

EXAMINING ART THEFT

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Norman Palmer (ed), *The Recovery of Stolen Art: A Collection of Essays*
Kluwer Law International, 1998
ISBN 90-411-9658-7

[259] *The Recovery of Stolen Art* is a fascinating work which gathers together expert commentary on many facets of an area which from a legal perspective, in Australia at least, is somewhat esoteric. Art theft and the means of dealing with it is a matter which can fuel considerable media interest due to the somewhat bizarre factual matrix which often presides (consider the Spencer Street Station Scroll) or the high profile personnel involved (for example the works which infamously became symbolic of the broader Bond legacy, and indeed of the '80's entrepreneurial excesses and crash generally). However it is not sufficiently commonplace as to have led, to this writer's knowledge at least, to any subject specific case law or doctrine, much less a body of specialist practitioners ('welcome to our corporate law firm's Stolen Art Department') or court lists.²

And yet from all accounts, in Norman Palmer's colourful prose: 'We live at a time when cultural pillaging is rampant'. His multiplicity of examples in the UK and EU suggests that in Australia surely more is going on than comes to our attention, and possibly it is escalating. And certainly when casting the net as broadly as does Palmer, who takes 'art' to include all 'material things having cultural and historical significance'; 'stolen' to include any transaction in which law or equity will intervene; and 'recovery' to include remedies available at law, one cannot help but consider the reports of recent memory of 'dealer' exploitation of Aboriginal artists as but one area in the Australian experience where greater exposure to and familiarity with established legal principles of 'art crime' might be of considerable assistance. All of which is really to say that not only is Palmer's book interesting, but it is also

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² Editor's note: The situation in London in particular is different to this, with some major law firms practising in the area of art and cultural heritage.

increasingly likely to be relevant to lawyers involved in advising the arts community in Australia.

Although the work is largely colloquial to the United Kingdom experience (and laws), it is broadened by a good measure of EU and international (UNESCO and UNIDROIT) content. Not to mention the typically erudite chapter on the principles of unconscionability in the arts context, by none other than Sir [260] Anthony Mason. As a gathering of principles and precedents, it should stand the Australian practitioner in good stead until the unhappy day that we accumulate sufficient local authority to warrant publication of an Australian equivalent.

With the notable exception of the question of art theft in times of war (a subject so broad and significant in its own right as to be reserved by the publishers for separate treatment)³ *The Recovery of Stolen Art* does an excellent job of comprehensively covering the field. Chapters include such matters as an up to date account of initiatives by government, courts and the arts industry to tackle the problem of art theft; the various doctrines of tort and equity which have been applied to art theft; insurance issues; and international cultural heritage measures.

Make no mistake, this is not a book for lazy weekend pleasure (there are far too many and detailed footnotes for that!). It is, rather, a traditional and excellent legal commentary which is aimed at and should well serve practitioners grappling with real cases of art theft, together with students in the field.

³ Editor's note: see now, Norman Palmer, *Museums and the Holocaust* (2001).