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**T. M. P. DUGGAN**



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**DUE DILIGENCE AND THE TREATY OF 46 B.C.**

**T. M. P. DUGGAN\***

Sixteen years ago, “*The 1999 United Nations Global Report estimates the annual trade in illicit antiquities at around 7.8 billion*”<sup>1</sup>, coming after drugs and weapons in the most profitable of black markets.

At the *ISPAC* (International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme) conference held in 2008, convened to address, Organised Crime in Art and Antiquities, Simon Mackenzie in his presentation entitled, “*Identifying and preventing opportunities for organised crime in the international antiquities market*” drew attention to the key role that academics play in enabling this criminal activity:

*“In studies of other organised criminal activities, professionals have routinely been found who act as facilitators: often lawyers and accountants who can set up front companies or assist in money laundering. The facilitators in the antiquities trade are a range of actors who offer various services, such as customs officials, appraisers, dealers and museums, and even academics who in extreme cases may be bribed but many of whom routinely facilitate the illicit market simply by being reluctant to exercise what power they have to stop it”*<sup>2</sup>.

Can the opportunity to publish a previously unknown and important item within an academic’s particular field of research, in the interests of scholarly pride, some financial or some other

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<sup>1</sup> S. Calvani, “Frequency and Figures of Organized Crime in Art and Antiquities”. In: Ed. S. Manacorda, *ISPAC* (International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme) Organised Crime in Art and Antiquities, 2009, 29. Unsurprisingly, “*According to Interpol, the trade in cultural heritage has reached proportions which can be compared with the international trade in drugs and they share other characteristics as well*”. Idem 28.

<sup>2</sup> S. Mackenzie, “Identifying and preventing opportunities for organised crime in the international antiquities market”. In: Ed. S. Manacorda, *ISPAC* (International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme) *Organised Crime in Art and Antiquities*, 2009, 165.

inducement, override matters such as morals, ethics and the exercise of due diligence? The question concerns the ethics of an academic when asked to authenticate and/or publish what can quite reasonably be understood to be, not only an object of considerable importance, but which, nonetheless, is an object that has been illegally excavated and illegally exported from its country of origin. Is it right for an academic to research and publish, without exercising due diligence in first establishing the clear provenance of the object to be studied? Is it the responsibility of an academic to work on and publish any ancient artefact that has information to tell us, quite regardless of its provenance, or the lack of it, quite regardless of the fact it no longer has a known find-spot or context and has become yet another de-contextualised artefact - to research and publish the object regardless of its illegal export and trafficking, quite regardless of the fact that it was sourced from an illegal excavation and it has been smuggled across international borders?

The 2006 ICOM Code of Ethics for Museums states:

*"2.2 Valid Title*

*No object or specimen should be acquired by purchase, gift, loan, bequest, or exchange unless the acquiring museum is satisfied that a valid title is held. Evidence of lawful ownership in a country is not necessarily valid title.*

*2.3 Provenance and Due Diligence*

*Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in or exported from, its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item from discovery or production."<sup>3</sup>*

While the situation, at least for academics and students of Archaeology at University College London was clarified and clearly stated by the Institute of Archaeology in its Policy regarding the illicit trade in antiquities (as amended Dec 2008):

*"6. Ethical implications for Staff and Students of a stance against the illicit trade in antiquities*

*The following ethical implications arise from a stance against looting and the illicit trade:*

*Work must not be undertaken (except on behalf of the police, courts or government of origin) on objects where there is insufficient information to establish a licit provenance or where the material is known to be illicit. Before agreeing to study, analyse or conserve material, Staff Members and Students must exercise due diligence in establishing that the material has not been illegally excavated, acquired, transferred and/or exported from its country of origin since 1970. Research into the illicit trade may involve investigating the provenance history of cultural objects and must be taken to the Institute Ethics Committee for consideration.*

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<sup>3</sup> <http://archives.icom.museum/ethics.html>

*Staff Members and Students must not undertake scholarly publication of unprovenanced material unless it can be demonstrated clearly that the artefact or specimen has been in a collection since before 1970 or was legally exported from its country of origin. This is in line with the publishing policy of the American Journal of Archaeology<sup>4</sup> which states that it 'will not serve for the announcement or initial scholarly presentation of any object in a private or public collection acquired after 30 December 1973, unless the object was part of a previously existing collection or has been legally exported from the country of origin'. This applies also to unpublished reports, including condition reports, given to the possessor of an object, which have also been used to enhance the value of such pieces on the market and should therefore not be undertaken on unprovenanced material"<sup>5</sup>.*

Through the scholarly publication of an important work by a recognised academic expert in the field, the global scholarly community gains access to important and often otherwise unknown information; while the private collector obtains an almost certain financial increase in the value of the acquired object, in terms of its valuation or re-sale value, through the object being evaluated and published by a known academic authority, the antiquity thereby becoming both more valuable and citable, "*legitimate*" insofar as it has been published, and thereafter a known object, joining through publication, references and footnotes the corpus of the known, no longer a displaced orphan or erratic, and although doubtless recently removed from its cultural context and illegally exported given the absence of any export licence, it has then become a published work with a pedigree.

As likewise this same process is regularly practiced by academics who have the expertise, expertise acquired in large part through working in public institutions and being funded by the

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<sup>4</sup> The lead taken by the *AJA* was followed by the *AIA* American Institute of Archaeology which amended its Code of Ethics in December 1997, "*to refrain from activities that enhance the commercial value of such objects* (undocumented antiquities). i.e. no publication of undocumented antiquities by *AIA* members.

<sup>5</sup> [http://www.ucl.ac.uk/archaeology/research/ethics/policy\\_antiquities](http://www.ucl.ac.uk/archaeology/research/ethics/policy_antiquities) As is likewise stated in the University College, London, Cultural Property Policy of 2009, that when academics or students are:

"6. Working with Non-Acquired Cultural Property

*In respect to scholarly publication 6.1.a,*

*6.2 Before agreeing to collaborate or participate in such activities, staff and students should be mindful of the reputational risks, both to them as individuals and to UCL as an institution, that arise from working with material of questionable provenance. This risk is present even when the potential collaborators may be bona fide researchers or represent reputable public institutions in the UK and elsewhere.*

*6. 3 Give consideration as to whether:*

*(II) It has been in a public collection since before 1970*

*(III) It is in private ownership, is well known and is not subject to any claim relating to illicit export or spoliation*

*6.4 Where none of these circumstances apply, or where there is doubt, the presumption should be that the scale of the reputational risk that participation in the collaboration would be imprudent."* [http://www.ucl.ac.uk/cultural-property/downloads/Cultural%20Property%20Policy%20-%20FINAL%201June%2009\(TRPSMcD\).pdf](http://www.ucl.ac.uk/cultural-property/downloads/Cultural%20Property%20Policy%20-%20FINAL%201June%2009(TRPSMcD).pdf)

The consequence of the UCL Cultural Property Policy should mean there will be no academic publication of items of a questionable or of doubtful provenance, of looted or illegally exported antiquities by academics of the University College, London. However, see also, "University Suppresses Report on Provenance of Iraqi Antiquities" Posted on November 4, 2007 by SAFECORNER from an article in *Science Magazine* on October 26, 2007, by Michael Balter – at: <http://www.savingantiquities.org/tag/david-gill/> Accessed 10-01-2015.

tax paying public, which they choose to employ, to authenticate and document antiquities without provenance for national and international auction houses, looted works published in a “scholarly” sales or dealers catalogues<sup>6</sup>. Doubtless also, given the power of possessiveness and envy generating demand amongst other competing collectors for something similar, if not better, and thereby resulting at times in further support for illegal excavations and smuggling as well as the consequent production of forgeries; further destroying the stratigraphy and confusing the context of mankind’s heritage, even if no items are found worthy of the looters attention. Some archaeologists have argued, in order to maintain this principle that it is unethical and immoral to aid and abet the sale of illicit antiquities by offering authentication and expertise<sup>7</sup>, in effect, saying that those academics who do so are aiding and abetting in international criminal activity, and that they should neither publish or give a citation in print to any unprovenanced antiquity. As Colin Renfrew wrote in 2001 concerning the role of academics in the publication of antiquities without a provenance: “Indeed the full scholarly treatment sometimes amounts to academic laundering, making the acquisition of unprovenanced and possibly looted antiquities somehow less offensive; ‘Provenance through publication’ as one critic has commented”<sup>8</sup>. And, as L. Giles, M. Udvardy & J. Mitsanze suggested in Cultural Survival Quarterly in 2004, it has become necessary, in the current wave of collecting, looting and smuggling, that the responsible members of academia:

*“Do not collaborate with art dealers and collectors by contributing essays to their publications, publishing in journals receiving funding from the latter, or assisting them to launch exhibitions of their private collections. Lending your professional status through such means may give the impression that you support their collecting activities”<sup>9</sup>.*

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<sup>6</sup> For this practice, see for example the remarks in N. Brodie, “Academic facilitation of the antiquities market” concerning the activities of a Fellow of the British Academy, Wilfrid Lambert. Emeritus Professor of Assyriology at Birmingham University in England [http://www.beniculturali.it/mibac/export/UfficioStudi/sito-UfficioStudi/Contenuti/Archivio-Newsletter/Archivio/2010/Newsletter-2/visualizza\\_asset.html\\_305635752.html](http://www.beniculturali.it/mibac/export/UfficioStudi/sito-UfficioStudi/Contenuti/Archivio-Newsletter/Archivio/2010/Newsletter-2/visualizza_asset.html_305635752.html)

And ibid, his remarks, “Academics are repositories of expert knowledge, and their expertise is often indispensable when it comes to identifying and describing unprovenanced antiquities. Object identification is important for the trade (in antiquities) because it establishes such things as rarity and historical or artistic importance. To a large extent, rarity and importance determine price, and so, in effect, identification determines price. This monetary consequence is probably enhanced when identification is accomplished in association with the scholarly monograph or the lavish exhibition catalogue, which then become distinguished entries on object provenances. An efficient market cannot exist without a mechanism of value assignment and price formation, and identifications and scholarly descriptions made by academics fulfil this role”.

<sup>7</sup> C. Renfrew, *Loot, Legitimacy and Ownership*. Duckworth, London, 2001, 74. See for an example the exhibition catalogue, *The Remnants: 12<sup>th</sup> and 13<sup>th</sup> Centuries Byzantine Objects in Turkey*. Vehbi Koç Vakfı Foundation, İstanbul 2007, where 101 from a total of the 196 exhibits, more than 50% were objects lacking any provenance, indicating looting and heritage destruction carried out on a truly vast scale. It is noteworthy that the 13 items that were sourced from the private Sadberk Hanim Museum and, likewise the 5 objects sourced from the private Halük Perk collection lacked evidence of provenance, as being acquired through purchase, with private collectors, their collections and the private museums’ demand, largely underpinning and, in consequence, funding, the continuing looting of the Turkish Republic’s heritage.

<sup>8</sup> C. Renfrew, *Loot, Legitimacy and Ownership*. Duckworth, London, 2001, 35.

<sup>9</sup> L. Giles, M. Udvardy & J. Mitsanze “Cultural Property as Global Commodities -The Case of Mijikenda Memorial Statues“. In: *CSQ 27/4* (Winter 2003) Indigenous Education and the Prospects for Cultural Survival <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/cultural-property-global-commodities-case-mijikenda>

Neil Brodie of the Stanford Archaeology Center, Stanford University, USA, wrote in 2010: *"Academics are not innocent bystanders of the trade (in antiquities); intentionally or unintentionally, scholarly work has profound commercial consequences... Many academics identify and authenticate material of unknown provenance because they believe that in so doing they are rescuing knowledge for the public benefit. Of course, fortuitously perhaps, when identification and authentication are combined with academic publication, their argument aligns the public benefit with their own professional advantage. I am not sure if any of these academics are doing anything illegal, absence of provenance is not the same thing as illicit provenance, and suspicion is not knowledge. But if academics are routinely involved with dealers who are acquiring and selling stolen material, it seems possible that they (those academics) could be charged with criminal conspiracy. They should be aware, too, of the United Nations 2000 Convention against Transnational Organized Crime, which is aimed at small groups of people (three or more) collaborating over a period of time to commit serious transnational crimes that directly or indirectly have a financial or other material benefit. Yet academics seem unconcerned that they might be supporting an illegal enterprise, and perhaps even putting themselves in danger of criminal prosecution"*<sup>10</sup>.

A possible consequence for university academics following this selfish, irresponsible and unethical path, in addition to possible criminal prosecution for aiding and abetting in transnational organized crime<sup>11</sup>; is that those who practice this unethical behaviour are sanctioned by the academy, with repeat offenders stripped of titles and post and expelled from the academy. It is surely not beyond the realm of possibility that in those countries that are being looted of their heritage today, laws are passed to the effect that any foreign academic who is shown to have been the first scholar to publish a looted antiquity from that country is made *persona non grata* by that country for life.

### The Treaty

The private Schøyen Collection<sup>12</sup> acquired in November 1995 a copy of a treaty of the 24<sup>th</sup> of July, 46 B.C. between Rome and the Lycian Federation which is inscribed upon a bronze plaque. The Schøyen Collection description is given below:

**"Description** MS in Greek on bronze, Lycia, Turkey, 24 July 46 BC, 1 bronze plaque, 88x53 cm,

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Accessed 09-01-2015.

<sup>10</sup> N. Brodie "Academic facilitation of the antiquities market"; [http://www.beniculturali.it/mibac/export/UfficioStudi/sito-UfficioStudi/Contenuti/Archivio-Newsletter/Archivio/2010/Newsletter-/visualizza\\_asset.html\\_305635752.html](http://www.beniculturali.it/mibac/export/UfficioStudi/sito-UfficioStudi/Contenuti/Archivio-Newsletter/Archivio/2010/Newsletter-/visualizza_asset.html_305635752.html). Brodie writes, *ibid*, "By keeping their knowledge or even suspicions secret, and not notifying law enforcement authorities, they impede criminal investigation and passively condone the illicit trade. There appears to be no understanding within the academic community that it is a civic duty to report suspicion or knowledge of a crime to a law enforcement authority. Academic privilege seems to encourage a belief that academic practice is immune from the mundane or even profane concerns of normal society. This belief is a mistaken one." See also for a somewhat different view: <https://www.etikkom.no/globalassets/documents/english-publications/statement-regarding-research-on-material-of-uncertain-or-unknown-origin-2005.pdf> Accessed 10-01-2015.

<sup>11</sup> See, P. B. Campbell, "The Illicit Antiquities Trade as a Transnational Criminal Network: Characterising and Anticipating Trafficking of Cultural Heritage". Published in *the International Journal of Cultural Property*. <https://www.academia.edu/4146904/http://www.illicitantiquities.com/prevention/organized-crime/> "Dealer Bruce McNall states that the Turkish mafia moves antiquities from looters to the legitimate market".

<sup>12</sup> <http://www.schoyencollection.com/about-schoyen-collection> Accessed 11-01-2012.

single column (80x50 cm), 78 lines in Greek capitals, within a frame of double lines.

**Provenance** 1. Temple in the Forum in the capital of the Lycian Federation (46 BC-); 2. The Linzalone collection, New Jersey, U.S.A. and heirs (1925-1995); 3. Lennox Gallery, London, Nov 1995. Published *Papyrologica Florentina*, vol. XXXV. Rosario Pinaudi: Papyri Graecae Schøyen (PSchøyen I). Firenze, Edizioni Gonnelli, 2005 (Manuscripts in The Schøyen Collection V: Greek papyri, vol. I), pp. 163-243, by Stephen Mitchell<sup>13</sup>.

By 2001 Prof. Dr. Stephen Mitchell had worked on archaeological sites and archaeological surveys for decades in Turkey<sup>14</sup> and he writes, “*Most of my published work has been concerned with Asia Minor in antiquity, explored through texts, inscriptions and archaeology, with a particular emphasis in recent years on religious and cultural history*”<sup>15</sup>. He had published numerous valuable scholarly works on this subject by 2001<sup>16</sup> and had also worked in the region of Lycia and would certainly have recognised the importance of this find<sup>17</sup>. This seems to be why Martin Schøyen invited him to see and to publish for the first time this unique copy on bronze of this treaty which had been in his private collection since November 1995, and which was listed in the updated Schøyen Collection catalogue published in 1997 as MS 2070.<sup>18</sup> It took Martin Schøyen five years from the time this epigraphic document came into his possession through reported purchase from the Lennox Gallery, London, to find the right man to publish it. The delay presumably in part to determine following its entry in 1997 in the updated publication of the Schøyen Catalogue<sup>19</sup> if the Turkish Government would open an investigation and institute legal proceedings for its recovery.

Stephen Mitchell writes, “*I first saw the inscription at Martin Schøyen’s invitation in April 2001<sup>20</sup>, and agreed to prepare a publication as soon as was reasonably possible*”<sup>21</sup>. He goes on to write in respect to the provenance of this bronze plaque: “*The treaty...is said to have been*

<sup>13</sup> <http://www.schoyencollection.com/law/roman-law/roman-lycian-treaty-ms-2070> Accessed 11-01-2012

<sup>14</sup> Member of the Council of the British Institute of Archaeology at Ankara from 1974 to 1999 and in 2005 and, Honorary Secretary of the Council of the British Institute of Archaeology at Ankara from: 1984 to 85, 1995 to 1999 and from 2009 onwards.

<sup>15</sup> <http://humanities.exeter.ac.uk/classics/staff/mitchell/>

<sup>16</sup> Publications: 1979: “Archaeology in Western and Southern Asia Minor 1971-78” with A. W. McNicoll; 1980: Aşvan Kale: *Keban Rescue Excavations, Eastern Anatolia*, BIA, Oxford, *BAR*; 1985: “Archaeology in Asia Minor 1979-84”; 1989: “Ariassos and Sagalassos 1988” with E. Owens; M. Waelkens; 1991: ‘The Hellenization of Pisidia’. *Mediterranean Archaeology* 4: 119-45; 1992: ‘Hellenismus in Pisidien’. In: E. Schwertheim (ed.), *Forschungen in Pisidien*. Bonn: 1-27; 1993: *Land, Men and Gods in Asia Minor*, 2 vols., Oxford University Press; *The Pisidian Survey* 1995: 1997: “Panemoteichos and Ören Tepe”. S. Aydal, S. Mitchell, T. Robinson, L. Vandeput, 1998: ‘The Pisidian Survey’. In: R. Matthews (ed.), *Ancient Anatolia: 50 Years Work by the British Institute of Archaeology at Ankara*. Oxford: 237-254; with G. H. R. Horsley, 2000: *The Inscriptions of Central Pisidia*. Bonn.

<sup>17</sup> BIAA Pisidia Survey Project: Location: Burdur, Isparta and Antalya provinces, Project Director, Stephen Mitchell from 1982 to 1996.

<sup>18</sup> S. Mitchell, “The Treaty between Rome and Lycia of 46 BC (MS 2070)”. 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 167.

<sup>19</sup> S. Mitchell, “The Treaty between Rome and Lycia of 46 BC (MS 2070)”. 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 167.

<sup>20</sup> While still a Professor at the University of Wales, Swansea (1993-2001), <http://www.debretts.com/people-of-today/profile/22490/Stephen-MITCHELL>.

<sup>21</sup> S. Mitchell, “The Treaty between Rome and Lycia of 46 BC (MS 2070)”. 163-258 In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 165.

owned by a private collector and his heirs in the (sic) New Jersey between 1925 and 1995"<sup>22</sup>, and, "If the provenance history of the treaty which was provided in 1995 by the vendors, is correct, the inscription had been discovered no later than 1925, long before any official archaeological excavations took place at the site. The circumstances in which clandestine activity took place at the Letoon thus remain quite obscure"<sup>23</sup>.

Of the importance of this hitherto entirely unknown epigraphic document Stephen Mitchell writes: "This (treaty) not only fills a substantial gap in our information about Lycia and its relations with Rome, but is also the longest inscribed Roman treaty which has survived from antiquity. It is thus a document of major importance not simply for the regional study of south-west Asia Minor, but for our understanding of the Roman Empire as a whole"<sup>24</sup>.

Did this Fellow of the British Academy since 2002, and the past and current Honorary Secretary of the Council of the British Institute of Archaeology at Ankara exercise due diligence in 2001 in respect to this 'document of major importance'?

As an archaeologist who had been working in Turkey for three decades by 2001, he certainly was aware of the law, both Ottoman and of the Turkish Republic, in respect to the looting of antiquities and their smuggling from Turkey that:

*"In 1884 another Ottoman decree on antiquities was enacted. In this decree, the Ottoman state declared itself the owner of all antiquities. Therefore, there was an absolute prohibition on the sale or transfer of antiquities found anywhere within Ottoman territory... The 1906 decree declared for the first time that all antiquities found in or on public or private lands were state property and could not be taken out of country. As a result, all newly discovered antiquities became state property by operation of law, ipso jure, at the time of discovery and no further act of acquisition was needed. Since the decree did not apply retrospectively, antiquities already in private hands in accordance with the pre-1906 decree remained private property. The 1906 decree was maintained in full force and effect until 1973. The 1973 law preserved the same principle of state property. It again declared that all antiquities discovered in or on private or public lands in Turkey were the property of the state. The current Turkish Law on antiquities was enacted in 1983. It is called the Law on the Protection of Cultural and Natural Property. This law employs for the first time the phrase "cultural and natural properties requiring protection" instead of "antiquities". Actually, they both include*

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<sup>22</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 167.

<sup>23</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258 In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 184.

<sup>24</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 165. Likewise *ibid.* 241: "This is not only the longest Roman treaty document which has survived, but is also the only one which has preserved all the formal features of such documents. It is the only foedus preserved as a bronze inscription, the format prescribed by Roman custom but not normally adopted in the allied states".



*the same objects. The 1983 law preserves the principle of state ownership of newly found antiquities contained in the 1906 decree and the 1973 law. Art.5 of the 1983 Law states that:*

*'Movable and immovable cultural and natural properties requiring protection that are known to exist or may be discovered in the future on immovable properties belonging to the State, public institutions and entities and natural and juristic persons that are subject to the provisions of private law, qualify as state property''<sup>25</sup>.*

Consequently, as there was no indication in the provenance presented for this object to indicate it was in private possession or had left Ottoman territory before 1906, and there was no documentation to indicate it had been legally exported from Turkey to arrive in New Jersey by 1925, and this epigraphic document had then astonishingly remained entirely unknown and unrecorded until 1995, even if, incredibly it had actually arrived in New Jersey by 1925, due diligence would certainly have suggested, when faced with this most important bronze plaque in 2001, that this was certainly property that had been stolen from the Turkish State and smuggled abroad.

Presumably operating on the principle familiar to dealers and collectors of looted antiquities worldwide of, "*don't ask, don't tell*", in publishing the provenance of this '*document of major importance*' Prof. Stephen Mitchell employs the weasel words: "*is said to have been*" and, "*If the provenance history of the treaty which was provided in 1995 by the vendors, is correct*", rather than Prof. Stephen Mitchell exercising due diligence in the matter of the provenance of the object of his study, due diligence being proper one may have thought to his academic position.

If Prof. Stephen Mitchell had exercised due diligence, he would have found there is no firm evidence to suggest the existence of any private Linzalone collection in New Jersey dating from 1925<sup>26</sup>. There is record of a specialist New Jersey dealer in ancient and foreign coins from 1977 onwards, Joseph P. Linzalone, whose collection of Anglo-Saxon coins was sold in 1994<sup>27</sup>, and New Jersey remains the address of the numismatist J. Linzalone, whose book, *Electrum and the Invention of Coinage*, was published by McMillan Publications in New Jersey in 2011<sup>28</sup>, but there is no record of a Linzalone collection of 1925<sup>29</sup>. As for the Lennox Gallery of London, there are

<sup>25</sup> S. Özel, "Under the Turkish Blanket Legislation: The Recovery of Cultural Property Removed from Turkey". *International Journal of Legal Information* 38/2, Article 10 (2010) 179-1. Available at: <http://scholarship.law.cornell.edu/ijli/vol38/iss2/10>. Accessed 12-01-2015.

<sup>26</sup> Eg. the Getty Provenance Database <http://piprod.getty.edu/starweb/pi/servlet.starweb> produced no results for J. or J. P. Linzalone. There is the subsequent reference at: [http://www.trismegistos.org/coll/inventory\\_lookup.php](http://www.trismegistos.org/coll/inventory_lookup.php) which gives: New Jersey, Private collection Linzalone- no records, [22.11.06], presumably entered in the database on the basis of the statement of provenance given in the Catalogue of the Schøyen Collection.

<sup>27</sup> J. P. Linzalone collection of Anglo-Saxon coins Ancient and Foreign Coins in Gold, Silver and Copper: Public Auction Sale, December 7, 8, Stacks, catalogue. 1994. J. P. Linzalone & Sons, New Jersey, Coin Dealers Supplies and etc. in Ridgewood, established 1977 at: <http://www.manta.com/c/mmnvv67/j-p-linzalone-and-sons>.

<sup>28</sup> Coin lists published from 1980 Brensara Ltd. (J. & M. Linzalone), Montclair, New Jersey.

<sup>29</sup> Joseph Linzalone had a private collection of antiquities in the 1980's, not in the 1920's, as in the catalogue of the Howard S. Rose Gallery inc. No. "330. *Two Late Bronze Age Vessels Mycenaean type, probably Holyland manufacture. Ca. 1400-1200 B.C. 4" & 2-7/8"H. Private NYC collection, acquired from Joseph Linzalone, 1985. Est. \$1,200-\$1,800*". Catalogue at <http://www.artep primitivo.com/catalog/auc70.pdf> and there is Joseph Linzalone of

Lennox Galleries that deal in contemporary art,<sup>30</sup> there is the dealer in coins and medals, the Lennox Gallery Ltd. K12/13 in Grays Antique Hypermarket<sup>31</sup>, a hypermarket containing 200 dealers in art, antiquities etc. by Bond Street, London, and most probably, the Lennox Gallery, Mayfair, that specialises in ancient Greek and Roman artefacts,<sup>32</sup> although just maybe, as Simon Calvani, Director of the United Nations Interregional Crime and Justice Research Institute wrote:

*"Along the way, an illicit item often acquires a fictitious ownership history, or provenance, provided by a dealer or middleman with some knowledge of art history or archaeology. Falsified documents, created to prove authenticity and provide assurance that the item has not been looted, are rarely questioned"*<sup>33</sup>.

In consequence of this problematic provenance "*provided in 1995 by the vendors*" any scholar who had practiced due diligence before agreeing to further research and publication, would surely have known they were dealing with an illegally excavated and smuggled item of significant historical importance, most probably relatively recently illegally excavated from Lycia in the period from perhaps the late 1980's to the mid 1990's<sup>34</sup>, when it is said it was purchased by Martin Schøyen from the Lennox Gallery, London, in November 1995<sup>35</sup>, with a stated provenance prior to that date that cannot support serious investigation.

That this copy in bronze of the treaty of 46 B.C. came from Lycia is clear. That it came from the Letoon sanctuary outside Xanthus is assumed by Stephen Mitchell<sup>36</sup>, but in the absence of evidence of any recorded find-spot, the Letoon sanctuary then being excavated by the French, is not necessarily '*the most likely provenance*' for MS 2070 that Professor Stephen Mitchell leads the reader to think. The basis for this assumption seems to have been the copies of treaties in bronze kept on the Capitol sanctuary of Rome, in which he finds the model for the Lycian practice, and so gives the most likely provenance of MS 2070 to the Lycian Letoon sanctuary, where numerous inscriptions on stone relating to the activities of the Lycian *koinon* have been

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the Wolfshead Gallery, PO Box 506. Ridgewood NJ 07451 "*We have been dealers in Ancient & Medieval coins and archaeological objects since 1977, and have been dealing in First Edition books since 1994. We sell First Edition Literature, Mystery, and Science Fiction and Fantasy*". <http://www.wolfsheadgallery.com/html/arch.htm>  
joe@www.wolfsheadgallery.com

<sup>30</sup> Contemporary art venue: The Lennox Gallery, 77 Moore Park Road, London, SW6 2HH (Fulham-Walham green), UK, another, Lennox Gallery, Chelsea, London, 1999 David Page, The Thirty Seven Views of Hallwong.

<sup>31</sup> Lennox Gallery Ltd. K12/13, 4 Davies Mews, Mayfair, London, W1Y 1AR <http://www.antiques-united.co.uk/business/show/id/5430>; <http://www.numis.co.uk/london.html>

<sup>32</sup> Lennox Gallery, 58 Davies Street, Mayfair, London, W1K 5AB [www.graysantiques.com](http://www.graysantiques.com)

<sup>33</sup> S. Calvani, "Frequency and Figures of Organized Crime in Art and Antiquities". In: (ed) S. Manacorda, ISPAC (International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme) *Organised Crime in Art and Antiquities*, 2009, 35; as likewise, even if *illegal art dealers* reads a little strangely, "*illegal art dealers routinely fabricate the history of ownership, or provenance, of artifacts – an effective technique to circumvent customs inspections*". Mark Vlasic Stamping out the illicit trade in cultural artifacts, [theguardian.com](http://theguardian.com), Sunday 7 August 2011.

<sup>34</sup> S. Şahin, *Stadiasmus Patarensis. Itinera Romana Provinciae Lyciae/Lykia Eyaleti Roma Yolları*, İstanbul, 2014, 54, dn. 7 '*...birkaç yıl önce yurt dışınd çıkarılmıştır*': meaning, a few years ago it was smuggled abroad.

<sup>35</sup> <http://www.schoyencollection.com/law/roman-law/roman-lycian-treaty-ms-2070> Accessed 11-01-2015.

<sup>36</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 183.

found in excavations<sup>37</sup>. However, as Stephen Mitchell also records elsewhere in his publication, there have been finds of inscriptions in stone recording Rome's relations with Lycia that have been found in places at some considerable distance from the Letoon sanctuary, at Corma for example<sup>38</sup>, a part of a copy of a *senatus consultum*, and a fragment of another is reported from Tyberissus<sup>39</sup>, likewise at some considerable distance from the Letoon, and neither of these could be described as major settlements. Consequently, in the absence of evidence, of any actual record of the find-spot, or record of the stone block to which this bronze plaque was affixed, to direct attention to the Letoon sanctuary as being the most likely place for this find, and, no later than 1925 to suggest clandestine activity there<sup>40</sup>, leading to the finding of this object, when there are certainly other possibilities, could perhaps be seen as being somewhat disingenuous.

Further, the Schøyen Collection catalogue entry for MS 2070, as noted above<sup>41</sup>, provides us with a perhaps somewhat different, less precise location for this find. It states, but on the basis of what evidence is entirely unclear, that it came from a "*Temple in the Forum in the capital of the Lycian Federation*". This "*Temple in the Forum in the capital of the Lycian Federation*", is most probably therefore not to be identified with the Letoon sanctuary itself, where there are three temples in the open area (Forum) but there is no known antique document that records the Letoon sanctuary as being, the "*capital of the Lycian Federation*". Consequently the reader may find it somewhat strange to find that in the first publication of this bronze plaque by Stephen Mitchell in 2005 the reader is told '*the most likely provenance*' is the Letoon sanctuary, but the actual find-spot is unknown; yet, in 2015 the private Schøyen Museum's own catalogue entry for MS 2070, we are armed with the certainty that it came from somewhere else again, from '*the capital of the Lycian Federation*'. The problem with this 'localisation', '*the capital of the Lycian Federation*' as Prof. Dr. Sencer Şahin has recently pointed out, is that there was in fact no fixed capital of the Lycian League between 168 B.C. and 43 A.D.<sup>42</sup>, it moved around from city to city from year to year, and so in terms of defining a find-spot for this bronze plaque recording the treaty of 46 B.C. from the description supplied by the Schøyen Collection's catalogue entry, the possible sites for this find range right across Lycia from Tlos and Patara to Xanthus, Myra, Phaselis and elsewhere, leaving one with the certain, if unsurprising knowledge that this bronze plaque originated from somewhere in Lycia.

Given the somewhat phantom-like provenance of this plaque in the period supposedly

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<sup>37</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 183-184.

<sup>38</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 232.

<sup>39</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 232.

<sup>40</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 184.

<sup>41</sup> <http://www.schoyencollection.com/law/roman-law/roman-lycian-treaty-ms-2070> Accessed 11-01-2015

<sup>42</sup> S. Şahin, "Bilim ve Bilirbilmezlik Üzerine Notlar III". 118-146, *Journal of Archaeology & Art-Arkeoloji ve Sanat* 146 Mayıs-Ağustos 2014, 130, "*Bölge kâh Pers, kâh Ptolemaios, kâh Rodos ya da Seleukos hakimiyetinde kalarak İ.Ö. 168 yılında nihayet Roma kontrolü altında siyasi bir birlik oluşturmuştur. İ.S. 43 yılına kadar süren bu federatif karakterli "Likya Birliği" döneminde dahi "başkent" adı altında tek bir politik merkezden yönetilen bir idare şekli oluşmamıştır, zira Likya Birliği meclisi her yıl başka kentte toplanmaktaydı*".

extending from before 1925 to November 1995, one may suggest firstly, that the indicated provenance is false, and the alleged provenance has been further confused by 2015, and one may suspect that the confusion concerning the place of origin of this object may be deliberate. It seems rather more probable that this bronze plaque in fact came from an illegal excavation in Lycia at some point between perhaps 1985 and November 1995, when it is said to have been purchased by Martin Schøyen for his collection, although it is first recorded in the Schøyen Collection catalogue in 1997. Being an illegally excavated and smuggled object, with no recorded find-spot and no internal proof of its original location, for Prof. Stephen Mitchell to state *'the most likely provenance'* for its location was the Letoon sanctuary, and not to mention other possibilities is somewhat odd, and is a localisation which has subsequently been widened by the Schøyen Collection's own catalogue entry for MS 2070, that it came from a *"Temple in the Forum in the capital of the Lycian Federation"*, meaning it came from a city temple, a city which at some date, probably, although not certainly in 46 B.C., was the capital city of the Lycian League, a stated provenance for this copy of the treaty which is not altogether surprising.

There is however, one may surmise, the possibility that this plaque was illegally excavated from the remains of a Temple at Baubon, or maybe Balboura, or from some other Northern Lycian site near the Pisidia border as defined in 46 B.C.; given that this copy is in bronze of this treaty and it is a treaty that defined in favour of the Lycian League the northern border between Lycian and Pisidian territory in 46 B.C. One could perhaps expect that bronze copies of this treaty would have been placed where the text of this treaty had actual relevance; that is within this long contested area of territory, this treaty both defining Lycian League territory and evoking the threat of joint Lycian-Roman military reprisals for any infringement of Lycian League territory by the Pisidians<sup>43</sup>. A copy recorded on stone of this treaty was presumably kept at the Letoon Sanctuary, but there seems to be no necessity to suggest this bronze plaque came from either, *'the capital of the Lycian Federation'* wherever that was, or from the Letoon sanctuary, and to do so in the absence of evidence, suggests the desire on the part of these authors to fix the localisation of this orphaned bronze plaque for a number of reasons, with none of these reasons being particularly savoury.

One may ask how Prof. Dr. Stephen Mitchell could author the first publication in 2005 as a Fellow of the British Academy, and how Martin Schøyen could purchase in 1995(?) this important and recently looted epigraphic document from Lycia?<sup>44</sup> There is of course much precedent for this sort of activity by other private collectors and both private and public collections and museums, as described by Colin Renfrew in 2001:

*"How could the Getty Museum (in 1983) respectably purchase so important an antiquity, (the so-called Getty Kouros 6<sup>th</sup> c. B.C.?), which had certainly not been documented as known to scholarship through publication prior to 1970? Is it really likely that an entire kouros could have been in private hands, in a Swiss collection since 1930, and yet be*

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<sup>43</sup> S. Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)". 163-258, In: *Papyri Graecae Schøyen* (PSchøyen I) 2005, 171, l. 24-26.

<sup>44</sup> In respect to criticism of current 'best practice,' see for example: <http://www2.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/issue%2013/prescott-omland.htm> Accessed 11-01-2012 <http://traffickingculture.org/wp-content/uploads/2012/08/Brodie-2005-British-Library.pdf> Accessed 11-01-2012.

*entirely unknown to the scholarly world? Was not the Getty falling into the position familiar among acquisitive museum curators of accepting any purported documentation without asking searching questions?"<sup>45</sup>.*

In respect to the idea that looted antiquities have at least found a permanent home, have been rescued through the actions of the private collector, they are safe, once they are in a major private collection such as the Schøyen Collection, it is certainly worth noting the Sotheby's London sale of the 10<sup>th</sup> of July 2012, "*chosen to represent the entire history of writing in Europe, from (a) piece of an ancient manuscript of Homer's Iliad right through to the thirteenth century, with specimens of some of the rarest and most compelling scripts from the Dark Ages and early medieval Europe*"<sup>46</sup>, a sale entitled, The History of Script: Sixty Important Manuscripts, a sale of 60 lots that raised a total of 2.590,000 GBP, that all of these lots came from the private Schøyen Collection<sup>47</sup>, manuscripts that have once again been dispersed internationally. The difference being that codex and manuscript were made to be portable, bronze plaques, such as this copy of the 46 B.C. Roman - Lycian League treaty, were not made to be portable, but to be fixed in a visible location for all to see. MS 2070 was relatively recently illegally excavated and smuggled out of Turkey from a Lycian site, and it surely needs to be returned to where it came from. While academics surely need in the 21<sup>st</sup> century to exercise due diligence in the matter of the provenance of the objects they publish, and so support the preservation of our cultural heritage; rather than giving academic support to the looters and to the patrons of the looters and the middlemen, the dealers in looted heritage, that is, academics providing aid and comfort to the purchasers of deracinated, decontextualized and so silenced objects, the private collectors.

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<sup>45</sup> C. Renfrew, *Loot, Legitimacy and Ownership*. Duckworth, London, 2001, 41. The kouros is most probably a very expensive modern fake. The reduction in the quantity of fakes purchased by public collections and serving to distort understanding and confuse scholarship would be better served if the provenance of so-called antiquities were thoroughly scrutinised before their acquisition.

<sup>46</sup> <http://www.sothebys.com/en/auctions/2012/the-history-of-script-sixty-important-manuscript-leaves-from-the-schøyen-collection.html>

<sup>47</sup> <http://www.sothebys.com/en/auctions/2012/the-history-of-script-sixty-important-manuscript-leaves-from-the-schøyen-collection.html> See also the comments on this sale, "*Where's that from and where's the rest of it? Note how the SALE is presented as having been constructed to reveal history ("The sale catalogue will doubtless be a reference work for many years to come"). "Only if it goes open access" shout the collectors. I'm guessing the rest of us decent folk would not touch it if the collecting histories are not properly detailed"*. at <http://paul-barford.blogspot.com.tr/2012/05/history-of-script-sixty-important.html>