

STOLEN ART AND THE ART LOSS REGISTER

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In 1998, the theft of two paintings by Vincent Van Gogh and another by Cezanne from the National Gallery in Rome made headlines around the world. Fortunately, the Italian police recovered them almost immediately. Just last month the Italian police had a similar success with the recovery of five paintings stolen from the Capitoline Museum. Many here may recall the theft of the paintings from the Isabella Stewart Gardner Museum in Boston in the US 1990 when thieves, posing as police officers gained entry to the museum and stole the only known seascape by Rembrandt, one of the few extant paintings by Jan Vermeer as well as several other paintings and objects, garnering in all twelve items. Nine years later, they are still unrecovered. When such major works of art are stolen, the story almost always makes the headlines internationally. However, such attention getting thefts are only a small portion of the problem of stolen art and cultural property. Art theft is endemic and perennial and not a sporadic event that occurs infrequently as the headlines would suggest. Stolen art runs the gamut from those masterpieces mentioned to the inherited 19th century silver tea set or candlesticks, the Oriental carpet, silver wine coasters, the Georgian chair and so on and on.

In any discussion of stolen art almost inevitably two questions are asked. The first is: “Who is the typical art thief?” The answer is that there is really no one “typical thief.” Romantics imagine a suave, debonair, gentleman thief such as the character portrayed recently by Pierce Brosnan in “The Thomas Crown Affair.” Unfortunately, that is more fiction and fantasy than fact. The truth is much more mundane. Most art thieves are thieves first and foremost. Their motive is the most mundane of all: money. They just happen to steal art rather than a car.

The second question is: How extensive is the problem? Many experts have tried to quantify the incidence of art theft but the task has been all but impossible. Estimates vary from \$2 billion to \$6 US billion annually and are extrapolations from thefts reported to major police organisations such as Interpol. Much stolen art, however, is unreported to such central bodies and perhaps not even to the local law enforcement authorities, particularly in developing countries. Therefore, quantifying the problem is difficult but everyone acknowledges that it is a major international problem, just as the art market is international.

And, just as an object legitimately on the market can travel from its point of origin or creation, so can a stolen work. An object stolen in England can turn up in Australia, as was recently the case with a toy pedal car. The revolution in transportation in this century means that stolen objects can and do move far and quickly. For those who are committed to stemming the trade in stolen art, the challenge is to circulate information on the stolen art to potential buyers and law enforcement agencies worldwide faster and more efficiently than the thieves can circulate the art. As one of the experts at the Getty Information Institute succinctly phrased it, the challenge is to stay one step ahead of the thieves and their accomplices.

This means providing accurate information rapidly so the stolen work can be identified by someone who has never seen it. Disseminating that information to law enforcement agencies internationally, potential purchasers, to the art community, or to organisations such as the Art Loss Register which maintain databases of stolen art and cultural property is the task which faces us. And, that is one of the reasons why the Art Loss Register was established.

The Art Loss Register, which began operations in 1991, was established by the art community and insurance industry to provide a way to combat art theft. It provides a resource where the public as well as law enforcement can register stolen art and also check whether that painting, that sculpture, that silver tankard or other object just might be stolen property. Its shareholders include the major auction houses as well insurance companies and art

organisations. The core of our current database, which now numbers over 120,000 items and is the largest private database, came from the International Foundation for Art Research which began collecting records on stolen art in the mid 1970's. Working with subscribing insurance companies in the US and Europe (no Australian companies are yet participating in the subscription program), the ALR has dramatically increased the level of reporting of stolen art. On average, the ALR registers approximately 1,200 items a month. Since stolen art comprises almost anything that can be sold on the art or collectible market, so does the Art Loss Register database. Since 1991, the ALR has identified and thereby helped to recover over \$100 million in stolen art. Recoveries have occurred through two of the main activities of the Art Loss Register: the screening of auction house catalogues against the database and inquiries by the public and law enforcement agencies.

At the Art Loss Register, the screening of auction catalogues accounts for almost fifty percent of those items identified and then recovered. Sometimes it is the thief who is attempting to sell the work. More frequently the consignor to the auction house has no idea his art is stolen property. Having passed through many hands, the "red flags" of a "deal too good to be true" are no longer there. In the course of a stolen work's travel through the market and over the course of years, it may acquire a veneer of legitimacy in the form of a provenance, which appears, on the surface, to be perfectly respectable and perhaps even distinguished. The ALR database can identify stolen objects regardless of their apparent good provenance. Such recoveries may occur quickly or many years after the theft. A Tiffany lamp stolen from a private collector in 1989 was recovered in 1996 through catalogue screening. Or, as happened recently, when the ALR identified a small still life by the English artist Thomas Bale stolen in Pennsylvania in 1986 which surfaced in an auction house in London a few months ago.

The other mechanism through the ALR identifies stolen works is what we call the "ad hoc search." This may be an inquiry from a police officer, a dealer, a museum or a collector. For example, in March 1996, thieves stole a statue of a young girl, by the American artist Bessie Potter Vonnoh, used as a fountain by a cemetery in Missouri. It was recovered in New York State five months later by police who could not identify the owner or its origin. The ALR provided that crucial information to the police and the couple whom the police arrested where convicted of the US Federal felony of "transportation of stolen property across state lines." The statue was a key piece of evidence in their prosecution. Inquiries from law enforcement, in fact, a service that the ALR provides as free public service, accounts for 31 percent of the works identified and recovered.

Increasingly, the steps a purchaser takes to determine the status of an acquisition are important when or if a question arises regarding the legal ownership of a work of art. This "due diligence" as it is labelled may be difficult for the purchaser, relying solely on his or her own knowledge or memory. Research can help and plays a crucial role in establishing the status of a work. However, it may be only the first step. With the developments in the past decades of new technology, most visibly that in the field of computers, and the advent of the much heralded "information age," the collector, the gallery and the museum, as well as law enforcement, have new tools at their disposal to assist them in exercising their responsibility of "due diligence". Among those tools available to the purchaser are databases of stolen and missing works of art like the Art Loss Register. Some such databases or compilations of stolen works have existed for decades, most notably that maintained by Interpol. With respect to the ALR database, one difference is that unlike the information gathered by many law enforcement agencies, the ALR database is available for consultation by the public as well as law enforcement.

In the past few years, the Art Loss Register has made a concerted effort to encourage dealers and purchasers, whether private or institutional, to check before they buy. And it works. A small bronze Etruscan sculpture of a discus thrower was recovered in 1997 (almost 9 years after it was stolen in Switzerland) when a dealer checked with the ALR. Many major museums in the United States and Europe now incorporate a check with the Art Loss Register as a formal step in their acquisition process. The same is true of many major art dealers in both the US and England. As this practice increasingly becomes the “custom of the trade,” as dealers and other art buyers increasingly check the more art will be identified and recovered. And, this will increase the risk for the thief that he (or she) will be caught. It will also decrease the profitability of theft to the thief. As the open legitimate market becomes a riskier venue for the sale of stolen art, stolen art will be less marketable and the “return” on the thieves’ investment will decrease. It will become riskier and less profitable to steal art so why steal it.

The principle of “due diligence ” is applicable to the buyer but many believe it is also applicable to the theft victim. Just as a purchaser has, in the opinion of many, the obligation to check by available means whether a work is possibly stolen property, so too does the victim have an obligation to notify the appropriate agencies of the theft. Several American legal cases in the recent past have focused attention on this issue. In the American case of *Guggenheim v. Lubell*, a gouache by Marc Chagall was identified by a former employee of the Guggenheim Museum when a transparency of it was brought to an auction house for appraisal for possible sale. It had disappeared from the museum sometime in the late 1960’s. In the course of the protracted legal dispute over ownership of the painting, it was determined that the museum had not reported the loss to any agencies, not to the police nor to their insurer. This of course raised the question of how a purchaser could have determined that it had been stolen. Some institutions have argued that reporting a theft and alerting the public to the loss drives it further underground and decreases the chance of recovery. However, the tangled, not to mention costly, legal battles waged by opposing parties over the issue of ownership of stolen art in recent years, have demonstrated that appropriate reporting of a loss helps to establish the rights of a legal owner when a recovery occurs and does not necessarily impact adversely on the chance of recovery.

In effect, the “due diligence” coin has two sides: firstly the victim has the responsibility to report a theft to law enforcement and other agencies. Secondly the purchaser has the responsibility to “do his homework, “ so to speak, by researching the proposed acquisition and consulting available databases and registries of stolen and missing works like the Art Loss Register.

In closing, I would like to mention briefly an issue that has focused public attention on the issue of stolen art: the art looted during the Second World War. More than fifty years after the end of the war, victims of the Holocaust, their heirs and other victims have come forward to claim works which in some cases have for decades adorned the walls of prominent collectors and even museums. It raises many difficult legal and moral issues and the various parties involved are only beginning to grapple with them. Several organisations in the United States, such as the Commission for Art Recovery of the World Jewish Congress, as well other groups and projects in other countries are attempting to find ways to deal with those issues. Again information will be critical. As a service to the public and the art community, the Art Loss Register has undertaken a special project in cooperation with other organisations to gather the data on those losses and has waived all fees. That data has been incorporated into the ALR database and will add immeasurably to the information available to the purchaser or art, whether a private collector, a dealer or a museum.