or no effect on art and culture in the UK.

Regarding the second Waverley criterion, the applicant stated that Monet only visited Venice once, and from that single sojourn he eventually completed 37 views of the city. Of the 37 Venice paintings, 10 featured the Doge's Palace. The present work was one of three which positioned the Doge's Palace at the centre of the composition. In the catalogue raisonné entry for the present work it had been suggested that it was not in fact completed until after the exhibition at Bernheim-Jeune was organised to show 28 works from the Venetian series in 1912. As it was completed after the other two versions, it had little bearing on the series' initial reception, and despite its obvious aesthetic qualities, they were not such that its departure from the UK would be a misfortune.

Regarding the third Waverley criterion, the applicant stated that there are currently 48 paintings by Claude Monet in public institutions in the UK. Of particular note are the three works from the Venetian series *The Palazzo Dario*, *San Giorgio Maggiore by Twilight* and *San Giorgio Maggiore* all held by the National Museum of Wales, Cardiff, which were typical of the series and gave an excellent overview and insight into the way Monet adapted his post-Impressionist

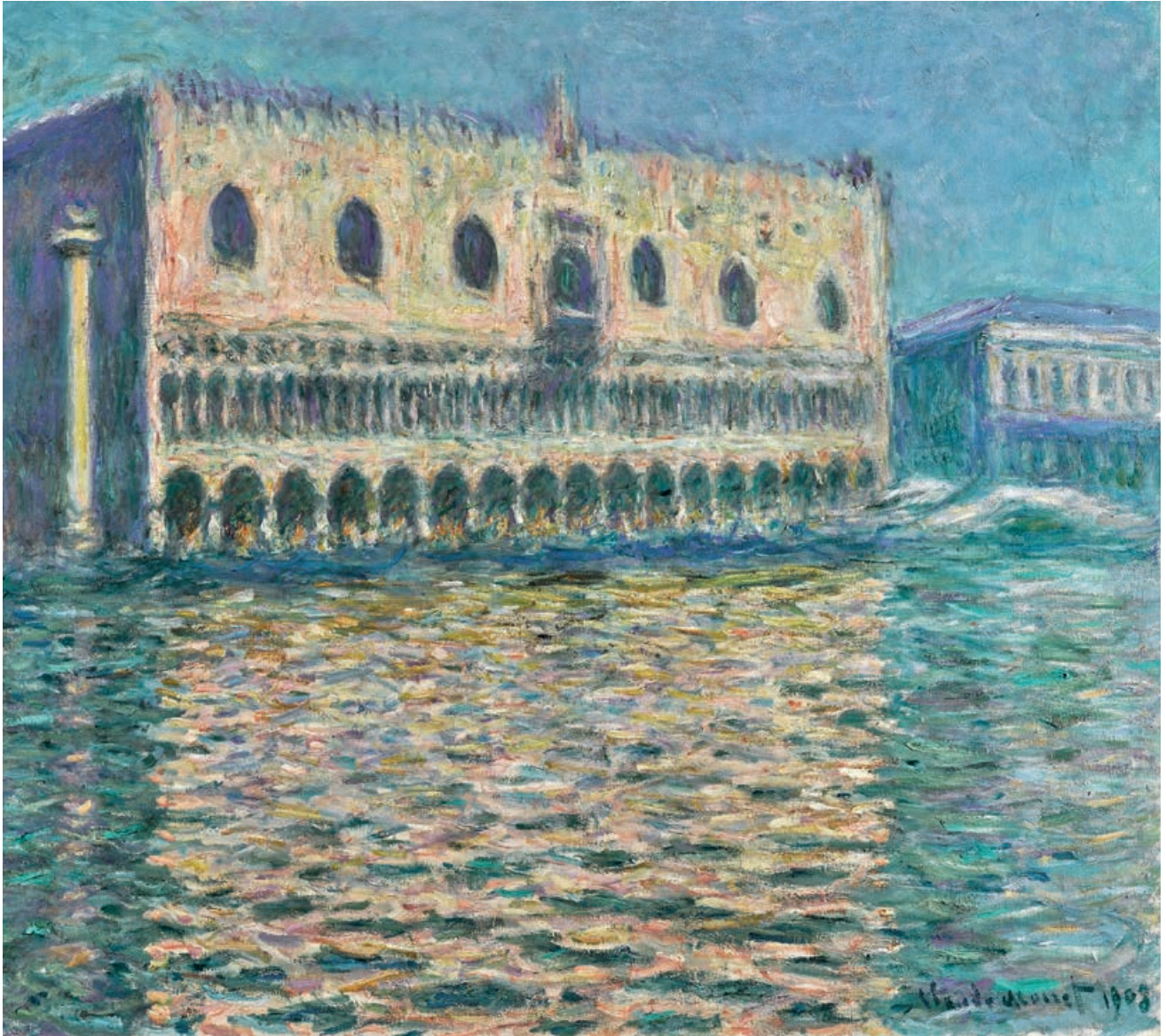


Plate 26 *Le Palais Ducal* by Claude Monet

style to capture the city's unique lacustrine appearance. The relative obscurity of this painting in the artist's oeuvre, and the availability of several other highly important paintings by Monet in public collections throughout the UK, led them to believe that it could not be considered of outstanding significance for the study of some particular branch of art, learning or history, in a way that was not already achievable.

We heard this case in July 2019 when the painting was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance

and it was of outstanding significance for the study of Monet's Venetian series. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £27,534,000 (plus VAT of £706,800). 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 painting, the deferral period should be extended by a further six months.

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

Case 8 *Ferdinand Lured by Ariel* by J E Millais

Sir John Everett Millais (1829–96), Bart, PRA, *Ferdinand Lured by Ariel* (1849–1850), oil on panel, 64.8cm by 50.8cm (arched top), signed and dated in monogram, lower left, *JEMillais / 1849*.

The applicant had applied to export the painting to the USA with the intention of agreeing a sale of it to the Metropolitan Museum of Art in New York. The value shown on the export licence was £9,500,000, which represented an estimated value with supporting evidence.

The Acting Keeper, Department of Western Art, Ashmolean Museum, acting as expert adviser, had objected to the export of the painting on the grounds that its departure from the UK would be a misfortune under the second and third Waverley criteria as it was of outstanding significance for the study of the Pre-Raphaelite Brotherhood and for the study of Victorian art.

The expert adviser had provided a written submission stating that *Ferdinand Lured by Ariel* epitomized the work of the Pre-Raphaelite Brotherhood, by one of its foremost exponents. The subject was taken from *The Tempest* by Shakespeare, one of the Brotherhood's 'Immortals', artistic heroes who they admired, especially from literature. The intensity of observation and the virtuosity of execution was only equalled, but not surpassed, by that of *Ophelia* (R.A. 1852; Tate Britain).

The unique importance of the painting had been frequently recognised, not least by Charles Ricketts and Charles Shannon when they were preparing the exhibition 'A Century of Art, 1810-1910' for the International Society of Sculptors, Painters, and Gravers in 1911. In requesting the loan of the picture, their associate, Robert Ross, the most devoted friend of Oscar Wilde, wrote to H.F. Makins that 'I regard it not only as a major example of Millais, but as a unique picture in European art, and there is literally nothing to take its place... The idea of the exhibition would be to pit English art with the French, and *Ferdinand* is just one of the pictures beside which the Continent has nothing to show'.

Ferdinand Lured by Ariel was of outstanding significance for the study of the Pre-Raphaelite Brotherhood, the wider and much misunderstood Pre-Raphaelite movement, and for the study of Victorian art in general. It related directly to a peculiarly English genre, the fairy painting.

It may also be argued, they said, that the painting was of outstanding importance for the study of the

history of collecting. The Makins Collection, which has never been properly researched, was the work of three generations of the family, and probably constitutes the most important group of Pre-Raphaelite pictures remaining in private hands. Their study is long overdue, for, whilst not as extensive or as famous as the pioneering collections of Pre-Raphaelite art formed by Thomas Combe (in the Ashmolean Museum) and James Leathart (dispersed in 1896), it deserves to be much better known.

The applicant had stated in a written submission that they did not dispute that the painting met any of the three Waverley criteria.

We heard this case in July 2019 when the painting was shown to us. We concluded that its departure from the UK would be a misfortune on the grounds that it satisfied all three of the Waverley criteria. We therefore recommended that a decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £9,500,000. 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 painting, the deferral period should be extended by a further six months.

At the end of the initial deferral period one offer was received, being an offer to pay the matching price by a private individual with an undertaking to provide a minimum of 100 days per annum public access at a UK museum for ten years. The Secretary of State confirmed that the terms of the undertaking were adequate and the offer was relayed to the owner who, in accordance with current procedures, was given two weeks within which to respond and confirm whether or not they would accept that offer. The owner wrote to the Secretary of State within that period saying that they were not prepared to sell the painting to a private individual as they felt that the private offer, made under the existing Ridley Rules, prevented the painting from being acquired by the Metropolitan, or any other museum, for its permanent collection. In accordance with normal policy the Secretary of State refused the export licence.

Subsequent to this, in September 2020, the owner applied for a three-year temporary licence to export the painting for public exhibition at the Metropolitan Museum of Art in New York. In accordance with normal policy on temporary licences for items found to be national treasures, which provides that a temporary licence will only be issued for such objects for a maximum period of three years, and



Plate 27 *Ferdinand Lured by Ariel* by J E Millais

normally only for the purposes of display in a public institution without any extension, having received satisfactory guarantees for its return at the end of the period, a three-year temporary licence was

issued for its display at the Metropolitan Museum. The painting will return to the UK in September 2023. It remains subject to UK export controls and an application for its permanent export cannot normally be made within ten years or so of the licence which was refused.

Case 9 *Two Boys with a Bladder* by Joseph Wright of Derby

Oil paint on canvas by Joseph Wright of Derby (1734–1797), measuring 92.7cm by 73cm. Probably 1768–70.

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £3,500,000, which represented an agreed sale price.

The Senior Curator, British Art 1790-1850, Tate Britain, assisted by the Assistant Curator, Historic British Art, Tate Britain, acting as expert adviser, had objected to the export of the painting under the second and third Waverley criteria for its outstanding significance for the study of art history and the history of provincial enlightenment culture in the UK.

The expert adviser had provided a written submission stating that this was a very fine example of Wright's bladder subjects and exemplified his masterful treatment of light effects. It demonstrated his virtuoso handling when painting fabric and the play of light.

In a British context, the representation of children blowing bladders was unique to Wright of Derby. As such the picture represented an important and distinct branch of his art, as well as a unique motif within the expanding and highly popular genre of fancy pictures during the late 18th century. The probable circumstances of the picture's making, while Wright worked between Liverpool and Derby, also illuminated the thriving enlightenment culture in the provinces at this time, as well as the opportunities and networks this provided for professional artists.

The applicant disagreed that the painting met the Waverley criteria. They stated in a written submission that while undoubtedly a significant addition to Wright's known oeuvre, they did not believe either that it was 'outstanding' within the definition of national importance or that it was closely connected with British history or national life. First, the painting was not particularly rare in the context of the UK artistic patrimony: paintings by Joseph Wright of Derby of candlelight subjects of precisely the same period were already extremely well represented in UK public collections.

Secondly, while Joseph Wright of Derby's candlelight paintings were some of the most evocative and innovative images of the 18th century, this particular example was a demonstrably lesser work than the acknowledged



Plate 28 *Two Boys with a Bladder* by Joseph Wright of Derby

masterpieces already in British public collections. While *Two Boys with a Bladder* was of outstanding commercial interest within the context of the international art market, this had little bearing on the Waverley criteria.

We heard this case in September 2019 when the painting was shown to us. We found that it met the third Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding significance for the study of Joseph Wright of Derby and his working practice. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £3,500,000 (plus VAT). 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 painting, the deferral period should be extended by a further four months.

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

Case 10 *Portrait of a Lady* by Frans Hals

**Frans Hals (1582/3–1666) *Portrait of a Lady* c. 1625.
Oil on canvas, measuring 116.7cm by 91.5cm.**

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £7,398,000, which represented an agreed sale price.

The Director, The National Gallery, assisted by the Curator of Dutch and Flemish Paintings 1600–1800, The National Gallery, acting as expert adviser, had objected to the export of the painting under the second Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance.

The expert adviser had provided a written submission stating that *Portrait of a Lady* was a rare example of a particularly fine and characteristic life-size, three-quarter-length portrait by Frans Hals, widely acknowledged to be one of the most important portrait painters in Western art. There were some areas of damage, particularly in the background, but these had been skilfully restored. The sitter had been identified in an article published by Marieke de Winkel in 2012 as Cunera van Baersdorp (1600–1640). This painting, with the possible pendant, now at the Taft Museum of Art, Cincinnati (USA), was most probably painted to commemorate the marriage of Michiel de Wael and Cunera van Baersdorp in 1625.

Cunera van Baersdorp's pose echoed that of her husband, who also had his left arm akimbo. Her right arm hung down beside her body and she held her gloves between two fingers. The imitation or mirroring of gestures was a device that Hals frequently employed in pendant portraits to great effect, with a daring that made him stand apart from his fellow portrait painters. The details of the dress were depicted in exquisite detail but without ever looking stiff, thanks to Frans Hals's unique bravura brushwork. The stomacher, and also the exact shape of her cap, could be specifically dated to the middle of the 1620s, as not long after the appearance of both changed significantly.

The portrait was made when Frans Hals was at the height of his powers and popularity, and its exceptional attraction partly derived from the unorthodox pose; it was the only existing portrait by Hals showing a lady with her arm akimbo, a pose

found in many male portraits by Hals and something of a trademark of the painter. The pose was in fact highly unusual in female portraits throughout the 17th century. Moreover, she wore a resplendent dress, with the various subtle gradations in the blacks of the costume unusually well preserved. Although there were some outstanding works by Frans Hals in British collections, there was only one other three-quarter-length female portrait in a British public collection.

The applicant disagreed that the painting met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that the work was painted in the first half of the 17th century but it only came to the UK relatively recently - after 1910, according to the known provenance. While in the UK, it had largely been unexhibited publicly, and neither the artist nor the sitter had connections to the UK, its history, or British national life.

Regarding the second Waverley criterion, the applicant stated that while this was a large-scale fully attributed portrait by Frans Hals, the sitter was actually unknown, the condition was compromised having been significantly damaged in the upper half by bomb damage during the Second World War, and it also pre-dated the artist's most famous period - recognisable for its loose brushwork and bold colours. Further to this, its effect was diminished by it being evidently one half of a pair of portraits.

Regarding the third Waverley criterion, the applicant stated that further to the reasons listed above, it should be noted that the UK was particularly rich in this artist's work, and principally in individual portraits of this kind, with plentiful examples found in both public and private hands.

The applicant further stated that they did not agree that the identification by Marieke de Winkel was definitive. As such, in their opinion, the known provenance of the painting could only be definitively traced back to Galerie Charles Sedelmeyer, Paris, by 1899.

We heard this case in October 2019 when the painting was shown to us. We found that the painting did not meet any of the Waverley criteria and recommended that an export licence be issued. An export licence was issued.

Case 11 A bronze figure of Apollo by François Girardon

A statuette of Apollo; model by François Girardon (1628–1715); founder unknown. Model c. 1675; cast before 1715, possibly c. 1675. Bronze, measuring 69.5cm.

The applicant had applied to export the sculpture to Switzerland. The value shown on the export licence application was £1,200,000, which represented an agreed sale price.

The Senior Curator, Sculpture, Victoria and Albert Museum, acting as expert adviser, had objected to the export of the sculpture on the grounds that its departure from the UK would be a misfortune under the second and third Waverley criteria for its outstanding significance for the study of the development of European bronze technology and French bronzes of this period within their broader context.

The expert adviser had provided a written submission stating that the sculpture depicted the semi-clad sun god Apollo, who stood in contrapposto on an integral base with several identifying attributes. Crowned by the laurel that alluded to his pursuit of Daphne, he held a lyre to represent music, supported on a pedestal with a tripod as a reference to Apollo's oracle at Delphi. He raised a lighted torch – here intact, while that of the second extant version in the Philadelphia Museum of Art lacks the full flame. The supple body of the god was enveloped in luxurious drapery, perhaps alluding to the robe woven of gold and purple mentioned by the 17th-century Venetian iconographer Vincenzo Cartari. This excellent manifestation of Girardon's lyrical classicism epitomised the taste of the French 'Sun King' Louis XIV in both style and subject matter.

The sculpture was based on an elegant, original composition by the sculptor who defined the grand style of French Baroque. Despite some areas of repair and uneven patination, it compared to some of the best French bronzes of the period in both its composition and quality, being of outstanding aesthetic importance. Its exceptional finish had been noted by leading scholars in the field, with Françoise de la Moureyre describing it as a 'bronze of remarkable quality of finish and chasing'.

Based on a terracotta model of c.1675 by Girardon, illustrated in the so-called Galerie de Girardon, and recorded in his 1713 and 1715 inventories, it was known in only two extant bronze casts. An exceptional and rare statuette, it was potentially made under the sculptor's personal supervision, perhaps for King Louis XIV (1643–1715). Technical

investigation of this and the Philadelphia bronze is likely to answer a number of currently open questions and, as recent studies into French bronzes have highlighted, thereby afford a deeper understanding of the development of European bronze technology. The bronze was therefore of outstanding significance for the study of French bronzes of this period within their broader context.

The applicant had stated in a written submission that they did not consider that the sculpture met the first and third Waverley criteria, but that it probably met the second criterion.

We heard this case in October 2019 when the sculpture was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of the history of French bronzes, François Girardon and his working practices. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £1,200,000 (plus VAT). 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 sculpture, the deferral period should be extended by a further four months.

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



Plate 29 A bronze figure of Apollo by François Girardon

Case 12 *The Temptation of Mary Magdalene* by Johann Liss



Johann Liss (c. 1597–1631), *The Temptation of Saint Mary Magdalene*, oil on canvas, 98.8cm by 125.8cm.

The applicant had applied to export the painting to the United States. The value shown on the export licence application was £5,665,200, which represented the hammer price at auction plus buyer's premium.

The Director of The National Gallery, acting as expert adviser, had objected to the export of the painting on the grounds that its departure from the UK would be a misfortune under the first, second and third Waverley criteria for its outstanding significance for the study of the work of Liss and the Northern Baroque.

The expert adviser had provided a written submission stating that the painting was an outstanding example of the work of Johann Liss and showed him as one of the leading, most innovative and accomplished painters in the Baroque style, demonstrating the influence of predecessors from both northern and southern Europe, such as Rubens, Caravaggio, Titian and Fetti, but with a command of original compositional narrative and painterly ability which was distinctly his own.

The painting was the first painting by Liss known to be in Britain. It had a long history in the UK: it was almost certainly in the country between 1747–52 and possibly earlier, and was extremely likely to have formed an integral part of the decorative schemes arising from the rebuilding of Edgcote House, a Grade I-listed building in the mid-18th century. In relation to the first Waverley criterion, this gave *The Temptation of Saint Mary Magdalene* a very long, significant and close association with this country's history of collecting Old Master paintings.

Johann Liss was one of the most talented and original painters working in Italy in the early 17th

century; his career was short and the surviving works were not large in number. The painting showed Liss at the height of his considerable powers as an artist, and was one of his finest works, and was therefore of outstanding aesthetic importance, meeting the second Waverley criterion.

The painting was not known to scholars prior to 1994 and had never been exhibited and should therefore be thoroughly studied. It was not only of especial interest to curators and art historians studying the work of Liss and the Northern Baroque, but it was also of interest to those concerned with the history of collecting and the reception of the Baroque in Britain during the 18th, 19th and 20th centuries. The picture therefore met the third Waverley criterion.

The applicant had stated in a written submission that they did not contest that the painting may be of national importance under one or more of the three Waverley criteria.

We heard this case in October when the painting was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of the work of Johann Liss and his working practices. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £5,665,200 (plus VAT of £173,040). 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 painting, the deferral period should be extended by a further six months.

During the initial deferral period, we received a serious expression of interest from a private individual to purchase the painting and to secure public access to it under the Ridley Rules. A decision on the export licence application was deferred for a further six months.

Shortly before the end of the second deferral period, we were informed that the private purchaser had decided not to finalise their offer for the painting. At the end of the second deferral period, as no other offers to purchase the painting had been made, an export licence was issued.

Plate 30 *The Temptation of Mary Magdalene* by Johann Liss

Case 13 *Going to Market, Early Morning* by Thomas Gainsborough

An oil painting on canvas by Thomas Gainsborough (1727–88), measuring 121.8cm by 147.2cm.

The applicant had applied to export the painting to Switzerland. The value shown on the export licence application was £7,961,000, which represented the hammer price of £7 million plus Buyer's Premium of £1,171,000 less a fixed fee of £210,000.

The Senior Curator, pre-1800 British Art, Tate Britain, acting as expert adviser, had objected to the export of the painting on the grounds that its departure from the UK would be a misfortune under the first, second and third Waverley criteria for its outstanding significance for the study of the history of collecting, having been in the past part of two collections of great historical significance.

The expert adviser had provided a written submission stating that Gainsborough's *Going to Market, Early Morning* was an outstanding example of a landscape painting by one of the most important 18th-century British artists. It had been included in two collections of the greatest significance and quality, at Stourhead and at Royal Holloway College. It had been exhibited and published repeatedly as the epitome of English landscape art, representing this key aspect of British culture nationally and internationally. It was widely acknowledged to be one of the most supremely accomplished of Gainsborough's paintings, marking a high point of his achievements in the art of landscape. The painting occupied a pivotal place in Gainsborough's professional and artistic development and had been interpreted as having great importance for our understanding of that artist and of 18th-century landscape painting more generally. It was of outstanding significance for art and cultural history both in its complex aesthetic engagement with past art and in its representation of the social life of the countryside. Furthermore, the painting's ownership history made it an important case study in the history of collecting, having been in the past part of two collections of great historical significance.

The applicant had stated in a written submission that they did not contest that the painting was of national importance under one or more of the three Waverley criteria.



Plate 31 *Going to Market, Early Morning* by Thomas Gainsborough

We heard this case in November 2019 when the painting was shown to us. We found that it met the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was of outstanding aesthetic importance and it was of outstanding significance for the study of Gainsborough's relationships with patrons and the artist's relationship with landscape art. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £7,961,000 (VAT of £234,200). 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 painting, the deferral period should be extended by a further six months.

During the initial deferral period, we received serious intention from a UK institution to raise funds to purchase the painting. A decision on the export licence application was deferred for a further six months. We were subsequently informed that the institution was unable to raise the funds to purchase the painting and an export licence was therefore issued.

Case 14 A Middle English manuscript, *The Myrowr of Recluses*

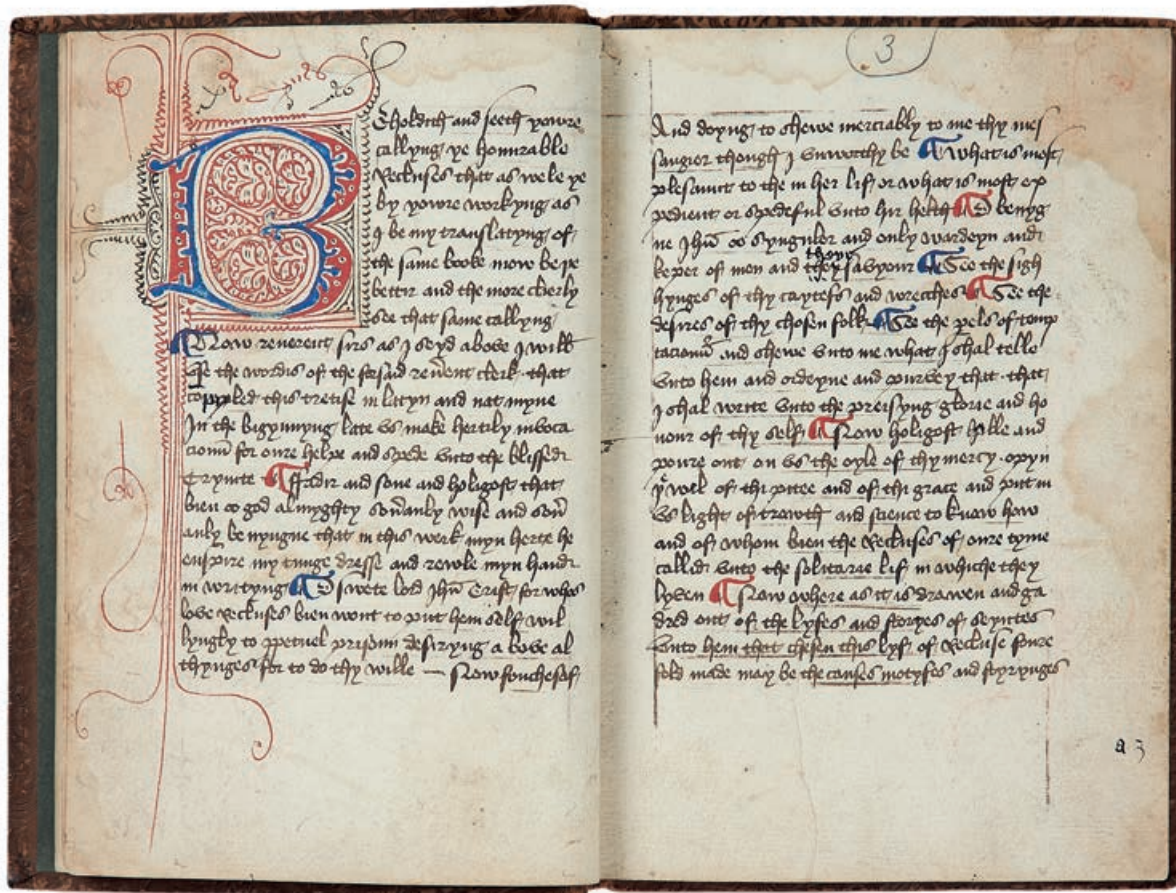


Plate 32 A Middle English manuscript, *The Myrowr of Recluses* (inner page spread)

The Myrowr of Recluses is a manuscript on paper, a Middle English guide to the life of an anchorite. It was produced in England, perhaps in London, in the first half of the 15th century. It contains 66 original leaves, and measures 20cm by 14cm. It is generally in good condition. The binding dates from the 19th century.

The applicant had applied to export the manuscript to France. The value shown on the export licence application was £168,750, which represented the hammer price at auction plus the buyer's premium.

The Head of Early and Rare Collections at the Bodleian Library, acting as expert adviser, had objected to the export of the manuscript on the grounds that its departure from the UK would be a misfortune under the third Waverley criterion for its outstanding significance for the study of Middle English religious literature and of the lives of religious women in late medieval England.

The expert adviser had provided a written submission stating that the *The Myrowr of Recluses*

was a manuscript on paper, a Middle English guide to the life of an anchorite. It was produced in England, perhaps in London, in the first half of the 15th century. The binding dated from the 19th century. The Middle English text, of which this manuscript was the only complete witness, was a translation from the Latin *Speculum inclusorum*, an anonymous work of guidance for recluses composed probably in England in the early 15th century and now extant in two manuscripts.

It described the reasons (both virtuous and in some cases misguided) that people would seek to become anchorites; the activities of the anchorite's life (principally prayer, meditation and reading); and the joys (in this world and the next) of those who observed the vocation faithfully.

The Middle English translation was previously known only from the defective manuscript in the British Library, Harley MS. 2372, which dated probably from the mid-15th century. The Harley manuscript was lacking about one third of the text. Almost every aspect of the present manuscript remained to be explored. It seemed to be an independent witness – a sampling of its textual

readings suggested that it was neither the model for, nor copied from, the Harley manuscript.

It may be claimed that a set of high-quality digital images would serve the purposes of scholarship just as well as the original manuscript. However, modern scholars take every aspect of the book, not just the text itself, into account when they try to reach the fullest possible understanding of the context in which it was first produced and subsequently received. The archaeological approach investigates the book in all its material aspects and has gone far beyond the idea of the book merely as a carrier of text, any more than a Renoir drawing should be viewed merely as the carrier of an image which can be adequately studied in reproduction.

The manuscript was a survival from another world, the past life of our own society.

When questioned about the manuscript's relation to the medieval professional book trade, the expert replied that this manuscript could well have been produced in a professional context. Although the illumination was not as rich as others, it was rather elegant and was not incompatible with professional production. The expert drew the Committee's attention to the manuscript's potential link to Barking Abbey, noting that while further research may not tell us it originated from the Abbey, it would likely reveal something about medieval manuscript production workshops.

The applicant had stated in a written submission that the item probably met the first Waverley criterion and that it perhaps met the third Waverley criterion.

We heard this case in October 2019 when the manuscript was shown to us. We found that it met the third Waverley criterion on the grounds that its departure from the UK would be a misfortune because it was of outstanding significance for the study of collecting history, medieval book trade workshops, and history of anchoritic life in England. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £168,750, plus buyer's premium. 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 manuscript, the deferral period should be extended by a further four months.

During the initial deferral period, we were informed of a serious intention to raise funds to purchase the manuscript. At the end of the initial deferral period, the Secretary of State decided that the deferral period for *The Myrowr of Recluses* should be suspended due to circumstances particular to the case.

Case 15 Mark Catesby, *The Natural History of Carolina, Florida, and the Bahama Islands* (two volumes) and William Bartram and others, *A Commonplace Book*

Two-volume set of *The Natural History of Carolina, Florida, and the Bahama Islands* by Mark Catesby: London 1731 and 1743. Two large folios measuring 52.9cm by 36.3cm. A first edition set consisting of printed text and hand-coloured etched plates. Extra-illustrated with a frontispiece and additional original watercolours by Georg Ehret and William Bartram and with annotations and extensive inscriptions by Peter Collinson, Catesby and others.

A Commonplace Book of original drawings and prints by William Bartram, Peter Collinson and others: one bound volume (commonplace book) comprising 75 watercolours and drawings by and attributed to William Bartram, Mark Catesby, George Edwards, Georg Ehret and others. Twentieth-century half-bound morocco with marble paper-covered boards. Large folio measuring 44cm by 29cm. Mid-eighteenth century. This volume included William Bartram's drawing of his father John Bartram's house and garden which was now regarded as a foundation document of American garden history and provided vital evidence of the garden's original design to the Historic Bartram's Garden Trust in their restoration of the garden.

The applicant had applied to export the albums to the United States. The value shown on the export licence application was £2,500,000, which represented the price at which the owner is prepared to sell the albums subject to the granting of an export licence.

The Head of Library Special Collections, Natural History Museum, acting as expert adviser, had objected to the export of the albums on the grounds that their departure from the UK would be a misfortune under the first and third Waverley criteria for their outstanding significance for the study of 18th-century British culture, including the history of science, gardens, landscape and collecting, and natural history art and illustration.

The expert adviser had provided a written submission stating that from their initial ownership by Peter Collinson, they have historically remained together up until their most recent acquisition by Edward Stanley Smith, 13th Earl of Derby in 1842 – a gentleman who had a remarkable involvement in natural history and who recognised the value and historical importance of these volumes in his purchase of them.



Catesby, Collinson and John Bartram were all acknowledged as outstanding and key players in the development of early 18th-century plant exchange at a time when south-eastern North America was still part of the British colonies. The commonplace book of Collinson, while containing some watercolours of species of American origin depicted by John Bartram's son William, also contained other original drawings that were exceptionally early depictions of botanical and zoological subjects from all over the world that were brought to England; some of which were in the collection of Sir Hans Sloane – the foundation collection of the British Museum and thus also the Natural History Museum and British Library. The extra illustrations and watercolours present in the commonplace volume were therefore of outstanding national interest.

Peter Collinson's extra-illustrated two-volume first edition copy of Catesby's *Natural History* was regarded as one of the most important single artefacts relating to the circle of collectors, natural historians, garden owners and other virtuosi

Plate 33 Mark Catesby, *The Natural History of Carolina, Florida, and the Bahama Islands* (two volumes) and William Bartram and others, *A Commonplace Book* (inner page details)



centred around the Royal Society in London during the first half of the 18th century. Its unique multi-faceted character through the additions of original artworks and annotated commentary may well also qualify it to be the most symbolically important artefact in this context. It had no parallel anywhere else making it a highly important contemporary document. As such, the additional illustrations and annotations created a unique repository of some of the finest botanical drawings and prints of the period while demonstrating the intricate and interconnecting horticultural and artistic friendships.

The applicant disagreed that the albums met the Waverley criteria. Regarding the first Waverley criterion, the applicant stated that this property included two volumes of a printed book, a multiple, albeit with association value as Peter Collinson's copy. The inserted watercolours here, as in the watercolours in the commonplace book, were mostly of American and other foreign subjects, and thus not so closely connected with our history and national life that their departure would be a misfortune.

Regarding the second Waverley criterion, the applicant stated that these were works by amateur artists and natural history illustrators and thus not of outstanding aesthetic importance.

Regarding the third Waverley criterion, the applicant stated that this copy of Catesby's *Natural History* was Peter Collinson's so had some additional value as an association copy, but this did not give it outstanding importance for the study of some particular branch of art, learning or history. As these three were painted from specimens propagated in England rather than America, they were of secondary importance to the watercolours painted by Catesby from life in America. The watercolours by William Bartram included in the commonplace book, and inserted in the *Natural History*, include mostly works from the younger Bartram's early teenage years and so may be described as juvenilia by this amateur artist. There was otherwise a selection of miscellaneous natural history prints, including hand-coloured proofs of Catesby's engraved plates, and original works by Ehret, George Edwards and anonymous hands which were all random scraps from Peter Collinson's collection, and had no particular order or significance.

We heard this case in December 2019 when the albums were shown to us. We found that they met the first and third Waverley criteria on the grounds that their departure from the UK would be a misfortune because they were so closely connected with our history and national life and they were of outstanding significance for the study of the history of science, gardens, landscape and collecting within 18th-century British culture. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £2,500,000. 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 albums, the deferral period should be extended by a further four months.

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

Plate 33 Mark Catesby, *The Natural History of Carolina, Florida, and the Bahama Islands* (two volumes) and William Bartram and others, *A Commonplace Book* (inner page details)

Case 16 A sledge and flag from Shackleton's *Nimrod* Expedition



An Antarctic sledge and framed plaque, used on the British Antarctic Expedition (*Nimrod* Expedition), 1907–09, retained by Eric Marshall.

Eric Marshall's sledge flag used on the British Antarctic Expedition (*Nimrod* Expedition), 1907–09.

The applicant had applied to export the sledge and flag to Australia. The value shown on the export licence application was £227,500, which represented the hammer price at auction, plus the buyer's premium, plus VAT on the buyer's premium.

The Chief Executive, UK Antarctic Heritage Trust, acting as expert adviser, had objected to the export of the sledge and flag, on the grounds that its departure from the UK would be a misfortune, under the first Waverley criterion.

The expert adviser had provided a written submission stating that both items belonged to Dr Eric Marshall, surgeon and polar explorer. Dr Eric Marshall was a member of the British Antarctic Expedition 1907–09 (*Nimrod*) led by Sir Ernest Shackleton, which aimed to reach the South Pole. Marshall was one of the four men picked to join the Southern Party to undertake the sledge march to the pole, which was famously abandoned less than 100 miles from their intended destination, which was the record for a farthest south until Amundsen and Scott conquered the pole in three years later.

These items were returned to the UK on the *Nimrod* and retained by Marshall until the 1950s, when he donated them to his alma mater Monkton Combe School in Bath. These items were associated with one of the most significant British Antarctic expeditions in history and certainly the one which made the name of Ernest Shackleton as a leader. Because these items travelled with their owner, Eric Marshall, to the farthest south point in the Antarctic on the 9th January 1909, they offered a unique and tangible connection with this momentous expedition.

It was the particular association with the man, Marshall, and the southern party expedition which made the sledge unique. The sledge was hauled, first by pony and then by man, to within 97.5 miles of the South Pole on the 9th January 1909 and back again to the hut at Discovery Point, bearing the dwindling supplies and equipment needed by the four men to

Plate 34a A sledge from Shackleton's *Nimrod* Expedition

survive. It bore, at times, Marshall's sledging flag, which was a prominent feature in many of the photographic records of the expedition.

The sledging flag was by its very nature, a unique item. Handmade and designed by expedition members or their partners, they were highly personal often bearing heraldic motifs relevant to the family or the individual character. This one travelled with Marshall to the farthest south point in 1909, occasionally it will have flown from his sledge, but more often worn 'tied in back to keep warm' (Marshall's diary). The prominence of this flag in several of the photographic images from the expedition published at the time and in Heart of the Antarctic Ernest Shackleton's celebrated account of the attempt on the South Pole made this a visible and recognisable heritage artefact from this significant expedition.

The applicant stated in a written submission that, while we knew that the sledge belonged to Marshall, it had not been possible to ascertain whether it was one of the four sledges on the southern journey to the Pole, or merely one of the fourteen others taken to Antarctica. The flag, on the other hand, was photographed farthest south.

The applicant also noted that the upper rail of the sledge had stripped out of its leather strapping. Also, the flag had severely faded on one side and was fragile from long exposure to daylight.

The applicant concluded that Eric Marshall's sledge and flag were not of outstanding aesthetic importance, nor of outstanding significance for study. Given the number of sledges and flags from the 'Heroic Age' of Antarctic exploration already in UK public collections, the uncertainty about how far south the sledge went, and the condition of the flag in particular, the departure of Marshall's artefacts would not be a misfortune.

We heard this case in January 2020 when the sledge and flag was shown to us. We found that it met the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life and it was of outstanding aesthetic importance and it was of outstanding significance for the study of the study of Polar expedition and Ernest Shackleton *Nimrod* expedition. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £227,500 (inclusive of VAT of £8,750). We further recommended that if, by the



Plate 34b A flag from Shackleton's *Nimrod* Expedition

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 sledge and flag, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by National Maritime Museum and the Scott Polar Research Institute to raise funds to purchase the sledge and flag. The proposal was for the items to be purchased collectively, and for the National Maritime Museum to acquire the sledge and the Scott Polar Research Institute to acquire the flag, in line with their respective collecting policies. A decision on the export licence application was deferred for a further three months.

Due to complications relating to the Covid-19 pandemic and the National Heritage Memorial Fund's refocusing on an emergency response, the second deferral period for these items was extended by an additional two months. Additional deferral periods beyond the RCEWA's recommended timetable are rare but Ministers have occasionally agreed to them "where there is a reasonably certain prospect of raising the residual sum within a prescribed timescale" to acquire an item, as stated in the Arts Council's Guidance for Exporters. The Covid-19 pandemic was an unprecedented situation and therefore had created exceptional circumstances which fell outside normal parameters.

We were subsequently informed that the sledge and flag had been purchased by National Maritime Museum and the Scott Polar Research Institute with assistance from National Heritage Memorial Fund.

Case 17 *The Adams Shipyard* by John Cleveley the Elder

John Cleveley the Elder (c.1712–77), *The Adams Shipyard from the Isle of Dogs, with His Majesty's new frigate Ambuscade 'on the stocks', dressed with flags and ready for launching, 17 September 1773, signed and dated 1774, oil painting on canvas, 89.5cm by 150.2cm.*

The applicant had applied to export the painting to the Caribbean. The value shown on the export licence application was £195,000, which represented the hammer price at auction plus the buyer's premium.

The Lead Curator, British Art to 1800, Tate Britain, acting as expert adviser, had objected to the export of the painting on the grounds that its departure from the UK would be a misfortune under the first and third Waverley criteria for its outstanding significance for the study of British maritime, industrial and imperial history, for the local history of London, and for the study of 18th-century marine and topographical painting.

The expert adviser had provided a written submission stating that the painting showed a view across the Thames from the Isle of Dogs, looking west towards the dockyard at Grove Street, Deptford, with the frigate *HMS Ambuscade* being prepared to be launched. The painting was signed and dated 1774 and appeared to be the work shown at the Free Society of Artists' exhibition in London that year. It was painted by John Cleveley the Elder, a ships carpenter and artist, and one of the most important and distinctive of marine painters of the 18th century. The picture was an outstanding example of 18th-century maritime art and a rich document of the business of shipbuilding during a period of dramatic international conflict which saw Britain become established as the dominant world power.

The painting was exceptional as a contemporary view of a London shipyard at work at the height of the 'age of sail'. It was of special interest as a view of an independent shipyard, rather than the Royal Dockyard more often taken as subject matter by painters (including Cleveley).

In addition to its documentary interest, Cleveley's painting was a substantial work of art. The patronage of maritime painters remained an area of research, but the evidence was that it was shipowners, dock officials and shipbuilders who purchased such works. As such, rare shipyard

scenes such as Cleveley's were significant in representing the tastes and values of an emerging industrial society, as well as setting out an iconography for the industrial landscape itself.

The applicant had stated in a written submission that they did not consider that the painting met any of the three Waverley criteria. Regarding the first Waverley criterion, the applicant stated that they could not see how the departure of the painting could be a misfortune. There were many paintings of the dockyards along the River Thames that were held in UK galleries which depict both the yards and the launches of ships onto the Thames.

Regarding the second Waverley criterion, the applicant stated that the painting was not of 'outstanding' aesthetic importance. Cleveley's finest works were already housed in UK public galleries.

Regarding the third Waverley criterion, the applicant stated that the painting was not of 'outstanding' significance for the study of art, history or a branch of learning. The applicant stated that *HMS Ambuscade* was well known from the 3-D model held in the Science Museum. The applicant stated that we were also knowledgeable of the Barnard shipyard from the records of the family. The applicant noted the number of paintings in UK institutions that depicted the docks at Deptford. While the subject of the painting may be of interest, it did not enhance any branch of learning in a manner that could be described as outstanding.

In a further submission prior to the meeting, the applicant reiterated that there were many views in public galleries showing shipyards on the Thames and independent yards elsewhere in the UK. The applicant also disagreed with the claim that the painting completed a visual survey of the landscape from Deptford Creek. They noted the significant number of pictures of dockyards in Deptford, and other yards along the length of the Thames down to Medway that are in UK public galleries. The applicant stated that this picture did not enhance our understanding in an outstandingly significant manner.

We heard this case in January 2020 when the painting was shown to us. We found that the painting did not meet any of the Waverley criteria and recommended that an export licence be issued. An export licence was issued.

Case 18 A Flemish ebony cabinet with painted panels

A cabinet veneered with ebony and turtleshell, mounted with 15 painted oak panels and metal mounts, and containing a mirrored perspective, set on a modern, ebonised wood stand, measuring 102cm by 107cm by 49cm (closed, and excluding stand).

We heard this case in February 2020 and concluded that the cabinet satisfied the third Waverley criterion. The Secretary of State agreed with the recommendation but the application for an export licence was withdrawn prior to the Secretary of State's decision being announced. The cabinet, therefore, remains in the UK.

Case 19 Collected scientific works in Latin

Manuscript on parchment, containing the collected scientific works (in Latin) of the physician and astronomer Lewis of Caerleon. Produced in England, probably in London or Cambridge, in the later 15th century. It contains 64 leaves and measures c. 44.5cm by 33cm.

The applicant had applied to export the manuscript to Switzerland. The value shown on the export licence application was £300,000, which represented the price at which the owner had agreed to sell the manuscript subject to the granting of an export licence.

The Head of Early and Rare Collections at the Bodleian Library, acting as expert adviser, had objected to the export of the manuscript on the grounds that its departure from the UK would be a misfortune under the first and third Waverley criteria for its outstanding significance for the study of medieval mathematical and scientific knowledge, and for the Welsh contribution to the history of science in the British Isles.

The expert adviser provided a written submission and three supporting submissions from specialist scholars. The submissions stated that Lewis of Caerleon was a Welsh physician as well as an accomplished astronomer and manuscripts collector. He was highly skilled in the various technical aspects of astronomy and drew up computational tables. He also carried out observations and recorded detailed calculations that were aimed at predicting eclipses. In addition, he studiously collected and critically commented on the work of earlier astronomers.

The exceptional value of the manuscript under consideration lay both in its codicological features and its contents. While some of the texts and



Plate 35 Collected scientific works in Latin by Lewis of Caerleon (cover view)

tables found in this manuscript have parallels in Lewis of Caerleon's autograph notebook in Cambridge University Library and two other presentation manuscripts, others appear to be unique to this manuscript and hold the potential of shedding important new light, not only on Caerleon's activities, but on the status of late-medieval mathematical astronomy more generally.

The manuscript was a unique witness for the history of astronomy and more broadly the history of mathematics in England at the end of the 15th

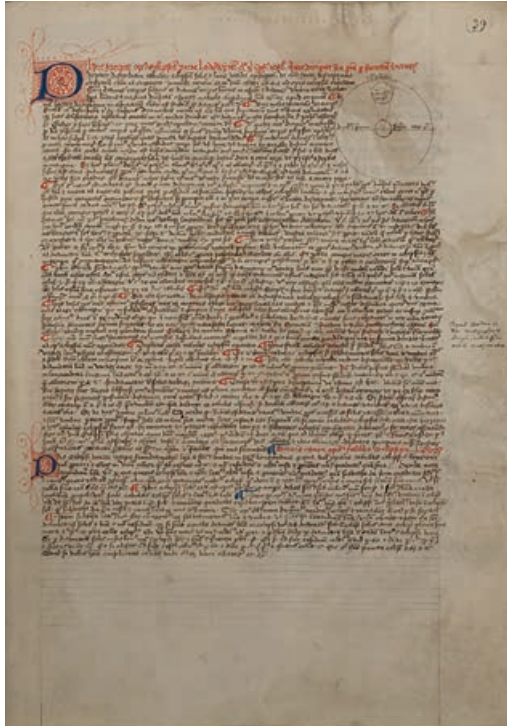


Plate 35 Collected scientific works in Latin by Lewis of Caerleon (inner page details)

century. It also contributed to the reconstruction of lost work by earlier English scholars and highlighted the lasting influence of Islamic science. This manuscript was of outstanding importance for the study of the development of astronomy at the end of the 15th century, as well as for the history of England.

At the meeting, the expert brought the distinguished provenance of the manuscript to the Committee's attention. When questioned about

the autograph element of the manuscript, the expert replied that the manuscript was the work of a professional scribe but had been annotated by Lewis himself. The text was likely produced in London or Cambridge. However, it was clearly produced under the supervision of Lewis of Caerleon.

The applicant did not comment on the three Waverley criteria in their written submission.

We heard this case in February 2020 when the manuscript was shown to us. We found that it met the first and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because it was so closely connected with our history and national life and it was of outstanding significance for the study of medieval mathematical and scientific knowledge, and for the Welsh contribution to the history of science in the British Isles. We recommended that the decision on the export licence application should be deferred for an initial period of three months to allow an offer to purchase to be made at the fair matching price of £300,000. 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 manuscript, the deferral period should be extended by a further three months.

During the initial deferral period, we were informed of a serious intention by the British Library to raise funds to purchase the manuscript. A decision on the export licence application was deferred for a further three months. We were subsequently informed that the manuscript had been purchased by the British Library.

Supplementary Information

List of independent assessors who attended meetings during 2018–19

Dawn Ades , Professor of Art History (Retired), University of Essex	Case 2
William Agnew , Director, W Agnew & Company Ltd	Case 5
Brian Allen , Chairman, Hazlitt Group	Case 1, 7
Rufus Bird , Surveyor of The Queen's Works of Art, Royal Collections Trust	Case 17, 18
Richard Blurton , Research Associate, Department of Asia, The British Museum	Case 12
Charlotte Bolland , Collections Curator 16th Century, National Portrait Gallery	Case 4
Anne Buddle , Collection Advisor, National Galleries of Scotland	Case 12, 26
Martin Butlin , Art Historian	Case 7
Tom Clarke , Motoring Historian	Case 25
Alec Cobbe , Cobbe Collection	Case 10
Paul Collins , Acting Keeper of Antiquities and Jaleh Hearn Curator of Ancient Near East, Ashmolean Museum	Case 8
Rebecca Daniels , Associate Editor, <i>Francis Bacon: Catalogue Raisonné</i>	Case 21, 22, 23, 24
James Ede , Director, Charles Ede Limited	Case 8
Frances Fowle , Personal Chair of 19th Century Art and ECA International Director, University of Edinburgh; Senior Curator of French Art, National Galleries of Scotland	Case 9
Marcus Fraser , Honorary Keeper of Islamic Manuscripts and Miniatures, Fitzwilliam Museum	Case 6
Murray Fraser , Professor of Architecture, The Bartlett School of Architecture	Case 11
Francesca Galloway , Francesca Galloway Ltd	Case 6, 12
Jonathan Harris , Independent Consultant	Case 18
Colin Harrison , Senior Curator of European Art, Ashmolean Museum	Case 1, 9
Karen Hearn , Historian of British Art and Culture c.1500-c.1710 and Exhibition Curator, University College London	Case 4
Richard Hudson-Evans , Motoring Consultant	Case 25
Tim Hunter , Vice President, Falcon Fine Art	Case 9
Alastair Laing , Former Curator of Pictures and Sculpture, National Trust	Case 20

Martin Levy , Director, H Blairman & Sons	Case 3
Bruce Lindsay , Director, Harris Lindsay Ltd	Case 17
Stuart Lochhead , Stuart Lochhead Sculpture	Case 5
David Lomas , Professor, Art History & Visual Studies, University of Manchester	Case 2
Anthony Mould , Managing Director, Anthony Mould Ltd	Case 1, 4
Christopher Nobbs , Adviser on Musical Instruments to the National Trust; Consultant Conservator to the Museum of the Royal College of Music	Case 10
Richard Ormond , Director, JS Sargent Catalogue Raisonné Project	Case 16
Richard Pare , Consultant, Canadian Centre for Architecture	Case 11
Anthony Phillips , Independent Consultant and Former Head of Silver Department, Christie's	Case 13
Felix Pryor , Manuscript and Archive Consultant	Case 3, 14, 15, 19
Simon Ray , Simon Ray Ltd	Case 6, 26
James Roundell , Director, Impressionist and Modern Art, Simon C Dickinson Ltd	Case 2, 16
Timothy Schroder , Lecturer, Writer and Adviser on Silver- and Goldsmiths' Work	Case 13
David Scrase , Former Assistant Director of Collections, Fitzwilliam Museum	Case 16, 20
Jim Secord , Director of Studies in History and Philosophy of Science, Christ's College, Cambridge	Case 14, 15
Simon Swynfen Jarvis , Former Director of Historic Buildings, National Trust	Case 3
Dino Tomasso , Partner, Tomasso Brothers Fine Art	Case 17
Francesca Vanke , Keeper of Art & Curator of Decorative Art, Norfolk Museums Service	Case 18
Ian Warrell , Independent Curator and Writer	Case 7
Jeremy Warren , Specialist in Sculpture and Works of Art	Case 5
Graham Wells , Consultant Organologist	Case 10
Sarah Whitfield , Independent Art Historian	Case 21, 22, 23, 24
Joan Winterkorn , Manuscript and Archive Consultant	Case 11, 14, 15, 19

List of independent assessors who attended meetings during 2019–20

William Agnew , Director, W Agnew & Company Ltd	Case 11
Brian Allen , Chairman, Hazlitt Group	Case 6, 17
Hugh Belsey , Independent Art Historian	Case 13
Rufus Bird , Surveyor of the Queen's Works of Art, The Royal Collection	Case 18
Paul Crane , Gallery Manager, Brian Haughton Gallery	Case 3
Aileen Dawson , Historian and former Curator, Department of Britain, Europe and Prehistory, The British Museum	Case 3
Anthony Edwards , Professor of Medieval Manuscripts, University of Kent	Case 14
Mark Evans , Head of Paintings and Photographs, Victoria and Albert Museum	Case 4
Oliver Fairclough , Honorary Research Fellow, National Museum Wales	Case 3
Seb Falk , Research Fellow, Bavarian Academy of Sciences and Humanities	Case 19
Angus Haldane , Director, Haldane Fine Art	Case 9
Colin Harrison , Senior Curator of European Art, Ashmolean Museum	Case 6
Eddie Jones , Head of English, University of Exeter	Case 14
Alex Kidson , Independent Art Historian	Case 9
Alastair Laing , Former Curator of Pictures and Sculpture, National Trust	Case 10
Stuart Leggatt , Bookseller, Meridian Rare Books	Case 16
Lowell Libson , Director, Lowell Libson & Jonny Yarker Ltd	Case 15
Bruce Lindsay , Harris Lindsay Ltd	Case 18
Richard Linenthal , Antiquarian Bookseller	Case 19
Anne Lyles , Art Historian	Case 4, 17
Rupert Maas , The Maas Gallery	Case 8
Henrietta McBurney Ryan , Independent Curator and Art Historian	Case 15
Christopher Mills , Honorary Research Associate, Royal Botanic Gardens Kew	Case 15
Paul Moorhouse , Art Historian and Curator	Case 5
Geraldine Morris , Reader in Dance, University of Roehampton	Case 5

Anthony Mould , Managing Director, Anthony Mould Ltd	Case 4, 13
Angela Nevill , Nevill Keating Pictures	Case 8
Victoria Osbourne , Curator (Fine Art), Birmingham Museums Trust	Case 8
Felix Pryor , Manuscript and Archive Consultant	Case 19
Paul Quarrie , Manuscript and Books Specialist, Maggs	Case 2
Geoffrey Quilley , Professor of Art History, University of Sussex	Case 17
Donovan Rees , Bernard Quaritch Ltd	Case 14
Christopher Riopelle , The Neil Westreich Curator of Post 1800 Paintings, The National Gallery	Case 7
Geoffrey Robertson , QC and Author	Case 1
James Roundell , Director, Impressionist and Modern Art, Simon C Dickinson Ltd	Case 7
David Scrase , former Director of Collections, Fitzwilliam Museum	Case 12
Alison Shell , Professor at University College London	Case 2
Susan Sloman , Independent Art Historian	Case 13
Michael Smith , Author	Case 16
Anthony Speelman , Edward Speelman Ltd	Case 10, 12
Simon Swynfen Jarvis , former Director of Historic Buildings, National Trust	Case 18
Richard Thomson , Professor in History of Art, The University of Edinburgh	Case 7
Robert Upstone , Managing Director, Robert Upstone Ltd	Case 5
Johnny Van Haeften , Director, Johnny Van Haeften Ltd	Case 10
Sir Brian Vickers , Author and Academic	Case 2
Ian Warrell , Independent Curator and Writer	Case 6
Jeremy Warren , Honorary Curator of Sculpture, Ashmolean Museum	Case 11
Lucy Whitaker , The Royal Collection	Case 12
Joan Winterkorn , Manuscript and Archive Consultant	Case 1
Paula Williams , Curator, Maps, Mountaineering & Polar Collections	Case 16

Items licensed for export after reference to expert advisers for advice, 1 May 2018 to 30 April 2019

Category	Advising authority	No of items	Total value (£)
Architectural models	Sir John Soane's Museum, Deputy Director	0	£0
Arms and armour	Royal Armouries, Leeds, Director General	3	£241,900
Books, maps etc	British Library, Keeper of Printed Books, Head of Map Collections	55	£36,226,147
Books, drawings and manuscripts (natural history)	Natural History Museum, Special Collections Manager Library & Archives	15	£1,857,063
Ceramics (Pottery) and Glass	Victoria and Albert Museum, Head of Ceramics & Glass Department	54	£6,299,895
Clocks and watches	The British Museum, Keeper of Clocks and Watches	13	£2,711,418
Coins and medals	The British Museum, Keeper of Coins and Medals	1,162	£5,124,908
Drawings: architectural, engineering and scientific	Victoria and Albert Museum, Keeper of Word & Image Department	37	£3,151,747
Drawings, prints, water-colours	The British Museum, Keeper of Prints and Drawings	258	£139,426,652
Egyptian antiquities	The British Museum, Keeper of Egyptian Antiquities	2	£3,295,000
Ethnography and Western Asiatic Antiquities	The British Museum, Keeper of the Department of Africa, Oceania and the Americas	22	£9,846,000
Furniture and woodwork	Victoria and Albert Museum, Keeper of Furniture and Textiles & Fashion Department	87	£15,234,581
Greek and Roman antiquities	The British Museum, Keeper of Greek and Roman Antiquities	11	£17,073,980
Indian furniture, textiles and works of art	Victoria and Albert Museum, Senior Curator of Asian Department, South & South East Asian Collection	19	£2,279,689
Japanese antiquities	The British Museum, Department of Asia	1	£70,000
Manuscripts, documents and archives	British Library, Curator, Department of Manuscripts	5,976	£150,565,348
Maritime material, including paintings	National Maritime Museum, Director of Collections	2	£650,000
Middle East antiquities	The British Museum, Keeper of Middle East Antiquities	6	£8,988,234
Middle East ceramics, glass, textiles and works of art	Victoria and Albert Museum, Senior Curator of Middle East Section	8	£9,672,869
Musical instruments	University of Edinburgh, Curator of Musical Instruments Collections	63	£59,946,367

Category	Advising authority	No of items	Total value (£)
Oriental antiquities (except Japanese)	The British Museum, Department of Asia	24	£4,838,812
Oriental furniture, porcelain and works of art	Victoria and Albert Museum, Senior Curator of Asian Department, Chinese Collection	56	£34,419,554
Paintings, British, foreign post-1900	Tate Gallery	244	£498,370,336
Paintings, foreign pre-1900	The National Gallery, Director	183	£577,651,096
Paintings, miniatures and pastels	Victoria and Albert Museum, Senior Curator of Painting Section, Word & Image Department	0	£0
Portraits of British historical persons	National Portrait Gallery, Director	54	£77,151,564
Photographs	Victoria and Albert Museum, Senior Curator, Photographs	274	£12,451,316
Prehistory and Europe (inc. Archaeological material, Medieval and later antiquities & Metal Detecting Finds)	The British Museum, Keeper of Prehistory & Europe Department of Portable Antiquities & Treasure (Metal Detecting Finds)	29,006	£4,453,771
Scientific and mechanical material	Science Museum, Head of Collections	4	£364,120
Sculpture	Victoria and Albert Museum, Senior Curator of Sculpture, Metalwork, Ceramic & Glass Department Tate Gallery (20th Century Sculpture)	117	£106,186,694
Silver and weapons, Scottish	National Museums Scotland, Director	0	£0
Silver, metalwork and jewellery	Victoria and Albert Museum, Senior Curator of Sculpture, Metalwork, Ceramic & Glass Department	95	£42,287,991
Tapestries, carpets (and textiles)	Victoria and Albert Museum, Senior Curator of Furniture, Textiles & Fashion Department	51	£12,496,499
Television, cinema and photography technology	National Media Museum, Head	0	£0
Toys	Bethnal Green Museum of Childhood, Head	0	£0
Transport	British Motor Industry Heritage Trust	35	£27,603,373
Wallpaper	Victoria and Albert Museum, Head of Contemporary Section, Word & Image Department	1	£155,600
War orders, medals and decorations	Imperial War Museum	3	£98,800
Zoology (stuffed specimens)	Natural History Museum, Director of Science	1	£38,400
Total		37,942	£1,871,229,721

Items licensed for export after reference to expert advisers for advice, 1 May 2019 to 30 April 2020

Category	Advising authority	No of items	Total value (£)
Architectural models	Sir John Soane's Museum, Deputy Director	0	£0
Arms and armour	Royal Armouries, Leeds, Director General	11	£2,563,800
Books, maps etc	British Library, Keeper of Printed Books, Head of Map Collections	29	£3,499,682
Books, drawings and manuscripts (natural history)	Natural History Museum, Special Collections Manager Library & Archives	82	£838,819
Ceramics (Pottery) and Glass	Victoria and Albert Museum, Head of Ceramics & Glass Department	35	£7,363,838
Clocks and watches	The British Museum, Keeper of Clocks and Watches	16	£2,448,188
Coins and medals	The British Museum, Keeper of Coins and Medals	83	£7,611,138
Drawings: architectural, engineering and scientific	Victoria and Albert Museum, Keeper of Word & Image Department	10	£1,612,100
Drawings, prints, water-colours	The British Museum, Keeper of Prints and Drawings	206	£143,822,909
Egyptian antiquities	The British Museum, Keeper of Egyptian Antiquities	103	£6,396,256
Ethnography and Western Asiatic Antiquities	The British Museum, Keeper of the Department of Africa, Oceania and the Americas	13	£11,324,368
Furniture and woodwork	Victoria and Albert Museum, Keeper of Furniture and Textiles & Fashion Department	81	£20,478,500
Greek and Roman antiquities	The British Museum, Keeper of Greek and Roman Antiquities	413	£24,015,910
Indian furniture, textiles and works of art	Victoria and Albert Museum, Senior Curator of Asian Department, South & South East Asian Collection	16	£4,750,425
Japanese antiquities	The British Museum, Department of Asia	2	£252,427
Manuscripts, documents and archives	British Library, Curator, Department of Manuscripts	1,018	£53,619,142
Maritime material, including paintings	National Maritime Museum, Director of Collections	0	£0
Middle East antiquities	The British Museum, Keeper of Middle East Antiquities	14	£15,381,750
Middle East ceramics, glass, textiles and works of art	Victoria and Albert Museum, Senior Curator of Middle East Section	4	£371,500
Musical instruments	University of Edinburgh, Curator of Musical Instruments Collections	42	£24,263,555

Category	Advising authority	No of items	Total value (£)
Oriental antiquities (except Japanese)	The British Museum, Department of Asia	18	£3,891,156
Oriental furniture, porcelain and works of art	Victoria and Albert Museum, Senior Curator of Asian Department, Chinese Collection	56	£13,969,810
Paintings, British, foreign post-1900	Tate Gallery	215	£386,191,726
Paintings, foreign pre-1900	The National Gallery, Director	162	£577,799,992
Paintings, miniatures and pastels	Victoria and Albert Museum, Senior Curator of Painting Section, Word & Image Department	5	£1,641,000
Portraits of British historical persons	National Portrait Gallery, Director	59	£102,674,154
Photographs	Victoria and Albert Museum, Senior Curator, Photographs	58	£1,405,775
Prehistory and Europe (inc. Archaeological material, Medieval and later antiquities & Metal Detecting Finds)	The British Museum, Keeper of Prehistory & Europe Department of Portable Antiquities & Treasure (Metal Detecting Finds)	17,630	£18,602,000
Scientific and mechanical material	Science Museum, Head of Collections	3	£958,313
Sculpture	Victoria and Albert Museum, Senior Curator of Sculpture, Metalwork, Ceramic & Glass Department Tate Gallery (20th Century Sculpture)	77	£58,830,433
Silver and weapons, Scottish	National Museums Scotland, Director	0	£0
Silver, metalwork and jewellery	Victoria and Albert Museum, Senior Curator of Sculpture, Metalwork, Ceramic & Glass Department	123	£36,970,959
Tapestries, carpets (and textiles)	Victoria and Albert Museum, Senior Curator of Furniture, Textiles & Fashion Department	461	£12,565,035
Television, cinema and photography technology	National Media Museum, Head	0	£0
Toys	Bethnal Green Museum of Childhood, Head	0	£0
Transport	British Motor Industry Heritage Trust	42	£123,795,032
Wallpaper	Victoria & Albert Museum, Head of Contemporary Section, Word & Image Department	0	£0
War orders, medals and decorations	Imperial War Museum	2	£435,600
Zoology (stuffed specimens)	Natural History Museum, Director of Science	1	£160,000
Total		21,090	£1,670,505,288

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