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This paper was originally presented at the Conference of Museum Anthropologists at the Australian Museum in Sydney in 1988.

1. Introduction

Papua New Guinea has had comprehensive legislation concerning cultural property for a lot longer than most people realise. During the currency of this legislation, most of the old, valuable cultural material has left the country and is now in museum and private collections around the world; and no doubt a considerable amount has deteriorated or been destroyed without ever having left the villages.

This paper will look at cultural property legislation from 1913 until the present. The fate of several objects declared and gazetted cultural property will be recounted and an analysis made of infringements of the legislation to determine what policies and guidelines for action are appropriate for the Papua New Guinea National Museum.

2. The law

2.1 Early Legislation for the Territories of Papua and New Guinea

The first legislation enacted for Papua or New Guinea was the Ordinance No.XIV of 1913 for Papua. It was called the Papuan Antiquities Ordinance and was authored by the Lieutenant-Governor J.H.P. Murray. ‘Antiquities’ were defined as:

(a) Papuan relics; and
(b) such articles manufactured with Papuan tools and according to Papuan methods and such other articles or things of historical or scientific value or interest and relating to Papua as may be prescribed by regulation but does not include any botanical or mineral collection or specimens.

The legislation provided for the Lieutenant-Governor to acquire:

on behalf of the Territory such Papuan antiquities as he deems expedient and... provide for the safe custody of the same.

It also became unlawful for Papuan antiquities to be removed from the Territory without first offering them for sale to the Administration at a reasonable price. The onus was on the collector to apply to the Administration for permission to export the material and this could only be done if the application was approved. Should export be attempted without permission, the material could be seized by Customs officials.

In January 1914, a Regulation was made under the Papuan Antiquities Ordinance 1913 that specified what was to be considered a Papuan Antiquity. The list was concluded with a catch-all definition: ‘all articles manufactured with Papuan tools according to Papuan methods from any material’.

On the 25th October 1916, a Notice was issued through the Department of Native Affairs that:

after this date permission will not be given to export or ship any Papuan Antiquities except to the accredited representative of an officially recognized scientific institution.

In 1918, a series of Regulations included a Schedule for an Application for Permit to Export Papuan Antiquities; powers to seize material were widened to include officers of the Police, Customs, or Government Purchase Officer.

An Ordinance dated 11th August 1939 broadened the definition of ‘objects of antiquity’ to include ‘any archaeological treasures of the Territory not being Papuan antiquities’ and another Ordinance dated 12th August 1940 added ‘geological antiquities’ defined as ‘any mineral specimen any fossil or mammal remains of the Territory of scientific or historic interest’.

The first antiquities ordinance for the Territory of New Guinea was No. 10 of 1922, enacted 22nd March 1922. This Ordinance appears to have been modelled on the Papuan Antiquities Ordinance. ‘New Guinea Antiquities’ were defined as:

New Guinea relics and curios and articles of ethnological and anthropological interest or value, and articles manufactured by the natives with New Guinea made tools and according to New Guinea methods, and such other articles or things of historical or scientific value or interest and relating to New Guinea as may be prescribed.

The Administrator was given the power to acquire such material ‘on behalf of the Crown’ and to provide for their safe custody. Nobody could remove such material from the Territory without first offering it for sale ‘at a reasonable price to the Administrator’. All European officers of police and Customs were given power to seize and detain any New Guinea antiquities attempted to be removed from the Territory illegally.

An Ordinance dated 21st March 1923 to amend the New Guinea Antiquities Ordinance of 1922 added to the definition of New Guinea Antiquities:

......carvings paintings or other representations on rocks or in caves of living beings or inanimate objects, and ancient pottery and historical remains of any description.

Also, two sections were added which were not included by the Papuan Antiquities Ordinance. These were:
The Administrator by proclamation published in the New Guinea Gazette may forbid the acquisition by any person by purchase or otherwise of any New Guinea antiquity specified in the proclamation;

Any person who discovers, or who has good reason to believe that there exists in any locality:
   i) caves or other places in which ancient remains, human or other, are to be found; or
   ii) carvings paintings or other representations on rocks or in caves of living beings or inanimate objects; or
   iii) deposits of ancient pottery or historical remains of any description; or
   iv) places used in former times as ceremonial or initiation grounds,

shall immediately inform the nearest District Officer of the discovery or the reputed existence of such places or objects.

On 11th December 1923, a Proclamation was made which specified the following as New Guinea Antiquities:
Human skeletons or any part or parts thereof including human skulls whether in a natural state or
carved stuffed coloured covered painted featured with clay or other material or ornamented
prepared or treated in any manner whatsoever (including the featured skulls known as ‘Sepik heads’) and including skulls mounted on affixed to or forming part of any shield ornament or
other antiquity article or thing.

Another Proclamation, dated 19th June 1936, prohibited the acquisition:
....by any person by purchase or otherwise of two wooden images of crocodiles, carved with
bone and stone tools, at present in the village of Masamei on the Karawari River in the Sepik
District.

This was the first proclamation and gazettal of specific objects, rather than of classes of objects, in either Papua or New Guinea.

In 1936, the New Guinea Antiquities Regulations provided a schedule for Declaration of New Guinea Antiquities
and Permit for Export. The Territory of Papua New Guinea Ordinance No 53 of 1953, assented to on 19th May,
combined all the requirements of both the Papuan and New Guinea legislation.

2.2 The National Cultural Property (Preservation) Ordinance 1965. 

The Territory of Papua New Guinea Ordinances Nos 26 and 27 of 1965, assented to 4th June, repealed the
Antiquities Ordinance 1953-62 and replaced it with the National Cultural Property (Preservation) Ordinance 1965.
This Ordinance defined national cultural property as:
any property, movable or immovable, of particular importance to the cultural heritage of the Territory, and in particular (but without limiting the generality of the foregoing) includes –
   (a) any object, natural or artificial, used for, or made or adapted for use for, any purpose
     connected with the traditional cultural life of any of the peoples of the Territory, past or
     present;
   (b) any mineral specimen or fossil or mammal remains of scientific or historic interest to the
     Territory;
   (c) any other collection, object or thing, or any collection, object or thing of a class,
     declared to be national cultural property under Section 7 of this Ordinance; and
   (d) any collection of national cultural property.

Section 7 of the Ordinance provided that:
The Administrator in Council, after receiving a report from the Trustees (of the PNG Museum)
may, by notice in the Gazette, declare any collection, object or thing, or any collection, object
or thing of a specified class, to be national cultural property.

However, Section 6 provided that the Administrator could, through the same mechanism, exempt any collection, object
or thing, or any collection, object or thing of a specified class, or a person, body or authority, from all or any of the
provisions of the Ordinance.

The Ordinance gave the Administrator power to compulsorily acquire any movable national cultural property and
to grant compensation to the owner of such property; the acquisition or transfer of national cultural property could be
prohibited or restricted. A person could not export or remove from the Territory any national cultural property without
the consent in writing of the Trustees of the PNG Museum. Reciprocal obligations to seize, detain and return national
cultural property from other places outside the Territory were acknowledged where such other places defined prohibited
exports from the Territory as prohibited imports to that place.

Proclaimed cultural property was defined as:
any national cultural property the subject of a notice under Section 8 of this Ordinance.

Section 8 provided that:
The Administrator in Council, after receiving a report from the Trustees, may, by notice in the
Gazette, declare any national cultural property to be proclaimed cultural property for the
purposes of this Ordinance.

The Trustees of the PNG Museum were obliged to maintain a register of all proclaimed cultural property, whether
within or without the Territory. Where any national cultural property was declared proclaimed cultural property, the
owner of that property was obliged under law to keep the PNG Museum Trustees notified of the nature, situation and
condition of such property, of any changes to the nature, situation and condition of such property, to give the Trustees a
month’s notice prior to disposing of such property, and at all reasonable times examination by the Trustees or their
representative. Section 18 of the Ordinance provided that:
The Trustees may, out of moneys lawfully available, repair, renovate or preserve, or contribute
to the repair, renovation or preservation of, any proclaimed cultural property.

Section 24 of the Ordinance required that:
A person who discovers -
(a) a cave or other place in which ancient remains, human or other, are to be found;
(b) a carving, painting or other representation on rock or in a cave;
(c) a deposit of ancient pottery or historical remains; or
(d) a place used in former times as a ceremonial or burying ground,
shall immediately give to the Trustees particulars of the discovery.

The maximum fine for contravention of any of the provisions of the Ordinance did not exceed £200. Regulations
were made under the Ordinance that included the format of search warrants, notices of appeal, the register of proclaimed
cultural property and notification to the Museum Trustees of declaration of proclaimed cultural property.

On the 12th May 1967, the acquisition and transfer of the following material was restricted:
1. Human remains or any part thereof when dried, preserved, decorated or otherwise dealt with
   in a manner traditional to the indigenous people of the Territory.
2. Traditional funerary objects or things.
3. Carvings or engravings on stone.
4. Carvings or engravings on implements, tools, weapons, utensils and ornaments
   manufactured wholly or partly from stone.
5. Carvings, paintings, engravings or other representations on rock.
6. Deposits of ancient pottery or other relics of historical or antiquarian interest.

An amendment, assented to 28th September 1967, inserted the provision that:
A person shall not, by force, threats, fraud, misrepresentation, undue influence or in any other
manner, obtain the destruction, damaging, defacing, confiscation or yielding up of any national
cultural property.

Another amendment, assented to 19th October 1970, provided for the licensing of collectors and dealers of
artefacts not falling within the definition of ‘restricted’ national cultural property. This was meant mainly to allow
museum ethnographers to assemble collections for their institutions and to allow for the marketing of objects recently
made expressly for sale (e.g. to tourists) or in plentiful supply (such as arrows). Exemptions had been published in the
Gazette in 1966, 1969 and 1970, of objects in plentiful supply, of wooden carvings currently manufactured expressly for
sale and of pottery currently manufactured expressly for sale. A 1974 Exemption was made of stone carvings of current
manufacture made for sale.

On the 29th May 1969, the acquisition and transfer of all proclaimed cultural property was restricted and on the
7th March 1974, the acquisition and transfer of national cultural property manufactured prior to 31st December 1960
and specified in the Schedule below, was restricted:
1. Any carved or painted part of a ceremonial house, including beams, posts and lintels.
2. Carved wooden slit drums (garamuts) and garamut sticks.
3. Carved wooden masks.
4. Masks and mask costumes of any material other than wood.
5. Carved wooden shields.
6. Carved wooden ancestral boards.
7. Musical instruments.
8. Carved wooden figures in human or animal shapes or a combination of both.

On 17th February 1976, the acquisition and transfer of the following material was restricted:
1. Any object made of shell and referred to as Mwali in the Kiriwina language which has or is
   being used in the Mime Bay Province exchange system known as the Kula.
2. Any object made of shell and referred to as Soulava in the Kiriwina language which has or is
   being used in the Mime Bay Province exchange system known as the Kula.

Declarations of proclaimed cultural property i.e. of specific, identified objects, have been numerous. However, it
is of some significance that almost all the declarations pre-date Independence in 1975; only two objects were declared in 1976
and gazetted the following year. A large number of objects recommended for declaration and gazettal, immediately
before and after Independence, have never been gazetted.

My efforts between 1980 and 1983 to have this matter rectified, and to include an additional large number of
objects from the Sepik area, proved fruitless. The only success I had was the declaration and gazettal of three cult houses
and three sets of ancestral relics of Central New Guinea in 1982 - but not before clerical procedures first deteriorated to
pleadings and then verbal abuse. The problem seemed to be that nobody in the Museum’s executive, the National
Cultural Council, or the Minister’s office knew what the procedures were and so matters got left in the ‘too-hard’ basket.

3. The practice
3.1 The Sacred Crocodiles of the Karawari

By looking at the fate of the first particular objects to be gazetted as restricted cultural property, a number of issues will be identified which can be explored with further examples.

The first proclamation of particular items of cultural property, rather than of a class of cultural property, appeared in the Territory of New Guinea Gazette on the 30th June 1936. This referred to ‘two wooden images of crocodiles, carved with bone and stone tools, at present in the village of Masamei on the Karawari River in the Sepik District.’

It has taken several years to identify and obtain copies of official correspondence relating to these two gazetted carvings and to obtain other evidence which suggests that the official account of their fate is incorrect. No identifying characteristics of the two carvings - other than their method of manufacture and provenance - were cited in the gazetted notice. Therefore it has been necessary to gather information about all carvings of the same genre to distinguish these two particular carvings and to positively establish what happened to them.

3.1.1 Official correspondence

A list of artefacts collected by Dadi Wirz (son of Paul Wirz), dated 1st December 1955, includes a carved wooden crocodile, 126” long, from Arani (Araning, mid-way between the Karawari and the Yuat?), which is probably of the same genre as the Karawari sacred crocodiles. I do not know where this piece is.

The first definite mention of the gazetted crocodiles after the gazetted notice that I have located is dated 19th January 1956. This was a request by the Acting District Officer, Wewak to the Assistant District Officer, Angoram to check whether the two carved crocodiles listed in the 1936 Proclamation were still in the village (of Masamei). I have not located a reply.

On 12th April 1957, a letter to the District Commissioner, Wewak from the Catholic Mission at Wewak, asks for permission to send to Dr Buhler of the Museum in Basel, a carving of a crocodile ‘about twenty eight feet long’. No provenance was given. Curiously, none of the pieces listed on p. 186 by Buhler in his 1961 article come near to this length but, as correspondence cited below indicates, not much reliance can be placed on estimates of dimensions. I have no further correspondence on this matter so am unable to confirm that the piece was sent.

A letter from the District Officer in Madang (R.G. Ormsby), dated 19th September 1958, in passing suggests that the 1936 proclamation resulted from interest in purchasing the objects being expressed by Lord Moyne, who travelled extensively throughout the Pacific in 1936 and who gave ethnographic material to the Pitt-Rivers Museum in Oxford. However, it would appear that the Karawari crocodiles came to the notice of Patrol Officer J.K. McCarthy and the Administrator Brigadier-General Walter Ramsay McNicoll during a tour of exploration up the Sepik River in October-November 1935. Their report mentions their visit to the Karawari River:
No signs of villages were seen until the party was 15 miles up the river where several small huts were sighted. Further upstream the First village was seen -Ambromei - then Masamei and Kundiman. Calls were made at these villages, the last mentioned of which possessed a wonderfully carved crocodile about 12 feet in length and in perfect proportion. It is held in awe by the men of the village and its origin is a mystery.\(^5\)

This particular crocodile, however, was not one of those gazetted and I have been unable to find any correspondence justifying the gazettal of the two at Masamei.

The last paragraph of Ormsby’s 1958 letter is particularly significant:

Shortly before I left Angoram in 1950 I was told that additional (crocodile) images which were not protected were in existence and enquiries into the matter were pending. It does occur to me that if the history of these images has not been recorded it should be done when opportunity occurs and any other appropriate action taken at the same time.

The next item of correspondence was a letter dated 18th June 1960 from the District Commissioner, Wewak to the Assistant District Officer, Angoram; it stated that the President of the Board of Trustees of the Public Museum and Art Gallery had heard a rumour that Dr Buhler had ‘taken away’ the ‘sacred crocodiles’ which were the subject of the 1936 Proclamation; he asked for confirmation. In due course, Patrol Officer G. Ball replied, 26th July 1960, that he had seen the two carved crocodiles at Ambonwari village in excellent condition in December 1959, that he had photographed them and that although Buhler had seen the carvings, he had made no attempt to remove them. The President of the Trustees acknowledged receipt of the report, including photographs, on 7th September 1960.\(^6\) The interesting point of this communication is that there appeared to be some misunderstanding about the carvings’ location, as Ball reports them to be at Ambonwari, not at Masamei.

The next enquiry also originated from the President of the Board of Trustees of the Museum, in a letter to the District Commissioner, Wewak, dated 21st June 1961:

During my recent visit to Angoram I saw in the carpenter’s shed a ‘sacred crocodile’ which has been on the ground for about three or four years, and although it has lost its decoration, the carving is in excellent condition.

He requested that this and other carvings held at Angoram for the Museum be forwarded in due course.

The request was forwarded 27th June 1961 to the Sub-District Office, Angoram and, on 10th July, the Acting Assistant District Officer, F.V. Esdale, replied that:

The sacred crocodile has not been forgotten. This item is approximately 15 feet long and will require very careful crating. In addition I want to check with Mr Donaldson the circumstances under which the crocodile was obtained.

On the 17th August 1961, the Assistant District Officer Mr. P. Donaldson provided the following information:

The so-called sacred crocodile is not to be confused with the two sacred crocodiles of AMBANWARI village, KARAWARI! River. The carved crocodile at Angoram was presented to me during a patrol of the Karawari in 1959, on the understanding that it would never leave Angoram. I promised the Kundima people that their wish would be carried out. According to the Kundimas, they had buried this crocodile for some years as they were afraid that Mission influence would result in its destruction. At the time of presentation, it was expressed by the Kundima people that it would be better to have the crocodile kept on show at Angoram rather than keep it buried. No payment was asked for the crocodile.

The two sacred crocodiles of Ambonwari are still in the village, which according to a pre-war Gazette, are to remain as such. During my visit to Karawari towards the end of September, approaches will be made to these people to see if they are willing to relinquish one to the Port Moresby Museum.

This information was relayed to the President of the Trustees of the Museum on 23rd August 1961. There is a letter dated 16th August 1961 stating that a sacred carved crocodile (probably the Kundima(n) crocodile) is waiting to be flown from Angoram.

The next reference to ‘sacred crocodiles’ is in a letter dated 2nd February 1963 to the Assistant District Officer at Angoram from the Officer-in-Charge of Amboin Patrol Post on the Karawari River. Patrol Officer H. Redmond writes:

This is to inform that the two sacred crocodiles of Ambonwari village have been purchased by Mr F. Panzenbock of Angoram. Amounts paid were 75 Pounds for each crocodile.

The Luluai (government-appointed village headman) of Ambonwari has been called in to explain why the crocodiles were sold in defiance of explicit instructions to the contrary: he says that the amounts offered, and the sales technique used by Mr Panzenbock proved irresistible. The Luluai also said that when he informed Mr Panzenbock of his orders not to sell, he replied that he was a good friend of the A.D.O. Angoram, that he regularly dined with him and vice versa. He also added that he was a good friend of the O.J.C. Amboin, and that I would have no objections if the crocodiles were sold to him.

I have seen the subject carvings many times. They are very old and have been skillfully carved with stone axes. They would be, in company with the Kundiman crocodile now held at Angoram, the last of their type in New Guinea.
The sale of these crocodiles has resulted in dissension within the village. The carvings were not owned by single individuals, but rather by kinship groupings and the decision to sell was by no means a unanimous one.

I have also to report that the two Mansamei sacred crocodiles have been removed from that village. I have been informed that they were purchased some five years ago, by Father Heinemans of the Catholic Mission. It is interesting to note that the price paid by the Father was 5 Pounds for each carving.

The District Commissioner passed on this information to the President of the Trustees of the Museum on 13th February 1963 and adds:

To my astonishment I now find that the crocodiles mentioned in the 1936 proclamation have been removed. Fr Heinemans states that he did not purchase them, but suspects a Fr Kalis who probably sold them to Dr Buhler and I am having this checked. However, the two ‘sacred’ crocodiles have gone, and I feel we should raise it with Dr Buhler if it is proved that his museum has them. In the meantime, I recommend we take over the two Ambonwari specimens for 75 Pounds each. They are very fine carvings and I am having them held at Angoram pending your decision. The Kundiman crocodile mentioned in the 4th paragraph (of Redmond’s letter) is also at Angoram, and I hope to have this presented to the Museum and it is a superb piece of work.

This correspondence now suggests that the pair of carved crocodiles at Ambonwari are different to the pair at Mansamei but it is not made clear under what authority the Ambonwari pair were restricted from sale.

The President of the Trustees replied 18th February 1963 requesting that the District Commissioner ‘secure all or any of the specimens mentioned at 75 Pounds each. . . we will be more than pleased to have had the means of saving them from being exported.’ A further paragraph makes suggestions for ensuring the safety of proclaimed cultural property in situ:

....with reference to these specimens, it may be that the removal of them from their traditional village sites will occasion a good deal of stress to the local people. In such a case, it should be possible for us to purchase the specimens and have brass plates made to indicate that they are the property of the Museum. When these brass plates are affixed, the specimens could be kept at the village. Our only concern then would be to see that they were housed in weather-proof buildings, and inspect them every now and then and give whatever treatment might be needed to protect them from insect damage, rot, etc.

The District Commissioner then wrote on 18th March 1963 to the President of the Trustees informing him that three large carvings were awaiting transport at Wewak by Hercules aircraft; one of these objects was a garamut (slit drum) donated by M. Lissauer, a Melbourne-based collector, and another was the Kundiman crocodile, ‘approximately 25 feet long - a superb specimen’. This arrived in Moresby 25th March 1963 and was registered 7th June as W.145 and later given the number E.937. No mention was made of the two Ambonwari crocodiles.

In a separate letter of the same date, the District Commissioner informed the President:

I have now had a patrol investigate the disappearance of the two sacred crocodiles belonging to Mansamei village and quote from the report:-

‘The two crocodiles in question were moved from MANSAMEI to KONMEI village sometime during World War 2. The reason given for this was because it was thought better to have them housed together with two crocodiles of Konmei in the old Konmei hamlet well back in the bush. Just after the war, it is alleged the house collapsed. The two Konmei crocodiles were removed to a new site. At the wish of the Mansamei people their two crocodiles were left buried under the collapsed house, as they had rotted, and were broken. I have in my possession two pieces of relics alleged by the Mansamei and Konmei people as the only remaining portions of the crocodiles. One is a carved face and figure approximately 14 inches in length. The other is claimed to be a portion of the body of the crocodile, approximately 12 inches in length. Both pieces look to be very old. Both Mansamei and Konmei are emphatic that these two pieces are all that remain of the Mansamei crocodiles, and they further state, that at no time were the Mansamei sacred crocodiles sold.

As a result of investigations carried out, I am quite sure that the Mansamei crocodiles were never sold. The owner, an aged man from Mansamei, is most emphatic that the two crocodiles were never removed from the old Konmei camp, and that over the years (they) lay buried and eventually rotted away.’

I am relieved to find our officers did not allow these pieces to be sold, but am surprised that the disappearance was not discovered earlier.

The letter does not state what became of the two relics of the carvings in the possession of the anonymous reporter. Despite two attempts at the National Archives to identify the patrol report quoted by the District Commissioner, I was unable to find one of around that period to the Karawari area. Also, it is somewhat curious that, whereas in other communications to the President of the Trustees the District Commissioner encloses copies of letters or reports from Patrol Officers and/or provides reference numbers of correspondence from his field officers, in this case no references are provided and he quotes from the report at length. I contacted both Donaldson and Redmond but neither have thrown any light on the identity of the investigating officer.
Another curiosity is that the District Commissioner is ‘relieved to find that our officers did not allow these pieces to be sold’, but does not express concern that they have been destroyed through neglect. It could be argued that it would have been better for them to have been exported illegally than destroyed through neglect.

A letter dated 31st May 1963, from George Kennedy to Judge Mann, picks up the story of the two Ambonwari crocodiles bought by Panzenbock. George Kennedy was a geophysicist with a consuming interest in orchids and tribal artefacts; he donated many things to the Museum of Cultural History at UCLA, the University by which he was employed. In his letter he says he went to Angoram and bought some carvings for the UCLA Museum:

I noted a large group of things, approximately 40 items, owned by Franz Panzenbuch (sic) which had been tagged by the Territorial archaeologist, Mr Junius (sic), I believe, for the Port Moresby Museum. I got the general impression from talking to people at Angoram that the Territorial Museum might not have sufficient funds to acquire this material belonging to Panzenbuch... I would be delighted to buy this collection... at the price Panzenbuch is asking... and then present half of the material to the Territorial Museum in return for the other half of the material (to go to the UCLA Museum). As you know, most of the evaluation for this group of things, lies in the rather high value placed on two very large wooden crocodiles and a few very fine masks...

The President of the Trustees replied to Kennedy on 19th June 1963 thanking him for his generous offer but noting that:

having seen the articles in question, we feel that the decision to acquire them is the correct decision in the public interest.

We have also asked the Administrator to set up the tribunal specified in the Ordinance to have the value of these goods assessed. There is again a question of principle in this. There have been suggestions that a Collector is entitled to make a substantial profit on anything that the Museum seeks to acquire. This in our view is quite wrong, for nothing can have an enhanced value in the Territory until somebody has obtained a clearance to export it to a place where there is the possibility of finding a market. In this case the Permit was refused...... the Administration is always prepared to help us as far as it can, and it has never failed us yet. We will be able to find the money to purchase this consignment.

However, despite his optimism, there must have been some obstacle to Judge Mann having this matter brought to a successful conclusion, for some 20 months later he wrote a letter, dated 4th March 1965, to the Acting Director of the Department of District Administration regarding the Panzenbock material:

The offer recently made to the effect that half the collection was to be given to the Museum free of charge, but that the (Catholic) Mission was to be entitled to retain one of the two crocodiles, seems to me to suggest that the purchase price of these articles from Panzenbock to the Mission was probably a conditional figure, depending on what articles were released for export... In the present circumstances I would think that unless the two crocodiles are especially fine or unusual specimens, there would be some merit in allowing the Mission to retain one, provided that Mr. Julius were allowed to choose which specimen was to go to the Museum and what other items were to comprise the half share which the Administration would acquire for the Museum. This would involve some saving in cost without the loss of any item which should today be regarded as of unique value and interest.

Subsequent to this, a letter dated 8th December 1965 from the Assistant District Commissioner, Wewak to the District Commissioner, Wewak states that a consignment of artefacts from Angoram had been taken to the Boram airstrip in Wewak:

for uplift to Port Moresby by R.A.A.F. Caribou. Only one item, the ceremonial crocodile was taken on the Caribou due full loading of the aircraft. The other articles... future aircraft movements to Port Moresby.

The next item of correspondence is confusing: although the previous letter states that the Caribou took the crocodile and let’t the remainder for a later loading, the next letter suggests the reverse! The letter dated 23rd December 1965, from Roy Mackay (the Preparator-in-Charge of the Museum, who was appointed in November 1964) to Colonel Ramsay of the Pacific Islands Regiment barracks at Moem (near Wewak), states:

You will recall that I visited you recently in connection with native artefacts which were being held in one of your stores and which were later taken aboard a Caribou aircraft for Port Moresby. Unfortunately, the plane could not take the long wooden crocodile... if it is no trouble, could this crocodile remain in your store until the next plane? ³

A year later, a letter from Peter Johnson and Thomas Summon, traders based at Angoram, to the Trustees of the Museum at Port Moresby, dated 26th January 1967, states:

During his recent visit to Angoram Mr Roy McKay (sic) requested that we offer the Museum a carved and pigmented crocodile from the Ambonwari area which we have in our possession. This intricately carved artefact is fourteen feet six inches long and is in excellent condition. Considering the interest shown and the fact that we are unable to obtain a permit to export we are willing to offer the crocodile to the Museum for 95 pounds ($ 190).

Mackay replied on 22nd February 1967 that the Museum would consider buying the carving for £65 pounds, the amount for which it was valued in the application that was made for permission to export it. The lower amount was...
agreed to 3rd March and Mackay wrote back on 22nd March stating that he had ‘arranged for a Funds Authority to be made in your favour for $130 which should be available to you at the Angoram Treasury at a later date.’ He requests that the crocodile be delivered to the District Office, Angoram, where other artefacts for the Museum awaited transport to Port Moresby.

I have been unable to find any further reference to this carving, except to note that E.4665 in the Museum, registered 14th January 1970, is 14’4’’ long, which is close to that stated in Johnson and Slimmon’s letter, but the Museum specimen is a poorly-carved recent piece that can by no means be considered worth the price of £65 ($130) back in 1967, and it also seems to be the piece in the photograph opposite page 24 of the 1965 Annual Report (which was published in April 1966, predating the correspondence between Johnson and MacKay).

The last item of correspondence in the files of the National Museum regarding the crocodiles is an undated handwritten note which says:

A Mr Peter McDonnell is reported by Mr P. Spencer of the Minj Hotel to have freighted by plane from the Sepik (Munduku airstrip at Amboin) a selection of artefacts including a carved Korowori crocodile which is thought to be quite old. At present the artefacts are believed to be in Mt Hagen possibly awaiting crating to be taken to Lae for shipment overseas. Mr. Peter McDonnell is at the moment still in the Sepik although he was reported to be in Hagen earlier this week when the artefacts arrived by plane.

(Footnote) Ambinwari Village (Konmei River) There is a note in a different hand beneath this memorandum:  
There is only one crocodile carving proclaimed in Angoram (Subdistrict, at) Tambanum village - Nothing has been gazetted from the Ambinwari - looks like our research officers never saw the above mentioned object. (Signed) A. Guise.

Unfortunately, it would appear that the Museum officer, Alu Guise, who joined the Museum in 1976, was unaware of the 1936 Proclamation or of the correspondence in the 1950s and 1960s relating to Karawari crocodiles; it would appear that there was no follow-up to the incident.

3.1.2. PNG Museum ethnographic register

Information gleaned from the Registration books does not throw much light on this confusion of carved crocodiles:

![Figure 2. Carved wood crocodile, 20’9” (6.325 metres) long. Identified as the item registered E.937 on 7th June 1963; provenance Kundiman village, Karawari River, East Sepik Province, Papua New Guinea. PNG National Museum collection; photographed by Wally Aina.](image)

E.937 (W 145) was registered as ‘Crocodile’ on 7th June 1963, provenance Kundiman, and said to have been obtained from Mr. Lissauer. A recent letter to me from Lissauer’s son (24th July 1992) states that his father never had possession of any Karawari crocodiles, so this reference to Lissauer must have been an error arising from the fact that a garamut (slit drum), awaiting transportation to Moresby at the same time as the Kundiman crocodile, was indeed donated by Lissauer. Also, I recently received a photograph (13th August 1992) taken by Franz Panzenbock of the
Kundiman crocodile when it was at Angoram. It is the same piece as the one at present on display in the Masterpieces Gallery of the PNG National Museum (Figure 2) -though it is 209” long, not ‘approx. 25 feet’ as stated in the District Commissioner’s letter of 16th March 1963 - so it must be the piece registered E.937, though no number can be found on it.

E.1625 was registered as ‘Carved crocodile’ on 2nd June 1966, provenance Angoram area, and also said to have been obtained from Mr. Lissauer. This must be the carved crocodile mentioned in the Annual Report of the Trustees of the Papua New Guinea Museum and Art Gallery for 1965 (p. 28: ‘20 ft. long wooden ceremonial crocodile from the Sepik District’), and the one referred to in the letters of 8th and 23rd December 1965 as having been transported, or awaiting transport, to Moresby.

The longest Karawari crocodile in the Museum, lacking a registration number until 1981, is 22’4” long. It is not old, but carved with steel tools, and shows signs of having been burnt and scraped and covered with mud, although it is moderately well carved. What is particularly striking is that it is virtually identical in length and sculptural detail to the piece obtained by the Museum fur Volkerkunde, Hamburg, in 1964 and deriving from ‘Ambanoli’ Ambonwari. 9 This piece must be the carving registered E.1625.

E.4665 was registered as ‘Sacred crocodile’ on 14th January 1970, provenance ‘Sepik (Keram, Yuat or Karawari)’, and said to have been carved prior to 1964. This number is written on a poorly carved, relatively new piece measuring 14’4” and is identifiable as the Karawari crocodile appearing at the bottom of the photograph opposite p. 24 of the 1965 Annual Report, so it must have been acquired before April 1966 when the Annual Report was published. Thus it must also have been one of the ‘specimens held before January 1970 which had not been registered’. 10

3.1.3 Published sources

Another source of information is an article by Buhler 11 which provides a most helpful summary of all the carved crocodiles from the Karawari region known to him as at the end of 1959. He also provides a map showing village locations (reproduced here as Figure 1). His information is as follows:

- Kaiwaria village: two - one in Basel and one in location unknown to Buhler;
- Man(n)samei village: four - two in Base!; two older ones in location unknown to Buhler; 12
- Kundiman village: one - location unknown to Buhler (presumably the one given by the Kundima(n) people to the Administration for display at Angoram and which was transferred to the PNG Museum);
- Konmee village: two - one in Base! 13 and the other found hail rotten and charred in 1959 (by Buhler?) in grass just outside the village;
- Ambanoli (Ambonwari) village: four - one in Basel, later exchanged with or sold to the Museum of Primitive Art in New York and there numbered 65.16 14; one in Frankfurt 15 ‘two others, big and well-preserved sculptures, the most beautiful ones I have ever seen, were still kept in the ceremonial house in 1959’. 16

Buhler photographed these two at Ambonoli in 1959 and so did Anthony Forge, who accompanied Buhler. I have been able to obtain copies of these photos for identification purposes. Panzenbock has confirmed (pers. comm. 30th July 1992) that these are the two that he bought in 1963. The one bought by Hamburg in 1964 is one of these. Yet the correspondence from the President of the Trustees of the PNG Museum dated 4th March 1965 assumes that both were still in the possession of the Catholic Mission in Marienberg and that he is prepared to allow one to be exported if the best is selected for Port Moresby. As it turns out, the second is now in the Museum of Primitive Art in New York and there numbered 65.16, one in Frankfurt 15 ‘two others, big and well-preserved sculptures, the most beautiful ones I have ever seen, were still kept in the ceremonial house in 1959’. 16

Buhler says ‘The third was bought by an administration official and is now possibly in Port Moresby’. 17 This suggests a confusion with the one said to have been given by the Kundima(n) people to the Administration for display at Angoram. However, no carved crocodiles from the Karawari were registered in the PNG Museum’s collections prior to Buhler’s article of 1961.

3.1.4. Interview with Franz Panzenbock

In January 1993 I interviewed Panzenbock and pointed out that one of the pieces in the PNG National Museum (established above as E.1625) appears to be a copy of the Ambonwari crocodile he bought and which subsequently was bought by the museum in Hamburg. He then told me that the one in the PNG National Museum is indeed a copy of the one now in Hamburg and that he had it carved by his Sepik employees, lightly charred with a blowtorch, scrubbed with a wire brush and buried for a week in a muddy creek and then left to dry out in the sun. He then sent the original out with other carvings to the dealer M. L. J. Lemaire in Amsterdam, who apparently sold it to the Hamburg museum. This was not exported legally.

Panzenbock also had a copy of the second Ambonwari crocodile started but the wood warped badly and this copy was abandoned. Panzenbock left New Guinea later in 1963 and his partner, Dan Rolph, was approached by Father Heinrich Lehner of the Catholic Mission at Marienberg with an offer to buy the two crocodiles for £1000. Lehner inspected them but did not realize that one was a copy. Lehner later sought permission to export them but the Administration required that the Government Anthropologist, Charles Julius, would choose the best one for the PNG Museum and then allow the other to be exported. Panzenbock was quite amused to learn that Julius actually chose the
fake for the PNG Museum. That he did this of his own volition is confirmed by a letter from Father Lehner to Panzenbock dated 31st September 1992: ‘Dr. Julius hat das krokodil personlich aus meiner sammlung in Marienberg ausgesucht und mit genommen’. The second Ambonwari crocodile was exported legally by Lehner (or Heinemann) and, as noted above, eventually was bought by the museum in Geneva.

In addition to supplying this clarifying information, Panzenbock generously gave me permission to publish it. He also gave me permission to copy an 8 mm film and audio tapes of his 1963 purchase of the two crocodiles at Ambonwari and of the ‘desanctification’ ritual prior to them being handed over to him.

I also copied audio tapes of his 1963 interview with Mansamei elders which establishes that the two crocodiles which had been kept at Mansamei were moved to Konmei and kept with the two older ones of that village. The house they were kept in began to rot and the crocodiles began to deteriorate. Father Heinemann bought the two that had been transferred from Mansamei during the 1950s and the two older Konmei pieces were eventually destroyed in a fire.

This contradicts the report from the anonymous investigator quoted in the District Commissioner’s letter of 18th March 1963, where it is claimed that the two that rotted away (no fire is mentioned) were the pair belonging to Mansamei, not the two belonging to Konmei. Elsewhere during the interview recorded by Panzenbock, a Mansamei man states that the two sent to Konmei from Mansamei were more recent copies of the two very old ones at Konmei.

Which story can be believed is impossible to know, but Buhler’s information that there were originally four at Mansamei is not supported by either story. His information that one Konmei crocodile was found half-rotted and charred outside the village partly accords with Panzenbock’s information but whereas Panzenbock’s informants claimed that two were destroyed, Buhler claims only one was destroyed and the other he obtained for the Museum in Basic.

Panzenbock recalled that, on 7th October 1957, he and Dan Rolph stayed overnight at Timbunke on the Sepik River. They visited Heinemann’s house there and Heinemann showed them two old carved crocodiles in his possession. At that time, Panzenbock and Rolph were shooting crocodiles and buying skins and knew nothing about the potential for making money from the sale of artefacts. It appears that these two crocodiles purchased by Heinemann were bought from him by Buhler during the latter’s 1959 Sepik fieldtrip (pers. comm., Christian Kaufmann, 6th November 1992). Panzenbock is of the opinion that Buhler would not have realized that they were the two gazetted crocodiles.

It is apparent that aspects of the reports by Redmond, the anonymous officer and Panzenbock coincide, with variations perhaps attributable to the tendency for people being interrogated by Government officials to bend the truth to avoid trouble.

Therefore there is little doubt that either:

a) the two crocodiles bought by the museum in Basic from Heinemann were the two gazetted crocodiles originally from Mansamei, or
b) the one purchased by Buhler for the museum in Basic from the village of Konmei is one of the two gazetted crocodiles originally from Mansamei.

Because the original gazetted failed to specify individual characteristics of the gazetted pieces, it is now impossible to ascertain the true fate of the pieces.

3.1.5. Conclusion
This detailed examination of the fate of the first particular items of cultural property to be gazetted as proclaimed cultural property has identified a number of weaknesses in mere legislation:

a) inadequate identification of the objects being gazetted; this led to the mistake that it was the two carvings at Ambonwari that had been gazetted;
b) lack of information about other, similar objects which may or may not also be worthy of gazetted but in any case which could be confused with the gazetted items (refer Ormsby’s letter of 19th September 1958 and Buhler’s reference to four crocodiles at Mansamei);
c) lack of appropriately trained and qualified staff - Charles Julius obviously was ill-equipped for the tasks expected of him by the Museum - and of an adequate budget to identify cultural property worthy of gazetted, to monitor its condition, to ensure its preservation against damage and deterioration and to prevent its illegal purchase and export;
d) lack of adequate funding to purchase cultural property when it is offered for sale, except in an opportunistic fashion;
e) until 1954, lack of a suitable storage/display area for cultural property purchased from its owners or intercepted and/or confiscated during an attempt at illegal export;
f) lack of concern and provision for documenting cultural property - for doing the work that would record the significance of cultural property in its context - and publishing it so that the legal status of the material as proclaimed cultural property is assured.

Subsequent sections will explore several of these issues further.

3.2 Definition of ‘National Cultural Property’
Although the definition of ‘National Cultural Property’ in the 1965 Ordinance includes:
any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of any of the peoples of (Papua New Guinea), past or present.

it would appear that some Museum officers have taken a less inclusive view.
For example, a 1969 Report of a visit to the Sepik by the then Preparator-in-Charge of the Museum (R.D. Mackay) records that:

At Ambunti I met and stayed with Mr. W. Heathcote. I examined his collection and set aside 61 items to be purchased for the Museum collections. While Mr. Heathcote’s collection is quite large and of good quality I do not agree with Mr. J. Abrahamson’s statement that 75% of this collection should be withheld. I have examined the collection from the viewpoint of its ethnographic and anthropological value to the Museum and I think Mr. Abrahamson has judged the collection from an artistic viewpoint. I do not think that at this stage the Museum has the resources to collect specimens from the artistic viewpoint as well as the ethnographic.

This contrasts with the view expressed by the Director of the Department of Trades and Industry (which had jurisdiction over Customs officials), in correspondence dated 4th May 1972 sent to the Legislative Draughtsman dealing with proposed revisions of the National Cultural Property (1965) regulations; he says:

The Inspectors (appointed to inspect items of national cultural property intended for exports) should be the ‘eyes and ears’ of the (Museum) Trustees, separating rare and culturally or artistically important items from newly made commercial goods . . . In our view, original pieces, that is, ‘national cultural property’, are so rare that as a matter of policy they should be either acquired for the Museum under Section 9 or gazetted under Section 12 (of the 1965 Ordinance) and their transfer or acquisition prohibited. We do not consider that traders or even owners should have any option in this matter If there is any option in the matter, the price demanded could be so high that the Museum could not pay it . . . (and thus) the Trustees might be under an obligation to authorise the export (my emphases). 19

The latter part of this opinion identifies another difficulty with implementing the legislation - lack of funds to purchase objects for the collections.

Figure 3. Pair of men’s cult house finials. Carved wood, representing sea eagle on shoulder of woman. 2.08 and 1.95 metres high. Kanganaman village, Middle Sepik, East Sepik Province, Papua New Guinea. PNG National Museum collection; photographed by Wally Aiu.

3.3 Lack of Purchase Funds

Lack of funds to purchase significant items of national cultural property - especially proclaimed national cultural property - when available from their owners (whether traditional owners or indigenous or expatriate dealers) has always
been a problem for the National Museum. The activities of dealers such as Wayne Heathcote, Bruce Lawes and Barry Hoare rapidly inflated prices for significant old pieces. Mackay’s 1969 Report, cited above, mentions a Karawari ‘cult hook’ figure purchased in a village by Heathcote for $200 and sold to a Professor Carpenter for $7000.

When it suited the dealers and they could get away with it, they offered relatively small amounts to the owners of old objects. In due course, however, many of the villagers became aware of the overseas market value of their old heirlooms and asked for much higher prices; thus the market was even further inflated.

Because of the profits he made, the dealers were able, to some extent, to absorb these increases or to pass them on to their overseas clients. They were even able to use the situation to price the National Museum out of the local market. As late as 1982, Heathcote was offering double or more what the National Museum could offer and driving up the prices.

In one notable case, two carved finials (see Figure 3) from the gazetted cult house at Kanganaman on the middle Sepik were offered for sale in 1981 20. The National Museum negotiated a price of Kina 500 (around Aust. $660) for each of these two fine carvings (which, however, were not very old, having been carved in 1962). Prior to the Museum obtaining Trustees’ authority for the purchase, Heathcote visited the village and sought to buy the finials (despite the fact that, being from the gazetted cult house they were proclaimed national cultural property and could not legally be purchased or exported). When he heard that they were promised to the Museum for K.500 each, he scoffed at the owners and said he would have paid them K.5000 each. When the Museum officers returned to the village with the K.1000 for the two carvings, they were met with a demand for K.2000 from the owner of one of the finials. In the end, the Museum paid K.1000 for each of the finials.

Eventually the only recourse to escalating prices would be compulsory acquisition, which would probably prove to be unconstitutional where the owners were Papua New Guineans. Also, such action would be most destructive to the relationship between Museum officers and owners of important cultural material. Old objects not yet identified by Museum officers would probably be hidden and sold illicitly and it would be most unlikely that reliable documentation could be obtained from owners of material compulsorily acquired.

In any case, it was my experience that most owners of valuable heirlooms would prefer to sell to the PNG National Museum at a modest but, in their opinion, fair price than to sell illicitly to a dealer at what would be, in my opinion, an inflated price.

In 1981, during my six-week fieldtrip in the middle and lower Sepik, unsolicited offers to sell valuable cultural material totalled 48 objects with a total agreed and fair value of almost K.47,000 (around Aust. $62,000). During that same trip, an additional 130 objects were identified as eligible and worthy for gazettal as proclaimed national cultural property. A similar Sepik fieldtrip in 1982 yielded unsolicited offers of 95 objects for a total agreed and fair value of almost K.59,000 (around Aust. $80,000); an additional 64 objects were identified as eligible and worthy for gazettal as proclaimed national cultural property. During a third Sepik trip in 1983 of similar duration there were unsolicited offers of 30 items for a total agreed and fair value of just over K.19,000 (around Aust. $25,000), which included an entire cult house with 400 sago-spathe paintings and 5 carved and painted architectural elements. 21 Another 23 objects were identified as eligible and worthy for gazettal as proclaimed national cultural property.

Thus three fieldtrips totalling four and a half months duration added 217 objects to the list of items worthy of gazettal as proclaimed national cultural property and yielded unsolicited offers to sell 173 objects (which included an entire cult house) for K.125,000 (around Aust. $170,000) - equivalent to over six years of the Museum’s annual purchasing budget for cultural material at that time. A conservative estimate of the overseas market value of this material would be at least four times this amount, but perhaps upwards of ten times the amount, i.e. over one million kina. A reasonable level of funding for purchase of cultural material would have been K.50,000 per annum - less than 10% of the annual operating budget of the National Museum and equivalent to only one third of the Museum’s annual electricity bill for 1983.

In 1982 a special submission was made by the National Museum to the National Planning Office for K.10,000 to purchase 18 wooden carvings from the village of Inyai on the Karawari. Many of these were several generations old and worth at least ten times the agreed prices on the international market. It was commonly believed that such old figures no longer existed in the area. However, the request was not approved and I was able to purchase only one piece, for K.500 (Figure 4).

Around 1966, over 100 similar pieces from Inyai and other nearby villages, collected by Nils Madsen, were sent to New York for exhibition and sale. 22 This was in clear contravention of the 1965 Ordinance. In 1971 the Museum für Volkerkunde in Basic purchased most of the collection for what was reputed to be around one million dollars. Thus each piece was valued at around $10,000. The average price for the pieces offered to the National Museum in 1982, over ten years later, was a mere K.500.

Unfortunately there is a view held by some people in the cultural service that people should give their culturally significant heirlooms to the State virtually free.

I am opposed to this view on three grounds:

i) It is the practice in most Papua New Guinean societies for the transfer of ownership of objects, and of knowledge pertaining to those objects, to involve an economic component. The price is not a mere token but involves a sense of equivalence. Further, the rationale for the preservation of cultural material, and of knowledge pertaining to that material, is that it has some
value for the nation and its people. To expect donation of such material, and of the knowledge pertaining to it, is in contradiction to the rationale of the value of knowledge and of the objects embedded in the enactment and/or recounting of that knowledge.

ii) Most of the owners or custodians of culturally significant heirlooms are relatively poor rural villagers struggling to purchase the capital equipment (e.g. outboard motor) to provide the means for earning an income, or to finance their children’s higher education in a climate of high expectations fostered by the experiences of the urban elite. It is this urban elite that expects its relatively poor compatriots to donate their valuable heirlooms to the National Museum and yet they are the first to demand inflated prices for any heirlooms in which they themselves have an interest; they are usually government employees assured of a relatively high income and high material standards of living throughout their working lives.

iii) It is unrealistic to expect owners of culturally valuable material to relinquish that material to the National Museum virtually free when they are perfectly aware of the high overseas market prices and are being offered large sums of money by dealers. Indeed, the blandishments of dealers are often cited by owners as an extenuating factor in the illicit sale of national cultural property (cf. the letter by Redmond of 2nd February 1963 cited above).

3.4 Lack of Staff

The same correspondence from the Director of Trades and Industry quoted above states:

.....we consider that an inventory should be taken as a matter of urgency of all national cultural property, if any are still in existence. They should be registered, labelled and gazetted and preserved for future generations of Papua New Guineans. They are either to remain in the original owners’ possession as their cultural heritage or should be deposited in the Museum for the benefit of future generations. 23

From my own three fieldtrips in the Middle and Lower Sepik alone, it can be seen what financial and staff resources are needed for what sounds like a relatively simple and straightforward task. This can be multiplied several
times over by considering the needs of the whole country and by considering also the need for documenting the material identified as national cultural property; the value of the objects as cultural heritage is greatly diminished without information about their history and significance.

However, not only is there a need to document objects still in the field but also objects held in the Museum’s collections. Regarding the pieces constituting the 1972 ‘Seized Collections’ (see below), Smidt wrote:

The scant information provided by dealers and collectors in Papua New Guinea in the past has been sufficient to satisfy the international art market. It is, however, totally inadequate as a record of the country’s culture. Extensive research must now be carried out to document the objects and thus make the collection complete.  

Another aspect of the legislation that affects staffing is that Section 44 of the Districts Court Ordinance 1963 provides that a charge for a ‘simple offence’ (such as those defined by the National Cultural Property Ordinance) must be made within six months of the committing of the offence. This implies that the status of objects declared and gazetted National Cultural Property must be checked at least every six months if an offence relating to those objects is to be detected, investigated and pursued at law. This clearly requires several field staff to cover the whole country.

In 1981 I was asked to draw up a five-year plan for the Department of Anthropology of the National Museum. I concluded that the Department required a Senior Curator, two Curators (one to manage a field research program and one to manage the collections), four Field Research Assistants and four Storeroom Managers. The actual staff at that time consisted of a Curator, an Assistant Curator and four Technical Officers to manage the storerooms.

The Anthropology staff in 1988 consisted of an Assistant Curator, and three Technical Officers functioning as storeroom managers. Field research and field checking of proclaimed national cultural property was intermittent at best, there was virtually no purchase budget or field research budget - indeed, the Museum had no clearly identifiable annual budget - Museum staff applied to the Tourism Corporation for the funds they needed and waited to see if they got anything. This was a completely inadequate climate for carrying out the responsibility of identifying, documenting and preserving the national cultural heritage.

As at December 1988, the collections totalled around 32,550 objects valued at somewhere between K.15 and 30 million. Surely the curatorial responsibilities of such a valuable collection warranted more than an Assistant Curator and three Technical Officers; and what of the value of national cultural property remaining in the villages?

3.5 Lack of Funds to Pursue Prosecutions under the NCP Act

Only one prosecution has ever been followed through to a legal conclusion. On 11th December 1975, Marc Seidler of Sydney was found guilty of eleven charges of exporting national cultural property illegally. He was released on a 100 Kina good behaviour bond and ordered to pay to the Trustees of the Museum K.1000 within three months. The amount of staff time (not only of Museum staff but also of Customs, Police, the Courts and the Department of Law) and the level of costs (air travel to provincial centres and to Australia) far exceeded the approximate K.3000 value of the small carved figure and ten hand drums to which the charges related.

Museum correspondence from 1972 is full of examples of offences against the National Cultural Property Act that were never taken to court. In some cases, the persons caught relinquished ownership of quite valuable pieces to avoid

Figure 5. Overmodelled and painted human skull. Photographed October 1981 by B.Craig at Yamanambu, Middle Sepik River, East Sepik Province, Papua New Guinea. PNG National Museum Neg. No. FT015/2.
prosecution; in other cases, extravagant promises of assistance for the Museum’s cultural objectives were made. But, in most cases, it was simply that the cost of pursuing the matter was beyond the resources of the Museum.

One particular class of object that seems to have tempted many people to illegal activities are skulls, both the painted, over modelled skulls from the Sepik (Figure 5) and the Papuan skulls with etched designs on the brow. It is noteworthy that Regulations made in 1914 under the Papuan Antiquities Ordinance of 1913 specified that parts of a human body were to be classified as antiquities; and a 1923 Proclamation under the New Guinea Antiquities Ordinance of 1922 prohibited the acquisition of skulls or parts of human skeletons.

A cursory review of the files reveals several breaches of these regulations yet nobody has ever been prosecuted. However, skulls have been confiscated and become part of the Museum’s collections.

Perhaps the biggest infringement was when Dr. Schultze-Westrum collected a large number of Papuan Gulf skulls, ostensibly with the intention of recreating a traditional skull shrine for the PNG Museum (as photographed by Frank Hurley in 1922).27 Schultze-Westrum collected 60 in 1966-g (but apparently did not take them out of the country) and was apprehended in 1974 with 16 he had collected that year. After representations to the Chief Minister (Michael Somare) and to the Minister for Defence, Foreign Relations and Trade (Albert Maori Kiki), and after promises of gifts from his collections to the PNG Museum, he was allowed to continue his research in Papua New Guinea without prosecution.

In another case, a skull was detained by Customs in Brisbane from a Mr. Sewell in September 1976 and sent back to Port Moresby to the Museum and whilst I was with the Museum I recall that a woman sent a Sepik skull from somewhere in Queensland because she began to feel it had negative influences upon her family!

In 1979, a German named Martin Stummer was apprehended with three Sepik skulls wrapped up in his sleeping bag, just as he was about to board a plane leaving overseas. He claimed they were from the Solomons! Although he had at first denied he had any skulls in his luggage, then lied about the origin of the skulls, it was decided by the Museum Director that ‘we cannot afford to take this matter up to the court, because of the time, money and commitments we already have, and the legal aspect (expertise?) required’.

Perhaps the most momentous policing action by the Museum took place in 1972. The Museum Director (Dirk Smidt), acting on information received from several sources, persuaded the Acting Chief Minister to close down the country to all imports and exports over a long weekend, so that all air and shipping ports, and several shops and private homes, could be searched for illegal consignments of national cultural property. According to Smidt:

On June 10, 1972, museum, police and customs authorities broke open 17 cases consigned as air cargo to be flown out of Papua New Guinea that very day. Every case contained works of art, each one outstanding for the historical, artistic and spiritual values that it embodied. . .

Among this consignment was. . . a mask from the Prime Minister’s home area. It was considered so sacred that Mr. Michael Somare, as yet not initiated by his clan elders, had not been allowed to see it. . . Customs took custody of the objects until June 26, 1974, when they were officially presented to the museum by the Comptroller of Customs.

This collection of material, now designated ‘The Seized Collection’, was published as a catalogue under that name, when it was placed on exhibition at the Museum. The major dealers in Papua New Guinea who were responsible for this attempt at illegal export were Wayne Heathcote, Barry Hoare and Ruth Caesar, and one of the major recipients of the material was to have been Lynda Ridgeway (later Cunningham) of New York and Bruce Seaman, then of Honolulu. At first Ridgeway was inclined to demand compensation for objects she had paid for but was clearly not going to receive; these demands were later dropped. Heathcote indicated in his letter to the Chief Collector of Customs, dated November 22nd 1972, that neither he nor Seaman had any intention to claim back any of the items seized.

Unfortunately, Heathcote and his colleagues were not the only losers. One particular piece - a life-sized figure called ‘Jore’33 that was carved around 1850 to commemorate the founding of the village of Watam near the mouth of the Sepik - was never paid for by Heathcote and several representations by the owners to have the Museum pay for the piece have fallen on deaf ears. This piece has a companion carving called ‘Sendam’ which is still at Watam32 and in a serious state of deterioration. It would be preferable for ‘Sendam’ to be bought by the Museum, given conservation treatment and placed alongside ‘Jore’; however, failure to provide payment for the owners of ‘Jore’ seriously compromises the Museum’s relationship with the owners of ‘Sendam’.

Heathcote’s cynicism about the National Cultural Property Act is clearly indicated by a photograph I obtained from one of his previous employees. This snapshot shows the mask referred to in Smidt’s introduction to his book The Seized Collections - the one from Somare’s home area, Murik Lakes. This large mask, a brag called ‘Gwein’,33 had been declared and gazetted National Cultural Property on 23rd December 1971. The snapshot (Figure 6 and 7) had written on the back:

National Cultural Property - Although disagreement as already explained. Have already been promised it. Have paid deposit.

No prosecutions were pursued as a result of the 1972 incidents. Perhaps this was why Heathcote felt safe enough to stage one of the most spectacular acts that has come to the notice of the Museum.

This performance involved an over-life-sized carving called ‘Mangisaun’ from the Iatmul village of Nyaurengai on the middle Sepik. The figure was declared and gazetted National Cultural Property 23rd December 1971. Only days before its gazetted, Heathcote purchased the figure and the paddle it held for $3000 cash and a Toyota Landcruiser valued at $3000. The Museum challenged Heathcote’s right to own the figure and a considerable dispute arose among several Nyaurengai people as to who had authority to sell it and to
receive the payment. In due course the Public Solicitor requested Heathcote ‘to return the artifact to the people of Nyaurengai village, failing which he, the Public Solicitor, would issue a writ demanding the return of the artifact. Mr. Heathcote refused to comply with the request’. 

On the 11th December 1972, Heathcote reported that the figure had been stolen from his house at Ambunti. A letter from the Assistant District Commissioner at Ambunti, to the District Commissioner in Wewak reports:
The carving sat for a year in Sepik River Safaris’ lounge room and went missing within days of a demand by the Public Solicitor for its return. For this reason there seems a probability that Mr. Heathcote has made a false report, and that he himself disposed of the carving.

The following sequence of events seems perhaps relevant.

27-11-72 A.D.C. handed Public Solicitor’s letter of demand for the return of the figure, to Heathcote.
28-11-72 Heathcote departs upon 3 week artefact buying tour.
29-11-72 MV Henry Leith arrives down river from Freida River en route Madang. It was interesting that the loading and unloading was done from dusk to 8 pm at night, something which has not occurred before...

It is notable that the ‘theft’ was not reported until 11th December 1972, long after the ship had reached Madang and been unloaded.

By the 27th December, the Museum had prepared a draft of a leaflet to be used in a publicity campaign designed to elicit information as to the whereabouts of the carving. The Museum’s Director reported to the Secretary of the Department of the Administrator:

I was informed by the Comptroller of Customs that a ship on which several crates of artifacts were loaded had left Lae on 18 December and is on its way to New York. The name of the ship is ‘Lindenbank’. . . On this ship are five crates of artifacts consigned to L. Ridgeway, two to Kirke, one to Mitchell, fifteen to Power. The ‘Lindenbank’ is due to arrive in New York on 15 January 1973. As there is a chance that the artifact Ma(n)gisaun might have gone with this ship, I have approached the Assistant Secretary of the International Affairs Branch of the Department of the Administrator with the request to take steps to have the cargo of the ‘Lindenbank’ investigated on arrival of the ship in New York.

By mid-January, hundreds of copies of the leaflet (Figure 8 and 9) had been sent out to various government departments and some overseas. In particular, the Museum Director wrote to Bruce Seaman in Hawaii, asking him to
make enquiries through his contacts to ascertain whether there was anyone in the United States who might have had an interest in acquiring ‘Mangisaun’. Seaman replied on January 23, 1973:

I have frankly, in the past, paid little attention to this piece myself and actually do not know of anyone who has expressed interest in it as it was well known, at least in New Guinea, to have been proclaimed Restricted National Cultural Property... no reputable dealer or collector would want to touch this piece and thus, for this reason, I find it difficult to believe that this piece has left Papua New Guinea... I would under no circumstances whatever have any wish to be associated in any way with this piece.

In January, the Department of Territories in Canberra advised Port Moresby that:

NY Police were notified and the matter was subsequently referred to the US Customs Agency Service, who advised that the artifacts could be detained in NY for a maximum period of 2 months on the grounds that one of them was a ‘stolen good’. 37

The shipment was subsequently detained and 52 cases of artefacts were checked; however, ‘Mangisaun’ was not located.

Then completely out of the blue, the figure arrived at the Museum on Saturday 10th February 1973 by plane from Wewak. A press statement from the Museum Director, dated 16th February 1973, noted that ‘the finding has been reported to the police, as the circumstances of the disappearance and reappearance of this valuable piece are still not clear’.

A report from Ambunti informed the District Commissioner that the paddle that was associated with the figure, and which had not arrived in Moresby with the figure, had turned up again in Heathcote’s lounge room. 38 Heathcote did
not deliver it to the Museum until 5th June. No court action was taken against Heathcote for this rather bizarre performance, despite the considerable activity it caused within Papua New Guinea and internationally.

As a footnote to Seaman’s protestations that he ‘would under no circumstances whatever have any wish to be associated in any way’ with the Mangisaun figure, it is interesting that he is acknowledged as the owner of two mai masks from the Iatmul village of Kanganaman on the middle Sepik; their personal names are ‘Wolindambwi and ‘Akimbaiwoli’. These masks were recommended for gazettal as proclaimed national cultural property but unfortunately, along with a large number of other Sepik pieces, were never gazetted. I was told by the villagers that Heathcote had bought them in 1974 for $1000 and $500 respectively. Of course, no export permit was issued so they are illegal exports.

In 1982 I wrote to Seaman informing him of these facts but no reply was forthcoming. Had the bureaucracy not failed to process the recommendations for gazettal as proclaimed national cultural property, the claim for return of these two masks would have been very much stronger. However, the potential difficulties of obtaining co-operation internationally for recovery of illegally exported artefacts are also shown by the following examples.

3.6 International Legislation

In May 1971, an exhibition of eight carved wooden heads and masks from Tabar, New Ireland District was held at the Galerie Jacques Kerchache in Paris. The Director of the International Council of Museums drew the attention of the Australian delegate to UNESCO to this exhibition and said, ‘that he was anxious to make some enquiries concerning the acquisition of these artifacts, since the Director of the Galerie Jacques Kerchache had gained, particularly in Africa, a reputation for unscrupulousness in this regard’.

A flurry of communications from Paris to Canberra, to the Administrator in Port Moresby, then to the District Commissioner at Kavieng, New Ireland, elicited the following response from New Ireland District Headquarters:

a) Collectors M. Jacques Kerchache and another (Frenchmen) in collaboration with Mr. B. Birve (Tabar resident) purchased artifacts on Tabar approx. July/August 1970.

b) the artifacts are alleged to be a quantity of ‘grave sculptures’ of some significance.

Meanwhile, notification of the exhibition also reached the Preparator-in-charge of the PNG Public Museum (Roy Mackay). He wrote to the Secretary of the Division of District Administration:

It would appear that Mr. Kerchache did not enquire of the authorities concerning regulations on removal of cultural property although such regulations exist in almost all other countries. I suggest that these items should be returned to the Territory as no permit was given for their export. It might be considered that Mr. Kerchache collected these items on the spur of the moment without thought that he was contravening any laws and, with this kept in mind, I think that an approach through the Department of Territories and the Australian Embassy might be the first and most diplomatic approach to be made at this time.

Commenting on this letter from Mackay, the Administrator of Papua New Guinea, writing to the Department of External Territories in Canberra says:

as there is no reciprocal agreement with France covering the matter of this (National Cultural Property) Ordinance, there is little we can do officially unless the gentlemen return to this country, whereupon the provisions of the Ordinance could immediately be enforced.

A further letter from District Headquarters, Kavieng, to the Secretary, Department of the Administrator provided the information that:

On 4/5170, M. Jean Benoit . . . and M. Pierre Langules arrived at Namatanai ex Sydney/Port Moresby/Rabaul by air. Benoit is a Parisian, claiming to be a ‘millionaire museum keeper’. Langules is French Canadian. At no point did either make official contact. Approx. 6/5170, fromKonos, they travelled for three and a half weeks on Birve’s boat to Lihir, Tanga and Tabar Islands, chiefly the latter. They collected a considerable quantity of artifacts chiefly of the Malanggan species and mostly good recent carvings of same . . . the main question seems to be whether the exports were truly traditional or latter-day copies which could be artificially aged afterwards. They left carving commissions on Tabar advising of a late 1971 return to collect same. . . The exact origin, age, details, etc of the collection and any commissions are still being investigated.

The next communication was from the Preparator-in-charge of the PNG Museum to the Secretary, Department of the Administrator. Roy Mackay advised that he had been to Rabaul to inspect collections made by Benoit and Langules on Tabar and New Ireland:

Of the wooden artifacts, about 22 in number, I reserved four very significant pieces. . . There were also approx. 16 limestone and coral sharks in the collection. These are quite unique pieces but 6 of them were of poor quality. . . and were not retained. I am arranging, then, for the four wooden artifacts and 10 limestone sharks, plus one very interesting engraved stone, to be forwarded to Port Moresby for examination.

It will be necessary then for the Trustees to negotiate purchase of all or part of this collection... I feel that Messieurs Benoit and Langules had no intention to break any laws but now realize that they cannot arbitrarily acquire traditional artifacts (national cultural property) and export them without conforming to the provisions of the National Cultural Property Ordinance.
Messieurs Benoit and Langules have no connection with M. Kerchache of Paris. The exercise was well worth while as the material which I have restricted from export is very significant and to my knowledge does not exist in any other overseas collection. 47

A Permit to Export (No. 748 of 14th January 1972), made out in favour of J. Benoit by Roy Mackay, lists:
- Several old worm-eaten New Ireland Malanggan carvings
- Several new Malanggan carvings
- 6 stone sharks

The wooden carvings restricted from import included two carved figures (matalakalaka) which were part of the forked branches acting as gateways into the stone walls of the men’s sacred enclosures; these are currently on display in the Masterpieces exhibition of the PNG National Museum.

Over two years elapsed before Tabar carvings again surfaced as an issue. United States Customs officers intercepted a carved wooden mask (Figure 10) being imported by Ben Heller Inc. of New York, following purchase from the Galerie Jacques Kerchache in Paris on 16th October 1973. They requested, through Interpol (Melbourne), that:
- an investigation be conducted. . . relative to the possible theft or misappropriation of what may be a national treasure.

It is interesting that this communication, dated 1st March 1974, was barely three months after the United States ratified (on 7th December 1973) the UNESCO Convention concerning the protection of the world cultural and natural heritage. 48 This would appear to indicate that Customs officials in the USA had been briefed on the implications of their government’s ratification of the UNESCO Convention.

The matter was brought to the attention of the Director of the PNG Museum (Dirk Smidt) and a Police report to the Superintendent of CIB Headquarters in Boroko, PNG, states:

The Curator of the National Museum, Mr Schmidt (sic), has stated that under present regulations pertaining to the export of artifacts, an export licence would not be granted for the mask as it would be deemed culturally valuable...

As the initial report from the United States of America is dated 1/3/74, it can safely be presumed that the artifact was seized shortly before that date, therefore the current export restrictions would have been in force...

It appears that this artifact may have been illegally removed from Papua New Guinea. 49

The Commissioner of Police (PNG) then wrote to the Chief Commissioner, Interpol, Melbourne:

The photo of the artifact has been closely examined by the Curator of the PNG National Museum and is considered to be national cultural property, the exportation of which from Papua New Guinea is illegal. The exportation of national cultural property from Papua New Guinea is controlled by the National Cultural Property (Preservation) Act of 1965. Under the Act, Permits to Export are required for artifacts other than certain exempt items. The Artifact held by the United States authorities does not come within the exempt category and, because of its rarity, a Permit to Export would not be issued. It is obvious that the property has been illegally exported from this country. . . The Government of Papua New Guinea is prepared to meet all handling costs for the return of the Artifact to the Curator, Papua New Guinea National Museum, Port Moresby, and would be appreciative of any action taken in this regard. On the other hand, this Constabulary would be grateful of any information which could lead to establishing the identity of (the) consignor in order that Court action may be instigated for the illegal export of national cultural property. 50

Despite this, advice from the Crown Solicitor (PNG Department of Law) was as follows:

It seems that in so far as the fact situation is concerned, we only have the probability that the carving was illegally exported from PNG. I would be inclined to agree there appears little likelihood of determining how the artifact was acquired in PNG or how it was exported from PNG. In such circumstances I do not consider that the Museum can, as a matter of law, demand the return of the artifact.

I feel it is a matter for the laws of the United States but think it most unlikely they would have legislation as to PNG artifacts. It may be the Museum could seek assistance from Australian Foreign Affairs to determine the legal situation in the United States. 51

This letter is pessimistic about the success of enquiries in PNG and shows the Crown Solicitor to be ignorant of the ratification by the USA of the relevant UNESCO Convention.

A copy of the Crown Solicitor’s opinion was passed on to the PNG Museum on 20th August 1974 and the Acting Director of the Museum (Brian Egloff) wrote to the District Commissioner in Kavieng requesting a full investigation of the circumstances of the purchase and removal of the carving; a photograph of the mask was provided, those suspected of the purchase and illegal removal of the mask from the country were named (Kerchache, Benoit and Langules) and B. Birve was suggested as having information regarding the activities of the French collectors. 52

The Assistant District Officer at the Patrol Post of Konos, who administered Tabar Islands, reported to the District Commissioner at Kavieng that:

An investigation was carried out. . . from 30.9.74 to 1.10.74, and it was found that the artifact whose picture is shown on the attached photograph was a mask from Matlik village on the Tabar Island. Most of the people from that village identified the photo as that of a mask of a kavabat or
malagan from that village which was sold by Somure (whose sworn and signed statement to that
effect was attached to the ADC’s letter) to the two Frenchmen, Jean Benoit and Pierre
Langules...

On questioning the seller, it appeared that the mask was sold reluctantly to the two men in that
the two men themselves made the initiative to venture into the cave where it was being kept. Somure was embarrassed in that he tried to hide the presence of the mask... in the first place, but
they found it themselves while he was present (and thus he) reluctantly agreed to sell it to them at
their offered price of $40. The mask did not belong to Somure and neither to his clan, nor did he
consult the owning clan before selling it. He told them later when he presented the price money
for the mask... It appears that the artifact concern(ed) is of great cultural value to the owners, the
villagers as well as the country, who are now deprived of it by the persons who took it away from
them and the country. 53

The antiquity of the piece is attested to in Somure’s signed statement:

That kavabat is a malagan. It belongs to my great grandfather RANGIT, who inherited it from
some unknown ancestor...

A copy of the ADC’s report and Somure’s signed statement were sent on to the Director of the PNG Museum and
the Director, in turn, sent a copy to the Consul General of the USA in Port Moresby 54 with a request that the matter be
brought to the attention of the appropriate authorities, and a request made on behalf of the PNG government for the
return of the item to PNG. An accompanying statement by the Museum Director pointed out that:

the two French collectors responsible for the acquisition and removal of the mask have
committed various offences against the National Cultural Property (Preservation) Act 1965-7.
As the mask was taken out of a cave, I would like to draw your attention to Section 24 of the Act.
Under this section, caves with ancient remains are protected locations and interference is an
offence.
The investigations indicate that an offence against Section 13 (as amended in 1967) ~ is most
likely to have occurred.
As the Museum has no record of an export permit issued for the mask, the mask can be considered
as a prohibited export and its removal from Papua New Guinea unlawful within the meaning of
the Customs Act 195 1-71 (and Sections 19 and 20 of the National Cultural Property Act; therefore) it can be concluded that the collectors of the mask committed offences in contravention of Sections 13, 19,20 and 24 of the National Cultural Property (Preservation) Act of 1965-67 and Section 218 (as amended in 1971) of the Customs Act 1951-71.

The American Consul assured the Museum Director on October 31st 1974 that the above information would be forwarded to Washington. On March 19th 1975, the Consul General reported to the Director of the PNG Museum (by this time, Geoffrey Mosuwadoga):

I have now received a telegram from the Department of State which states that the artifact has not been seized by US Customs, but is in the hands of its new owner a Mr. Ben Heller of New York City. Mr. Heller has been approached by Customs officials and is willing to discuss the artefact’s return with appropriate US officials and officials designated by the Government of Papua New Guinea. In addition, if requested by Papua New Guinea, New York Customs agents will make further enquires.

According to the view of Customs, it appears Ben Heller has not violated any US Customs law or regulation. And there is no indication that any criminal statute has been violated. Under these circumstances any legal action for return of the artifact would have to be taken on Papua New Guinean initiative in (a) court of appropriate jurisdiction. The success of which action would depend upon Papua New Guinea proving title to the artifact, which would involve extensive litigation. Heller told Customs that he bought the artifact for a considerable sum from a dealer in Paris, and indicated money will be a factor in its return.

Because no customs regulation or statute appears to have been violated, US Customs is unable to seize the object. Since other legal remedies would be time-consuming at best, Papua New Guinea may wish to designate officials to meet with Heller and US authorities in the United States to work out an amicable solution as the most practical next step.

It would appear that, from lack of further correspondence regarding the matter, there was no further progress made to have the mask returned to Papua New Guinea. Despite clear evidence of infringements to the NCP and Customs Acts, as cited by Smidt, and despite the United States’ ratification of the UNESCO convention on the illicit import, export and transfer of ownership of cultural property on December 7th 1973 (of which none of the correspondents seemed to be aware), it appeared that the only remedy would involve buying back the piece at the price paid by Heller, or an expensive legal battle. The mask was still in the possession of Ben Heller Inc. as at 1986 or 1987. There is no doubt that this is the same mask as that illustrated in the Kerchache exhibition catalogue of 1971.

Another example will suffice to demonstrate further that it is all very well to have international agreements, but they are irrelevant unless the means are provided for inexperienced and impoverished nations to obtain the intended benefits of those agreements.

In May 1973, a shipment of old objects was offered for sale in San Francisco (and later in Los Angeles) by Bruce Lawes, an ex-resident of Wewak in Papua New Guinea. The National Museum was informed of this and contacted the PNG Department of Law for advice about how the matter could be investigated. The Crown Solicitor, commenting on some suggestions made by the Museum, wrote:

The only alternative would appear to be sending one of your officers to view the collection but I doubt whether this is practicable in terms of time and money. . . There may be a theoretical possibility of recovering some of the items in the collection but recovery action would probably have to be pursued through a Californian court and this clearly would be an expensive procedure. . . In my view probably the only practical step that can be taken in cases such as this is to ensure that the collector involved does not re-enter Papua New Guinea.

Now it happens that I saw some of the collection for sale in a Los Angeles gallery, some time around 1974, and it was apparent to me that many of the pieces were carved well before 1960 and were of such quality that they would never have been issued with an export permit whilst Dirk Smidt was Director of the National Museum. There is no doubt that they were exported illegally.

It wasn’t until several months after Lawes got his shipment into the United States that a Bill was introduced in the Senate of the United States ‘to implement the UNESCO Convention on the Means of Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property’. The 1970 UNESCO Convention was then officially ratified by the United States on 7th December 1973, as noted above.

As at 31st December 1977,35 Suites had deposited instruments of ratification or acceptance. However, so far as I have been able to ascertain, Papua New Guinea still has not deposited an instrument of ratification or acceptance of the Convention, even though it has had more progressive legislation in place for longer than most other countries. It did become a member of UNESCO, however, soon after approval by the PNG National Executive Council in 1976.

During 1978, another attempt was made by the National Museum to have Papua New Guinea ratify the Convention. A draft policy submission to the National Executive Council was prepared by the Department of Education (which at that time administered the National Cultural Property (Preservation) Act) which stated the financial and staffing implications:

Article 14 of the Convention requires that the national services responsible for the protection of its cultural heritage should be provided with an adequate budget. This provision is met at its basic level through the recurrent budget of the National Museum. Further development of this
service is not mandatory, but is advisable. International assistance and special grants are under consideration.

......The addition of two enforcement officers during the period 1979-80 to the staff of the National Museum would be advisable, but not mandatory.

The draft was sent to several departments. The National Planning Office supported the submission but added:

We note that the National Museum, through the National Cultural Council, has submitted a 1979 NPEP project request to set up an enforcement unit along lines similar to those recommended in Article 5 of the Convention.

We suggest that such a unit should take into account existing staff and financial resources at both national and provincial levels. 58

In other words, no more funds and no more staff!

The Public Services Commission, Department of Decentralisation, Department of Foreign Affairs and Trade, and the Department of the Prime Minister supported the proposal; none of them saw any reasons why PNG could not ratify the Convention. 59 However, the reply from the Department of Justice was unequivocally negative:

I note that you refer in your submission to the National Cultural Property (Preservation) Act 1965 as the appropriate legislation. Unfortunately this Act will not suffice as the Convention imposes specific requirements which are not contemplated by the Act. The matter is further complicated in that the Act conflicts with the Constitution in some respects and needs to be overhauled.

It will therefore not be possible to accede to the Convention at this point as Papua New Guinea would not be able to uphold its provisions. 60

I have not been able to locate any further correspondence on this matter but it would appear that the submission never reached the National Executive Council.

The difficulty seems to be a lack of commitment to amending the present legislation and to providing the staff and funds necessary to make the legislation effective.

When I arrived at the Museum as Curator of Anthropology in October 1980, the Museum executive was still keen on the establishment of an enforcement unit. I opposed the idea on the grounds that it would be ineffective and would absorb resources that could be better used for fieldwork and monitoring of National Cultural Property in situ.

Since most of the proclaimed and gazetted National Cultural Property was situated in the Sepik area, I commenced a program of fieldwork and monitoring that ensured a Museum presence in the area for at least a few weeks every six months. Of course, given our ridiculously inadequate level of staffing and funding, other areas of Papua New Guinea received very little or no attention from the Museum, although in several instances I obtained the cooperation of overseas researchers to achieve some of the Museum’s objectives in those areas.

The expectation that two enforcement officers could effectively police exports of artefacts at the numerous shipping and air ports was ludicrous. This highlights another area of difficulty, both in terms of the legislation and in practice: the issuing of export permits.

3.7 The Permit System for Export of Artefacts

Both the Papuan Antiquities Ordinance of 1913 and the New Guinea Antiquities Ordinance of 1922 prohibited the export of antiquities ‘without the express permission’ of the Commissioner or Administrator, respectively. The Papuan Ordinance specified ‘in writing’. The Papua New Guinea Antiquities Ordinance of 1953, which replaced the previous two Ordinances, specified that:

A person shall not, without the consent in writing of the Administrator given in accordance with the prescribed form, export or ship for export from the Territory any antiquity.

Forms for an Application for Permit, and for a Permit, were detailed. The Administrator could delegate his power to provide permits to a District Commissioner or any other person.

The National Cultural Property (Preservation) Ordinance of 1965 specified that:

A person shall not, without the consent in writing of the Trustees (of the PNG Public Museum and Art Gallery), export or remove from the Territory any national cultural property.

The Trustees could delegate, to any person ‘by instrument in writing’, any of their powers, including their power to grant consent to export.

To make it quite clear that the force of these powers to grant export permits was to control the export of objects of significant cultural, artistic, historic or scientific value, several Amendments were issued which specifically exempted from the requirements of an export permit such common traditional material as personal ornamentation, domestic utensils, weapons and tools and contemporary material such as wood carvings, stone objects and pottery made for sale.

The problem then arose as to whether or not a particular item fell into the category of objects requiring a permit for export or into the category of exempt items. For many objects, there was no difficulty - bows and arrows were exempt from the requirements whether they were a hundred years old or brand new. However, with regard to carved figures, how does one tell whether they are ‘antiquities’ or, as specifically required by the restrictions gazetted 21st March 1974, made before or after the 31st December 1960? A clever dealer could disguise an old carving with a new coat of paint or, after inspection, substitute in a crate a new carving with an old one.

Whilst the activities of dealers of artefacts grew exponentially during the 1960s and 1970s, the staff of the Museum available to examine shipments to decide what needed and what did not need export permits was quite
insufficient for the task. Also there simply were no funds available to travel all around PNG checking crates of artefacts. The expedient of relying upon photographs of the shipment then became acceptable, but this relied heavily upon the honesty of the applicant, who could easily add old carvings to the shipment. It also relied upon the ability of the provider of permits to discern old objects on the basis of poor Polaroid photographs.

A further problem arises because Customs inspectors in PNG and overseas cannot be expected to be able to discriminate between objects which require a permit and those which do not. As stated by the Director of the Department of Trade and Industry:

> It is not considered that customs officers could be expected to assume responsibility for identifying National Cultural Property. The function of Customs is to intercept i.e. to withhold export entry for consignments until they have been certified as not containing National Cultural Property. This requires expert knowledge.....
> We do not agree. . . . that people leaving the country must have permits to export artifacts. This is far too cumbersome to be practical. When the Ordinance was first brought into operation, all locally made articles were included, but gradually newly and commercially made articles had to be exempted in order to make the ~steni at least partly workable. The present difficulties of the Trustees indicate that even with the exemptions it is difficult to apply the existing laws. 3

On top of all these difficulties, the Legislation as it stands places the onus on the authorities to prove that the exporter of national cultural property was not issued an export permit for a particular item, rather than requiring the exporter to demonstrate that he or she has an export permit for a particular item. 62 Similarly, it would be more satisfactory for the authorities if the defendant in any action was required to demonstrate that a particular object is not an item of national cultural property rather than the authorities having to prove that it is.

Concerns over the differentiation of artefacts made for sale and national cultural property led to an ordinance providing for licensing of artefact dealers but this never came to anything and was no help at all to the Museum. All it succeeded in doing was confounding the thinking of many bureaucrats by putting commercial objectives and cultural objectives in the same basket, always to the detriment of both.

The history of Village Arts, the commercial arm of the National Cultural Council, is instructive in this regard. Set up as the marketing agent for contemporary artefacts, its financial success depended on the business acumen of its manager. The profits were supposed to be used for promoting the aims of the cultural institutions, in particular to facilitate the purchase of national cultural property by the Museum. At times, however, Village Arts competed with the Museum for the purchase of old material and the Museum never received any financial benefits. After some initial financial success, the organisation made a loss for several years until it was disbanded.

4. Conclusions

The examples provided above are but some of the many stories that could be told, all of which suggest better ways of retaining what is left of the national cultural heritage safely within the country.

Policing and prosecutions have proved to be very expensive in terms of staff time and funding. Although there have been some fruitful investigations that have prevented large quantities of valuable material from leaving the country, much greater amounts have gone than is realised; the Lawes shipment, and the Nils Madsen collection from the Karawari, were just a tiny fraction of what has gone. The number of people, and the budget required, to effectively police all shipping and air ports in Papua New Guinea would be similar to the staffing and budget for the Customs Office.

On top of its impracticability, the policing approach generates a great deal of bad feeling. A lot of people feel their privacy is being infringed and their rights disregarded. Whether or not that is the case, the National Museum can ill afford to generate these feelings when it relies on people’s good will for information and for a fair price for additions to the collections.

Further, whilst the policing approach may prevent some objects from leaving the country, it does not yield any documentation or cultural information. This work still has to be done if the National Museum is to make its contribution to the preservation of Papua New Guinea’s cultural heritage.

The only rational approach is to employ sufficient professional anthropologists to carry out a consistent program of fieldwork that includes:

a) the monitoring of proclaimed national cultural property;

b) the identification of additional material worthy of proclamation as national cultural property;

c) documentation of national cultural property, including objects already within the Museum’s collection, and of material culture generally.

d) publication of all items gazetted as national cultural property - photographs and documentation - to establish beyond legal doubt the identity of objects protected under the legislation.

It is only when these tasks have been mastered that the National Museum will be in a strong position to raise the issue of return of cultural material from overseas.

This latter topic is a favourite with the media and the politicians. It provides a wonderful opportunity for bashing the white colonialists and the expatriate exploiters of the past. It is a ‘motherhood’ topic on which everybody can agree. But it is notable that it does not appear to require a commitment of staff and funds in the same way that the proper care of what remains in the country requires.
If Papua New Guineans of the third millennium feel they have been cheated of their material cultural heritage, of the stories and songs and the music and dance of their forefathers, there will be two groups they can blame: expatriates on the one hand and the present government elite on the other. The irony is that it is almost too late for the latter to remedy their neglect, whereas the expatriates will always be able to afford the luxury of appeasing their consciences through restitution.

Postscript
This account of legislation and practice with regard to the preservation of the material cultural heritage of Papua New Guinea should be instructive for those involved in similar pursuits with regard to Australian Aboriginal cultural heritage, in particular with South Australian Aboriginal cultural heritage.

Aspects of the South Australian Aboriginal heritage Act (1988) have been criticised by museum professionals. For example, the provision that anyone may be required to surrender an ‘Aboriginal record’ (defined as a record of information which is traditionally kept secret) could compromise a researcher’s commitment to informants to protect and keep secret such information.

Many have criticised the almost ‘police-state’ methods that may be used by Inspectors under the Act, and the fact that it is such actions (e.g. in relation to the Strehlow collection) that seem to typify government concern and that grab the attention of the media. The damage to the cause of Aboriginal heritage protection is accordingly significant when the government is believed to have backed down.

Section 34 (b) of the Act provides that the Minister may determine the custody of any material acquired under the Act, but one might question the appropriateness of officially excavated material from Aboriginal sites being stored on private premises in the apparent absence of suitable State-owned repositories.

Sections 19, 30 and 31 of the Act provide for funds to be available for the purchase, by the Minister, of ‘land for the purposes of protecting or preserving an Aboriginal site, object or remains, or of an ‘Aboriginal object or record’. Presumably the movable material so acquired might be returned to the Aboriginal community from which it came originally: or it might be deposited in the State museum. The amount available to the South Australian Museum for purchase of Aboriginal material is negligible and so the collections increase in a haphazard manner by virtue of donations, material deposited under the terms of the Aboriginal heritage Act, but primarily through items offered under the Commonwealth’s Taxation Incentives for the Arts scheme. Whilst this latter scheme is welcomed by museums and other public cultural institutions, it ought not to be the primary means by which additions to the collections come about, unless we are satisfied with the ‘logic’ of serendipity.

ENDNOTES

2. See B. Craig, The Star Mountains, (Bathurst 1984), Plates 7 & 12 for two of these.
6. There were no photographs with the copy of the letter that I viewed in the PNG National Museum’s archives.
7. Of the three carved crocodiles from the Karawari area at present in the PNG National Museum, only one has a registration number written on it, and this is a poorly-carved specimen, E.4665, 144” long.
10. Annual Reports of the Trustees of the PNG Public Museum and Art Gallery for the Years 1969/72, p. 17.
12. For one of these, see A. Buhler, T. Barrow and C.P. Mountford, Oceania and Australia: The Art of the South Seas (London 1962), pp. 74-5: bottom figure - wrongly captioned as from Ambanoli - which is the one sold to the Museum of Fine Arts, Houston (see P. Gathercole, A. Kaeppler & D. Newton, The Art of the Pacific Islands (Washington 1979), pp. 308-9).
13. The top piece, which appears in Buhler et al. 1%, pp. 74-5, is wrongly captioned as from Ambonoli.
17. ibid.
18. Mr. J. Abrahamson was a student of the Institute of Fine Arts, New York University, who was carrying out fieldwork in the Highlands and Upper Sepik area in 1969.
25. PNG Department of Law: KA 70/75 (Part II) of September 1974
26. Staff as at August 1992 consisted of an expatriate Curator, an Assistant Curator and three Storeroom Managers. The Museum is no longer a part of the Tourism Corporation but an independent statutory body with its own Board of Trustees, as it used to be until 1982.
30. Smidt, op. cit., p. 3.
31. ibid., p. 55.
33. Smidt, op. cit., p. 53.
34. Department of the Administrator: S9/2633 of 12th December 1972.
43. 7-5-4: IAH/vb of 8th September 1971.
44. MB 7I of 27th August 1971.
45. 71/2837:AD 7-1-12 of 9th September 1971.
46. 7-5-4: IAH/vb of 22nd September 1971.
47. M8/72 of 17th June 1972.
51. 4KA 70/75121 of 31st July 1974.
52. BE/AG of 3rd September 1974.
53. 7-5-1 of 10th October 1974.
54. DS/AG of 29th October 1974.
55. ‘A person shall not, by force, threats, fraud, misrepresentation, undue influence or in any other manner, obtain the destruction, damaging, defacing, confiscation or yielding up of any national cultural property’.
56. See Plate 111 of Kirk & Strathern 1987; note also Plates 115-7 for two other pieces evidently from the same collection.
58. 20-48-12 of 13th September 1978.
59. Respectively: 13th September 1978 from a/Chairman; 1-7-501 22nd September 1978 from a/Secretary; 1-34-0 of 10th October 1978 from Secretary; 20-2-4 of 25th September 1978 from Secretary.
60. BT 185 of 25th September 1978 from Secretary.