

Registration and Private Ownership of Archaeological Objects¹

Archaeologists and Collectors

Archaeologists have always approached the problem of the long-term care and administration of the objects we recover and study from conflicting points of view. Though we insist on the most careful methods for recovering, documenting, and studying artifacts, we often reject the responsibility for their care after they have served our immediate ends.

Yet many archaeologists become outraged by the hoards of artifact collectors who buy and sell objects and who wish, more than anything else, to provide long-term care to the objects they acquire. The collector, on the other hand, appears to reject the responsibility for obtaining and preserving the contextual, descriptive data that is so important to archaeological research and an understanding of the past. The collector wants the object for its beauty, unusual qualities, or for its market value.

The archaeological community considers the purchase and sale of objects and the looting of archaeological sites that generally predeeds them an abomination, yet refuses to deal with the causal factors that underlie the destructive nature of the activity. Some sectors of the archaeological community have attempted to wage a legislative war with the collector. They seem to have had little effect on the continuing destruction of archaeological properties. In my estimation, the archaeological community cannot expect to win a war with the “art” collecting public. As long as archaeological properties have value to people, they will continue to attempt to purchase them, whether they are obtained legally or illegally, thus creating a demand for illegal pothunting. Archaeologists, then, have everything to gain from a negotiated truce, but a lot to lose if we choose to ignore the collector’s interest in acquiring and caring for archaeological objects.

The following discussion lays out the groundwork for one possible settlement between archaeologist and

collector. The settlement provides the archaeologist with information and the collector with artifacts.

A Look At The Real World

Let us examine the real case of an individual who may own property containing an archaeological site. The landowner can:

- leave it alone;
- dig it up, and either sell or keep any artifacts;
- approach archaeologists to dig it up, allowing them to retrieve both the objects and the information;
- donate the site to the Archaeological Conservancy or some other nonprofit institution; or
- sell the contents of the site to someone else to dig up on speculation.

Before choosing an option, the landowner must evaluate his or her motivations, which are one or a combination of the following:

- financial gain;
- building a collection for personal enjoyment;
- curiosity or “adventure”;
- public service or a desire to “do the right thing”; and
- legal and/or public pressure to leave the site undisturbed.

If the landowner’s motivations are public spirited, the site either remains undisturbed or is mined for information as well as artifacts. In either case, the archaeological community’s research interests are forwarded. If recovered, the artifacts then enter into a grey area of ownership, but are often placed under the stewardship of the presiding archaeologist, a university, or an institute. Very often, they simply drop out of sight.

If the landowner’s motivations are driven solely by personal enjoyment or for financial gain, archaeologists lose. The landowner has contributed to his own or someone else’s collection without gathering the essential contextual information. Because the methodology for pure artifact extraction differs from the methodology for research, only the “goodies” get passed on. In today’s climate, the site owner recognizes no options in excavating if driven by the desire to gain

¹This paper was requested from Dr. Walter Wait, archaeologist, after an intensive discussion with OTA staff concerning technology and protection of archaeological properties. Although this paper focuses on a partial solution the loss of prehistoric archaeological remains, much of the discussion is also applicable to such historic cultural material.

a collection or to gain financially because the archaeological community is largely unapproachable. The data, for all practical purposes, have been given up.

Inserting the Archaeologist into the Collector's Loop

Because the prehistoric or historic culture of the country is at stake, we might ask what we can offer the collector in return for the opportunity to gain a deeper understanding of the site and the people who created it. Perhaps the one thing that the archaeological community has of value to the collector is the academic credentials that permit the validation of an object's authenticity. "Genuineness" is of critical importance to a collector of objects. One of the few times an archaeologist and a collector come face to face is when the collector requests assistance in establishing the authenticity of an artifact that he or she has acquired. More often than not, the collector is turned away, widening the gap between the two sides. However, if this is the bargaining chip that archaeology can bring to the negotiating table, it should be used. I propose to trade an offer of authenticity for the careful recovery of associated archaeological data.

In order to offer the collector some document attesting to the provenience of artifacts dug on private land, I suggest that we license archaeologists to supervise the work. This guarantees authenticity and allows the archaeologist to gather important research data.

The Licensed Archaeologist

With an archaeologist on board, the treasure hunt turns into an archaeological dig, the purpose of which is to provide the landowner with collectable, documented artifacts and the archaeological community with data on the artifacts, contextual information, artifact preservation, and professional documentation and reporting.

The site owner now has four options with regard to the conduct of the excavation design:

1. dig where I tell you;
2. dig as much as you can for X dollars;
3. dig where you think you will find collectable artifacts; and
4. dig where you will learn the most.

The archaeologist, according to a standard contract signed by both archaeologist and site owner, would work out an excavation plan designed around the owner's desires as stated above and the number of people hired, conscripted, or otherwise obtained to do the work. The archaeologist's design and subse-

quent supervision follows a pattern laid down by the professional licensing body. This pattern would include, but would not be limited to the following:

- the excavation will follow standard archaeological principles;
- the excavation will be fully documented with a site map, profile drawings, photos, and excavation locations;
- all artifacts will be recovered and cataloged; and
- a site excavation report will be prepared.

The standard contract might stipulate 'that the archaeologist will forward registration papers and a certificate of excavation to some National or State registry center. All other recovered remains, artifacts, and samples would become the property of the licensing organization. This group or groups would then be responsible for the curation, protection, or disposal of the site's recovered unregistered remains.

The Registered Artifact

This proposal requires the creation of one or more formal artifact registries. The contracted, licensed archaeologist submits the paperwork to the registry applying for formal approval of the artifact's "pedigree." Paperwork required might be as follows:

- a request for title, which includes a full description, measurements, and a color photograph or digital image;
- a copy of the excavation report;
- a certificate of excavation indicating that a licensed archaeologist was responsible for the excavation or recovery of the object;
- a certified appraisal; and
- a percentage fee based on either the appraised value or the actual sale price.

Upon entry into the registry, the owner would obtain a nontransferable title and an artifact documentation card similar to a plastic driver's license, complete with photo (figure C-1).

Why Do it?

The registration of artifacts requires a great deal of organization and effort. Why should it be done? First, it fulfills the archaeologists' part of the bargain with the collectors—documentation for authentication. The collector receives an artifact with a verifiable history and a title illustrating a valid transfer of ownership. This title, together with accompanying documentation, should increase the value and desirability of the registered artifact. If the registry is current, a prospective buyer could check the title at the registry for verification of the owner of record. Collectors dislike

Figure C-1.—Artifact Title

Name _____
 Address _____
 Phone _____
 Site Number _____
 Location: 1/4 section _____
 county _____
 Excavator's name _____
 Site report title _____

 Permit number _____

 Artifact number _____
 Artifact type _____
 Condition _____
 Culture _____
 Period _____
 Type _____
 Location _____
 Level _____
 Depth _____
 Associated artifacts _____

 Map with location provided?--
 Site report provided? _____
 Photograph provided? _____
 Date of discovery _____
 Date of application _____
 Signature: _____
 owner _____
 excavator _____

forgeries. We could expect that eventually registered artifacts will become the only artifacts worth collecting. This could have the beneficial effect of drying up the market for illicitly obtained objects. If an artifact is not titled, one must assume that it has been unlawfully obtained.

The archaeological community and the public may benefit in several important ways. First and foremost, data collection and preservation are assured. The contract could also give the State or Federal government a right of first refusal to purchase significant artifacts at the appraised value. Furthermore, the registration, being non-transferable, must be applied for each time the artifact's ownership is transferred. The resultant fees could be used to support the registry in several ways:

- support of the registry programs;
- administration and conservation of nontitled artifacts and site documents;

- archaeological research support; and
- archaeological site conservation.

The initial title fee and all transfer fees would support the registry, the duplication and preparation of paperwork, and site documentation and the creation and transmission of curation reports (i. e., papers on how best to protect, care for, conserve, and display specific classes of registered artifacts). Some portion of the fee might go to the curation and care of the artifacts, notes, and specimens recovered from the sites and turned over to the agency for protection. Some funding might go toward promoting research on the recovered material (i.e., requests from licensed archaeologists for subsidies for dendrochronological or other research-oriented analysis). Finally, some funding might go to nonprofit institutions dedicated to the purchase and preservation of intact archaeological properties.

If the excavation does not turn up anything of monetary value, the archaeologist would still submit the certificate of excavation and the excavation report, samples, and artifacts, to the Registry. All recovered material would become the responsibility of the agency. The site owner would have lost his or her speculative investment, but would have the important satisfaction of having contributed to the advancement of knowledge, for the archaeological community would have recovered its interpretive data intact. Since the location of all registered artifacts could be tracked, professional needs to re-study, bring together, or study titled materials, could always be met.

Flaws In the Plan

The plan as outlined has two basic flaws. First, the cost of archaeological excavation is quite high, especially when compared to the usual pothunting techniques. Second, there is already a large inventory of artifacts that must be curated.

Current personnel costs alone for planning and supervising a 1-week excavation, mapping and caring for artifacts, and writing up the report total approximately \$3,000, assuming a contract cost of \$200 per day. Most excavations are likely to take much longer and require hiring more than one individual. How are the archaeologists to be paid for their efforts? Put another way, how do we fund this collection of data, as opposed to the recovery of objects only. The landowner will probably not be able to fund the excavation effort out-of-pocket. The following options present ways in which the excavation could be funded.

Investor Funding

Speculative funding would require the organization of a group of collectors/investors willing to share the

cost of what could be essentially construed as a treasure hunt, but conducted under controlled archaeological conditions.

Tax Incentives

Tax incentives might be provided to a site owner permitting the deduction of archaeological expenses incurred during legitimate site excavations. Contracted archaeological expenses could be considered as a legitimate business expense and could be claimed as a loss should no artifacts of value be recovered.

Subsidies

Federal or State subsidy of archaeological work, where upon application for a subsidy, perhaps to a State Historic Preservation Office, the site owner agrees to pay some portion of the excavation costs on a sliding scale dependent on the appraised value of recovered registered artifacts. The more value actually recovered, the less subsidy the landowner would receive.

Offices

County archaeological offices, similar to the county agricultural agent, could support archaeologists whose primary function would be to supervise excavations on private lands. The government might pay the cost of salary and office space. Site owners would pay the actual material costs of excavation and travel.

Volunteer Field School

Here, "field school" participants would pay for the privilege of excavating the privately owned site, much as they do in a number of nonprofit institutions. The participants would pay fees that would go toward supporting the contracted archaeologist/supervisor.

Traditional Research Grants

As ownership of artifacts recovered on private lands has never been in doubt in this country (they belong to the landowner), the relationship of research and research projects to private landowners remains the same. Some landowners may wish or require principle investigators of research projects to prepare title documents to specific artifacts that the owner wishes to retain.

Nontraditional Grant Programs

Private industry may provide funding for the excavation of sites on private land they own for the tax deduction that such charitable gifts may realize.

The Existing Artifact

If registered artifacts cause the trade in unregistered artifacts to decline, those with unregistered artifacts might be tempted to forge registration certificates, or to "find" their artifacts in new excavations. In order to cope with the existing open market artifacts, an "undocumented" register classification should be created for a short period of time. This would be similar to "foundation stock" accepted in horse and other animal registries. The "undocumented" category would serve to build the register's initial funding base. The initial registration fees might be increased if an artifact owner fails to register the artifact recovered during a legitimate excavation after a certain period of time. This may discourage fraudulent acts (i.e., "seeding" of archaeological sites).

Museums faced with vast surplus collections might title artifacts excavated 20, 30, 40 years ago and place them on the open market, providing that a licensed archaeologist is willing to accept the existing documentation claims provided by the museum, college, or collection. Such an action might enable them to earn needed extra income and help contribute to the acceptance of registration among collectors.

The Registration Mechanism

The National Park Service has just finished developing a computerized National Catalogue for Objects. This catalog program can run on microcomputers as well as mini and mainframe computer systems. Additional work, adding the "transfer of ownership" portions, etc., might turn this National Catalogue into a National Registry that could be handled by individual State offices, or by the Federal Government. State or local registries could be combined to form a national registry where transfer of title could occur anywhere in the United States. The laminated plastic ID card and digitized image of each object are within current levels of technology.

Conclusions

The above scenario, negotiating a compromise between the archaeological community and the public collector, illustrates the potential management of some portion of our artifactual heritage in a non-traditional manner—curation by the collector. The option of first refusal permits the States and Federal Government to obtain for the public any "crown-jewel" that might be uncovered. The registration process permits perpetual tracking of significant artifacts so that museum exhibitions and scholarly research could be carried out.

The compromise as illustrated appears to benefit both parties. Mechanisms for funding, plus the willingness of both sides to go along, however, will be needed if this or any other kind of alternative preservation program is to work. One thing is very clear. Trying to legislate away the art and artifact collector will not curb the desire to own collections. Collect-

ing is a strong part of our culture, both in this country and abroad. Providing alternative means to own and traffic in antiquities may help reduce pothunting and the resultant destruction of important archaeological information. The public and archaeologist could both benefit.