

***Yearbook of Cultural Property Law 2006.* Sherry Hutt and David Tarler, eds. Walnut Creek, CA: Left Coast Press, 2006. 215 pp.<sup>1</sup>**

Reviewed by Michael F. Brown

This volume inaugurates a series sponsored by the Lawyers' Committee for Cultural Heritage Preservation, a group that in its own words "joined together to promote the preservation and protection of cultural heritage resources in the United States and internationally through education and advocacy." The aim of the series is to provide lawyers, policy-makers, and museum professionals with timely information about the changing face of cultural heritage law. Timeliness, however, is often at war with elegant prose and thorough research. The editors address this problem by supplementing just-the-facts reports on important legal developments with individually authored essays that explore facets of heritage protection from an interpretive angle. They also manage to squeeze in an interview of a prominent practitioner, a handful of reviews of recent books and articles on heritage protection and cultural property, a brief report on the status of courses in cultural property law in U.S. law schools, and obituaries of key figures in the museum and heritage-protection world.

After a brief introduction, the *Yearbook* opens with an interview of Martin Sullivan, currently director of Historic Maryland City and formerly director of the Heard Museum. With a length of only two printed pages, however, the interview is so compressed that it never gathers momentum.

The heart of the book is a section called "Practice Areas," which reviews legal developments in various areas of heritage-protection practice, including museums, land management, parks and monuments, and the art market. The cases under consideration range from ongoing disputes over the provenance of European antiquities held by major art museums to refinements in the application of the National Historic Preservation Act and the Sunken Military Craft Act. The editors move through this material briskly and with a minimum of legal jargon. Here and there, though, one encounters case reports that illustrate the perils of this mile-wide/inch-deep approach. An example is a brief entry (p. 59), apparently based on a local TV news story, declaring that New Mexico's Zia Pueblo now receives licensing royalties from Southwest Airlines for the latter's use of the Zia sun symbol on one of its aircraft. When I interviewed the Zia tribal administrator about this issue in 2002, he emphasized that the tribe was reluctant to use terms such as "royalties" and "licensing" in connection with its sacred symbol, preferring instead to treat the relationship with Southwest as an instance of reciprocity based on mutual respect.<sup>1</sup> The distinction is subtle but expressive of indigenous peoples' desire to resist the idioms of Western intellectual property when pursuing protection for their cultural productions. The entry on the sun symbol issue also includes the oft-repeated canard that a ritually significant pot on which the sun symbol is depicted had been "stolen" from Zia

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<sup>1</sup> Posted to *Museum Anthropology Review* June 11, 2007. See: <http://museumanthropology.wordpress.com/2007/06/11/mar-2007-1-24/>. © 2007 Michael F. Brown.

prior to its recent repatriation, a claim unsupported by any evidence of which I am aware. In fairness to the editors, the stated purpose of the *Yearbook* is to draw attention to developments in the field, not to parse all their complexities. By directing attention to low-profile cases that busy professionals might otherwise miss, it offers a valuable service to the museum community.

An essay by Tobias Halvarson, "Using Common Law Principles to Recover Cultural Property in the United States," is a fascinating corrective to the widespread view that cultural-property legislation is the only effective way to restore important objects to their original owners. The advantage of common law, Halvarson says, is that it "establishes a more or less universal standard throughout the United States, independent of any statutory enactments, for how property rights are allocated among competing interests" (p. 129). Common-law definitions of abandoned, lost, mislaid, and "treasure-trove" property may have legal implications for the disposition of certain kinds of archaeological finds as well as ethnographic collections.

Richard Waldbauer and Sherry Hutt follow Halvarson's chapter with a retrospective assessment of the Antiquities Act, which passed the hundred-year mark in 2006. This venerable law is inseparable from the rise of conservationism, a movement influenced by the writer George Perkins Marsh and later by public figures of great stature, including John Muir, Gifford Pinchot, and Theodore Roosevelt. The essay makes a convincing case that the Antiquities Act, despite its flaws, is foundational legislation that helped to focus nascent public interest in the protection of the nation's natural and cultural resources.

The *Yearbook* concludes with several short contributions: Michael Sherzer's inventory of law schools that offer courses on cultural-resources law, a selection of short book and film reviews by the editors, and obituaries of Stephen E. Weil and Vine Deloria, Jr., by Stephen K. Urice and Rosita Worl, respectively. The obituaries are affectionate and informative, but Urice's remembrance of Weil is particularly skillful in the way that it foregrounds Weil's vivacity and sense of humor without shortchanging his many achievements.

The *Yearbook of Cultural Property Law* isn't the kind of book you are likely to savor late at night while nursing a tumbler of your favorite single malt. It is, however, a reference work that provides a snapshot of important cultural-property milestones and legal developments of the past year, leavened by more theoretical chapters contributed by some of the field's most experienced practitioners. Anyone looking for a concise summary of how law intersects with the expanding field of heritage protection will want to consult this new series regularly.

## Note

1. The relevant Southwest press release and a photo of the aircraft can be accessed by pointing a web browser to <http://www.williams.edu/go/native/newmexicoone.htm>. (accessed June 11, 2007).

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