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L'Europa e le prime prassi per la protezione del patrimonio

a cura di Chiara Mannoni

# How (Not) to Protect the Past? Heritage Protection Efforts and Power Struggles in Early Modern Greece

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**Abstract** This paper revisits the early protection measures taken with regards to the safeguarding of antiquities in Greece in the 1820s and 1830s and the ensuing power struggles. The focus is on 'control' and 'ownership', two major issues that shaped the nineteenth-century cultural politics of the country. It is argued that the 1834 law, that emerged out of these debates, is best understood as a crypto-colonial contraption. It gave the allusion to people and state officials of cultural and territorial integrity and control, when actually it facilitated local and international actors to thrive – licitly and illicitly – in the antiquities trade in the long nineteenth century.

**Keywords** Classical antiquity. Greece. Heritage protection. Legislation. National identity.

**Summary** 1 Introduction. – 2 "Pride for the Nation": A Call for Collective Participation in the Safeguarding of Antiquities that Was Never Meant to Be. – 3 Between State Control and Shared Ownership. – 4 Early Modern Greek Heritage Legislation in Light of Measures Taken by the Papal States. – 5 Whose Heritage and Safeguarding? – 6 Heritage Protection, National Consciousness, and the Multiple Pasts of Greece.

## 1 Introduction

It is true that a lot has already been written on nineteenth-century antiquarianism, archaeology and antiquities collecting also in relation to Greece and the role of the past in modern identity building.<sup>1</sup> In the vast majority of cases, however, most of these approaches adopt either an ‘outsiders’ perspective on the issues at stake (e.g., by focusing on the Grand Tour and its collectors, travellers and antiquarians, rather than on the local protagonists) or take a rather myopic approach focusing selectively on certain, now highly politicised and sensationalised, episodes, such as the Parthenon/Elgin marbles debate. Limited attention, especially outside of Greek scholarship, has been paid on the actual legislation – and its many iterations over the years – that was meant to protect antiquities and heritage.<sup>2</sup> What provisions did successive early modern Greek governments take to safeguard antiquities and why? What were legislators trying to achieve with these measures? It is on these question that this paper aims to make a contribution by specifically looking comparatively at the early efforts, not least as they differed from those finally turned into state law in 1834 in the newly-established kingdom of Greece; a law that remained effective and largely unchanged until the end of the century.

## 2 “Pride for the Nation”: A Call for Collective Participation in the Safeguarding of Antiquities that Was Never Meant to Be

Even before the country’s independence from the Ottoman Empire in 1830, a national character had already been ascribed to the measures that had to be taken to protect ancient objects and ruins. For example, as early as 1807, we find in the works of Adamantios Koraïs (1748-1833) a plea to the Patriarchate of Constantinople to form a “Greek Museum” among the responsibilities of which should be the collection and protection of antiquities.<sup>3</sup> Koraïs was the leading represent-

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**1** To give, but a few, examples: Sichtermann 1996; Schnapp 1996; Marchand 1996; Sweet 2004; Dyson 2006; Challis 2008; Blix 2009; Gunning 2016.

**2** Kokkou 2009; Petrakos 1982; Pantos 1992; 2001; Aravantinos 2000; Voudouri 2008; 2010; 2017. For a recent discussion on various aspects of this complex topic, see the edited volume by Lagogianni-Georgakarakos and Koutsogiannis (2020). Indeed, as Swenson (2013) observes, the origins of what we today understand as ‘heritage’ should be sought in the late eighteenth and nineteenth centuries. It is in these two formative periods that later heritage discussions largely stem from, in terms of nomenclature, logic and structure.

**3** Koraïs 1807, 34-44; Valetas 1965, 919-21; Kokkou 2009, 27-31; Petrakos 2015, 2: 9, no. 4. On the importance of patrimonial heritage in early modern Greek education see also Koraïs 1803.

ative of the modern Greek Enlightenment movement which intellectually paved the way for the war of independence (Dimaras 1969; Kitromilides 1996). Like many of these intellectuals, Korais was a member of the Greek diaspora – born in the Ottoman Empire, he resided in France for more than fifty years, mostly in Paris, where he witnessed the French Revolution. Although he never lived in, or even saw, Greece, he nevertheless offered a national perspective with regards to the protection of ancient objects; and what is probably the earliest recorded explanation as to why Greek antiquities should be preserved “as a means for clarifying unclear moments of Greek history or filling in its gaps”.<sup>4</sup>

Twenty years later, in the midst of the Greek Revolution, and in the true spirit of Korais, more instructions started to be given for the protection of antiquities by the provisional revolutionary governments of Greece, on grounds “that, with the passage of time, every school will acquire its own Museum, something which is most necessary for history”.<sup>5</sup> A notion of patriotic duty was circulating in revolutionary government circles which tried to promote it through their official channels to the wider population, admittedly often with limited results.<sup>6</sup> Perhaps the most famous of these early measures was the declaration of 1827 of the Third National Revolutionary Assembly involving a complete export ban on all antiquities which now fell under the full jurisdiction of the emerging state.<sup>7</sup>

This ban, however, did not limit the government from lifting it whenever it felt necessary for achieving its own political goals. In 1829, Ioannis Kapodistrias (1776-1831) – the first governor of

<sup>4</sup> Korais 1807, 42 (point 9): “εις τὸ νὰ ἐξηγήσῃ τὰ δυσνόητα ἢ ν’ ἀναπληρώσῃ τὰ ἐλλείποντα τῆς Ἑλληνικῆς ἱστορίας”.

<sup>5</sup> Kokkou 2009, 41 (first decree on “Χρέη καὶ τὰ Δικαιώματα τοῦ Εφόρου τῆς Παιδείας” of the Minister of Interior of the temporary government of Greece, 10 February 1825); also, Petrakos 2015, 2: 59, no. 36, Article 9.

<sup>6</sup> Kokkou 2009, 32-46 and Petrakos 2015, 1: 24-61, who document the significant efforts on behalf of the temporary governments in revolutionary Greece, and of some local private individuals, in safeguarding antiquities. In modern literature on the subject, however, we often learn about the official line, but we do not hear much about what the people on the ground, in general, did or thought about these issues (admittedly a difficult subject as we have little direct evidence, with most references coming from travellers’ accounts to Greece or reports of local officials). There were clearly tensions between those who wanted to profit out of the interest, mostly of Europeans, to collect antiquities, in the midst of the revolution; and those who wanted the control and oversight of all antiquities to fall in government, not private, hands (see, e.g., Simopoulos 1993; Petrakos 2015 also vol. 2 where an extensive use of original documents is made).

<sup>7</sup> Petrakos 1982, 17; Voudouri 2010. This is Article 17 of the Resolution of the Third National Assembly at Troizen, 1 May 1827, “On the organization of the Administration of the Greek State”, where it is noted that “it shall be the duty of the Governor to take care that Antiquities shall not be sold or conveyed outside the State”. All extant historical documents pertaining to the revolution have now been digitised and are available online: <https://patigenesia.parliament.gr/pinakas.php>.

Greece – asked the National Assembly to give powers to the state to allow “the export of fragments of antiquity to any government who asks them for scientific purposes”.<sup>8</sup> This amendment was the result of an export request that Kapodistrias had received from the French government following their excavations at Olympia as part of the *Expédition scientifique de Morée*. Kapodistrias tried to justify this amendment on grounds that such a measure could prove to be for “the greater benefit of the Nation”.<sup>9</sup> In this respect, even before Greece became officially independent in February 1830, antiquities were already forming an important diplomatic tool in the hands of Greek officials in their attempt to achieve more complex economic and political goals.<sup>10</sup> What was at stake, then, was not the significance of antiquities – something shared by most in Greece around 1830, though not always for the same reasons – but who had the right to control them.<sup>11</sup>

Kapodistrias appointed a trusted friend, Andreas Moustoxydis (1785-1860), as Minister for Education and Director of the Aegina Museum – the first such institution of its kind to be formally established in post-revolutionary Greece.<sup>12</sup> They had both been educated in Italy, lived and worked outside of Greece, and were very familiar with the European political affairs of the time (Zanou 2018). Both men also recognised that the government faced many great challenges in its attempt to establish the new state which had a population of just over one million people. Their priority seems to have been to bring antiquities and archaeology in the country under the full control of

**8** Petrakos 2015, 1: 111-15; 2015, 2: 215-16, no. 166 (Resolution X of the Fourth National Assembly of 2 August 1829). Government-approved export licences was a practice that continued well into the twentieth century. On how these licenses worked and for a comparison in practice between Athens and Rome see also Mannoni 2021a.

**9** Voudouri 2017, 78 referring to the Circular of Kapodistrias 953 of 23 June 1830 (included in full in Petrakos 2015, 2: 406-9, no. 357). On the Kapodistrias Circular 953, the first antiquities legislation of independent Greece, see the detailed commentary in Petrakos 2015, 1: 183-209.

**10** A practice that continued well into the twentieth century: Hamilakis 2007; Galanakis 2012a; 2012b; 2013. For two prominent such cases see, for example, the agreement of the Greek government on the export of antiquities from the German excavations at Olympia in the 1870s (Bohotis 2015; 2017) and the Swedish excavations at Asine in the 1920s (Sakka 2021), in both instances permitting thousands of objects, designated as being ‘worthless’ or ‘duplicates’ or ‘of no use’ to the Greek state museums, to leave the country.

**11** This debate extends to how scholarship has actually approached the actions of Kapodistrias and Moustoxydis: some consider them as “traitors” (Simopoulos 1993, 311-37) and others, while still scolding the granting of export licences, lament the fact that the Kapodistrias’ government did not manage to materialise its vision of modern Greece (Petrakos 2015, vol. 1).

**12** Kokkou 2009, 46-68; Petrakos 2015, vol. 1, with documents presented in vols 2-3; on Moustoxydis see also Zanou 2018.

the state, not of private individuals. How they could achieve this goal, however, was a matter of discussion and debate.

Indeed, among the first priorities of Moustoxydis was to introduce measures for the protection and conservation of antiquities. The extensive archival material that exists has recently been masterfully studied and published by Dr Vasileios Petrakos, Director General of the Athens Archaeological Society, while important references to this material had also long been made by Angeliki Kokkou in her major study on the safeguarding of antiquities in early modern Greece.<sup>13</sup> Perhaps the most informative document for our purpose here is the draft that Moustoxydis prepared at the end of 1829 of a series of articles regarding antiquities in Greece.<sup>14</sup> The text was clearly meant to be turned into a decree. In it, Moustoxydis set the priorities that the government had to adopt and the responsibilities of its citizens. For example, it asked for the recording of all known antiquities; for the explanation of the legal processes that were to be followed so that private owners could donate or sell their collections to the state (with donation clearly being encouraged over sale); for information to be circulated to the public on the dangers created by the illicit trafficking of antiquities; and for a total ban of private excavations as well as of the sale, damage and export of antiquities. If people decided to go against these measures, heavy penalties awaited them.

There is no doubt that Moustoxydis and Kapodistrias were proud of the connection between ancient (mainly Classical) and modern Greece – and could also see the benefits this connection could bring to the state they were trying to establish and its people. Yet it is important to note, as Konstantina Zanou (2018) has recently reminded us, that the transition from a world of empires to a world of nation-states was not uniform. Kapodistrias and Moustoxydis were people between empires, nations and countries, as well as languages and cultures, imbued with multiple forms of patriotism. For example, Kapodistrias before becoming Governor of Greece had already served as Secretary General in the Septinsular Republic of the Ionian Islands and as Minister of the Tsar, while Moustoxydis was a leading figure of Greek-Italian letters. Greeks from the Ionian Islands, as a

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**13** Kokkou 2009; Petrakos 2015, vols 1-3.

**14** Kokkou 2009, 51-3; Petrakos 2015, 2: 317-20, no. 274 (in Greek), 320-3, no. 275 (in French); for discussion on the text and the two versions see Petrakos 2015, 1: 185-90. “There are earlier efforts by Kapodistrias as well: e.g., his circular “to the acting commissioners to the Aegean” of 12 May 1828, where he encouraged local officials not to export antiquities for any reason and instead to hand them over to the government (Petrakos 2015, 2: 120-1, no. 86). Petrakos also considers the Circular to local officials of the Interim Commissioner of Elis, Panagiotis A. Anagnostopoulos, as the first attempt for a systematic archaeological law in this early period (7 October 1829: Petrakos 2015, vol. 1 and vol. 2, 266-8, no. 218; on the language specifically of this circular, which offers the first definition in Greek of what constitutes ‘antiquities’, see Fotiadis 2004).

whole, played a crucial role in the setting up of the modern Greek state, which until 1864 did not actually include these islands within its territory. While these figures were not fully transfixed to exclusive nationalism, with their attitude best understood as trans-national at least until the 1840s (Prott, O’Keefe 1984, 31-71), they were both proto-liberals (where ‘nation’ and ‘empire’ were not actually mutually exclusive entities)<sup>15</sup> and proto-nationalists in the sense that they saw the modern Greek state as a historical ‘continuity’ of the illustrious past rather than as a ‘revival’ of it.<sup>16</sup>

It is under this light that the text drafted by Moustoxydis on antiquities protection should be understood. This document started in the following manner:

Because the ancient remains of liberal arts reside in this very place, the patrimonial land, where they were made and for this reason shine all the more brightly, and because their preservation and conservation, of those things that have escaped the damage of time and the impact of barbarians, bestow pride to the nation and are useful for the study of all those things that are good, it is for these reasons that we vote the following (measures to be introduced).<sup>17</sup>

The language of Moustoxydis bears resemblance to the prologue used by the Italian states, which, although did not adopt a national attitude to the safeguarding of heritage, stressed the honour that past monuments bestowed to the city of Rome already from the late eighteenth century (“gloria della città”) in the Edict of Cardinal Valenti Gonzaga (1750) and also in the Edict Pacca of April 1820.<sup>18</sup> The Edict Pacca, in particular, introduced stricter regulations with regards to the study of antiquity and excavation work in the Papal ter-

<sup>15</sup> Zanou 2018; also, Zanou 2016.

<sup>16</sup> Zanou 2018, esp. ch. 12.

<sup>17</sup> Petrakos 2015, 2: 317-20, no. 274 (in Greek) and 320-3, no. 275 (in French): “Attendu qu’il importe en général pour les bonnes études et pour l’illustration des Monuments des Arts et d’Antiquité que ceux-ci restent sur le sol ou ils ont été produits et attendu qu’il importe à l’honneur et à l’instruction de la Nation que ceux de ces Monuments qui ont résisté aux injures du tems et des barbares soyent conservés et restaurés...nous ordonnons...”

<sup>18</sup> E.g., Mannoni 2021b; 2022; also, Valsecchi (this volume) where the economic dimension of these early measures in the Papal States is stressed with a call to patriotic duty actually not making an appearance in Italian legislation until significantly later, post-unification, in the 1890s. The early legitimisation of control over antiquities by the Papal States, from the fifteenth century actually, was more on their artistic value and wide appeal/demand than on the basis that they constituted an “ancestral heritage” shared by the modern people residing in the Papal States. On the Italian heritage legislation: Speroni 1988; Emiliani 1996, 96-108 (Edict Valenti Gonzaga) and 130-45 (Edict Pacca).

ritories and was, most likely, the inspiration for Moustoxydis' drafted text. In this specific cultural, social and political environment, Moustoxydis saw no difficulty in translating - literally and metaphorically - this Edict and then adapting and turning it into state law in early modern Greece. Where, however, the Greek approach differs from the Italian is on the encouragement of the citizens of the former to act and protect antiquities on the basis of ancestral pride (the Papal States not being a 'nation-state' did not require such legitimisation to be put forward as opposed to the newly established, nation-based, Greek state) - indeed, ancestral pride fast became an essential ingredient of modern Greek identity.

Kapodistrias and Moustoxydis agreed on the connection of antiquities protection to ancestral pride and modern Greek identity building. They also agreed in making the central government fully responsible for the control, recording, protection and licensing of antiquities by removing private involvement altogether in the ownership of ancient objects (a key difference from the 1834 legislation discussed below). Where there was, clearly, disagreement between the two men, however, was with regards to the severity of the penalties that the latter wanted to introduce and the overall language of the document<sup>19</sup> - especially in relation to whether these articles would make sense to the average person living in Greece at the time in the form presented by Moustoxydis. After all, the Papal States had a long tradition in heritage protection measures, and certainly the people to whom these measures were directed were already familiar and had an interest (some even an active economic share) in the past.<sup>20</sup>

Although the draft by Moustoxydis never turned into a full decree or 'law' as such,<sup>21</sup> perhaps on the basis of their disagreements mentioned above, a circular with instructions to all local representatives and state officials was issued by Kapodistrias almost six months later.<sup>22</sup> This circular made use of the Moustoxydis draft, though using a less highhanded, punitive and prescriptive language. The circular gave clear instruction that the sale of antiquities resulting in their exportation from Greece was prohibited - only within the state could antiquities be sold and even then, the aim was to encourage private owners to sell or donate the objects they had in their possession to the Greek government. Moreover, antiquities in private hands could

<sup>19</sup> Petrakos 2015, 1: 145-51 and 183-90, where the relevant documents are cited.

<sup>20</sup> E.g., Karmon 2011; Mannoni 2021b.

<sup>21</sup> Interestingly, with a somewhat updated vocabulary, Moustoxydis' 'law' became the basis for the archaeological legislation of his native Ionian Islands (issued on 1/13 April 1847: Petrakos 2015, 2: 323-7, no. 276), when they were under British control.

<sup>22</sup> Petrakos 2015, 1: 183-209; Kapodistrias Circular 953 of 23 June 1830 (full text in Petrakos 2015, 2: 406-9, no. 357).

not be sold, under any circumstance. While private owners were allowed to keep the antiquities they already had in their possession, automatically they became responsible for looking after their objects. The other option, given by the government to private owners, was to hand these objects over to the care of the state, encouraging them, in this way, to offer them as a donation or in return for a reward or compensation and in recognition of the state's gratitude.

The Kapodistrias government – as a whole and not just about antiquities – envisaged a centralised model of administration with a pyramidal structure – where local authorities would now be obliged to report back to Ministries and high officials. This structure and thinking, however, were vehemently opposed and made more enemies than friends. As the extensive study of the extant archival material reveals, there were numerous reactions to Kapodistrias' circular,<sup>23</sup> some positive and a lot actually negative, with the underlying criticism summed up in the following three key points: (1) it made the job of local functionaries almost impossible, as they lacked the personnel to monitor the enforcement of the law and people's compliance to it, a situation that continued well into the first half of the twentieth century; (2) the language of the circular still did not appeal to or express the majority of the population; (3) the overwhelming control of antiquities by the government went against a common practice that many private individuals in Greece had become accustomed with, at least from the eighteenth century – to sell and/or facilitate the sourcing and sale of antiquities for profit to antiquarians and other interested parties who were trying, with an ever increasing frequency, to enrich their collections.<sup>24</sup>

Contra to these strong reactions, the publication of the circular seemed, at first, to yield quite promising results: with funds being raised for the purchase of antiquities in private hands, some people donating objects to the Museum in Aegina, and with the recording of antiquities proceeding at a better rate than originally had been

<sup>23</sup> Petrakos 2015, 1: 191-209, where reference is made to the available documents.

<sup>24</sup> Simopoulos 1993, 271-310, for example, who focuses – like many other scholars – on 'foreigners' as the only group of people despoiling Greece at the time of its heritage; yet, the situation is more complicated than that with the locals developing awareness with regards to property rights and also to the values of these ancient things: the case of the Cyclades is instructive here (Vaos 1967; Lekakis 2006), though the situation was also similar in most parts of southern mainland Greece, where local private individuals had 'collections' of antiquities at home (either for themselves or for disposal to travellers/antiquarians) – e.g., Ioannis Logothetis of Livadeia, a very prominent local notable (*proestos*), an important social and political figure of the Ottoman and early modern Greece, and a point of contact for travellers ca. 1800-20 (Smith 1916, 232, in connection with inscriptions that were of interest to Elgin). On early collections and collectors in Greece, including foreign individuals who resided in the country, see also Kokkou 2009, 190-1 for an introduction; also, on methods and practices centring on Fauvel and his social network, see Zambon 2020.



anticipated (Petraikos 2015, 1: 321-33). Yet, it was not meant to be: all these efforts, came to an end with Kapodistrias' assassination on 27 September 1831. There have been numerous theories and studies on the reasons that led to his assassination.<sup>25</sup> Whatever the motives, however, the judgement of the French general, Antoine Virgile Schneider, friend and admirer of Kapodistrias, may echo some truth in this context in identifying political and social interests behind this attack: "c'est l'aristocratie qui l'a tué".<sup>26</sup> The government resigned, including Moustoxydis, and following a period of political turmoil and intense negotiations, Britain, France and Russia agreed to form in 1832 the Kingdom of Greece under the leadership of a teenage prince - Otto of Bavaria (1815-1867).

### 3 Between State Control and Shared Ownership

It was during the period of Otto's regency (1832-35) that the 1834 archaeological law of Greece was introduced. Comprehensive national laws on antiquities date in Europe principally from after the 1840s. In this respect, the national character and detailed nature (some 114 articles) makes the 1834 law a novelty.<sup>27</sup> The law was drafted by Georg Ludwig von Maurer, a German lawyer and statesman, and one of the three members of Otto's Regency (Kokkou 2009, 70-4). He was assisted in this task by Adolf Weissenburg, an architect by training, who came to Greece from Rome in order to become the first Director of the country's archaeological service (Petraikos 2013, 85-92). The knowledge of the legislation that already existed in the Papal States by both Maurer and Weissenburg is clear - and a lot of scholars have commented on the inspiration of Italian legislation on the Greek antiquities' law of 1834.<sup>28</sup> Maurer and Weissenburg were also aware of the efforts of Kapodistrias and Moustoxydis. It is, indeed, on where the 1834 law differs from these early efforts that I find particularly important for the discussion here (and why) as well as the different impact these approaches may

<sup>25</sup> To mention but one such important study: Kremmydas 1977.

<sup>26</sup> The text by Schneider of 18/30 October 1831 appeared in the French newspaper *Journal des Débats* on 25 October/6 November 1831. The full text is available in Petraikos 2015, 3: 142-3, no. 620. Greece did not at the time have an 'aristocracy' comparable to the western and central European states - but it did have an emerging bourgeois class and the old powerful notable families that made their fortunes as local representatives of the Ottoman state and through the control of land, trade and relations with foreign powers and international visitors to Greece (especially the *kodjabashis*, also known in Greek as *proestoi* or *prokritoi* or *demogerontes*: Pylia 2001; Fotopoulos 2005).

<sup>27</sup> 10/22 May 1834: "On scientific and technological collections and on the discovery and preservation of antiquities and their uses".

<sup>28</sup> E.g., Voudouri 2017, 79. For a detailed comparison of Athens and Rome see also Mannoni 2022.

have had on antiquities protection and the relationships between the local population and their ancient, multiple, pasts.

Otto through his actions and Maurer through his academic writings, stressed the enormous political importance of ancient monuments for the newly-established Kingdom (Voudouri 2017). Maurer believed that classical Greek antiquity had been, and should continue to be, the link between modern Greece and Europe (e.g., Maurer 1835). This rhetoric was also espoused by Otto's father, Ludwig I, an avid collector of classical antiquities who transformed Munich during his reign into a Neo-Classical Athens of Bavaria (Kasimati 2000; Putz 2013). As noted already, the link between classical antiquity and modern Greece was present in the years of Kapodistrias and Moustoxydis – but it was during the Bavarian period that this link became stronger, spread more widely, and became embedded more fully into the national consciousness.

King Otto's Regency, and ultimately his whole period of reign until his deposition on 23 October 1862, became obsessed with the classical past. It was during the reign of King Otto that Greek identity became entangled, far more strongly than ever before, with classical antiquity.<sup>29</sup> Therefore, the rhetoric of the 1834 archaeological law of Greece comes as no surprise when we read “that all antiquities within Greece, being works of the ancestors of the Greek people, shall be regarded national property of all Greeks in general”<sup>30</sup> This resounding declaration expressed the idea of a national ‘cultural heritage’, even if the term had not yet been introduced as such taking a step further the idea of ‘continuity’ already envisaged by Kapodistrias and Moustoxydis.

The first archaeological law of Greece recognised the right of ownership of antiquities by individuals under certain conditions who now also had, for the first time, the right to sell them freely within the Kingdom. For those antiquities discovered on or beneath private land after the law came into force, a division of the finds between landowners and the state was established – a shared ownership, which Kapodistrias and Moustoxydis tried to avoid at all costs.<sup>31</sup> The full and ab-

<sup>29</sup> Kasimati 2000, where several authors in this exhibition catalogue explore this connection. Also, Skopetea 1988.

<sup>30</sup> Section 3 of the 1834 law, “Περὶ τῶν ἀρχαιοτήτων ἰδίως / Von dem antiquitätenwesen insbesondere”, ch. 1, Art. 61.

<sup>31</sup> How ‘private land’ was actually defined in early modern Greece and how it was justified to the authorities is an extremely important, yet contentious, issue. The emergence of the State from within the Ottoman Empire created issues over ownership and the lack of clear cadastral records, until very recently, exacerbated this situation further (Livieratos 2009). In the countryside, a lot of the lands, where ‘private’ excavations took place in the nineteenth century, were actually in the hands of farmers and *prokri-toi* – *proestoi* (local notables), while some land in central Greece and Euboea had been bought by Greeks and foreigners alike directly from the Ottoman owners. Only in the 1870s was ‘national land’ alienated to farmers, a development that appears to have led to more aggressive looting activities during this decade in the Greek countryside. The

solute ownership of the state was recognized only in the case of antiquities found on publicly owned land or beneath it according to the 1834 law.<sup>32</sup> In the Kapodistrias circular, no such provision of shared ownership was included, while the government relied mostly on the generosity of people to donate antiquities in return for a reward (for the “common good” as the 1830 circular by Kapodistrias made clear).<sup>33</sup>

Moreover, the 1834 law of Greece did allow, under specific conditions, the export of antiquities by authorisation of a committee of three officials who had to process the request, assess the objects and give guarantee that they are fit for export on the basis that better specimens already existed in Greek museums; for this reason, being “useless” and “worthless”, as described by the law (“άχρηστα” and “ασήμαντα”), they could be allowed for exportation.<sup>34</sup> Although seemingly a tool in the hands of the Greek government, it soon also became a tool in the hands of private individuals who thrived through the antiquities trade (under what conditions and criteria these decisions were made is of course an equally fascinating topic). Again, this provision of duplicate or useless antiquities - including their sale and exchange by private individuals - was something that Kapodistrias and Moustoxydis strongly opposed.

In short, Maurer when drafting the 1834 law appears to have taken on board the concerns that certain social circles in Greece had already raised to Kapodistrias and Moustoxydis regarding their efforts to take antiquities under absolute state protection and control; and these concerns were similarly shared by collectors and antiquarians across Europe - not least Otto's father, the King of Bavaria.<sup>35</sup> The 1834 law allowed the free circulation and sale of antiq-

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relationship between land ownership, the 1834 antiquities legislation, and excavations in ‘private lands’ in early modern Greece is actually a topic of prime significance that urgently requires proper attention and better understanding. On Ottoman land legislation as well as ownership and ‘national land’ in the kingdom of Greece see, for example, McGrew 1985; Kremmydas 1999, 45-9; Bantekas 2015; Karouzou 2018.

**32** On the various articles of the law mentioned here see also in more detail Galanakis 2011, 186-8; 2012c; 2012d.

**33** Petrakos 2015, 2: 406-9, no. 357: Circular of Kapodistrias 953 of 23 June 1830.

**34** On this subject and for some examples, see Galanakis 2012a; Mannoni 2021a. Also, Sakka 2021, who discusses the multiple dimensions, political and cultural, surrounding the export of 223 boxes of antiquities to Sweden from the Swedish excavations at Asine. They were deemed “of no use” to the Greek state museums and appropriate for distribution to Swedish universities. Their export in this case, however, occurred only after Sweden had agreed to give Stone Age objects to Greece in the spirit of the 1932 antiquities law.

**35** One can only wonder of course as to whether the discrediting of Moustoxydis, as not caring for antiquities, by Maurer, Ross and others was done also on those grounds - to facilitate, rather than prevent, the continuation of the antiquities trade. On the attacks against Moustoxydis see Petrakos 2015, who also includes a lengthy discussion on the polemics of Korais against Moustoxydis as well as Kapodistrias.

uities discovered in private lands within the kingdom of Greece due to their shared ownership between state and landowners; and one of the things the law had no provision about was how to regulate private collections and the sale of objects stemming from them – quite ironic really, given that the official title of the 1834 law was: “On scientific and technological collections and on the discovery and preservation of antiquities and their uses”. It was through these private collections, and digging in private lands, that a lot of antiquities actually left Greece in the nineteenth century.<sup>36</sup>

The state, envisaged by Kapodistrias and Moustoxydis as the sole guardian of antiquities, became under the 1834 law a player in the antiquities trade – and developments in the course of the nineteenth century clearly suggest that, in the vast majority of cases, the state was neither the strongest nor the most effective of players in this trade.

#### **4 Early Modern Greek Heritage Legislation in Light of Measures Taken by the Papal States**

I have already mentioned in passing the Italian connection in relation both to the draft of Moustoxydis and Maurer’s 1834 law. Papal authorities had indeed gone through several iterations at least as early as the seventeenth century in issuing licences of export for acquiring and transferring artworks outside of the Papal States.<sup>37</sup> The system there also does not appear to have been fully or always successfully implemented something that was known to the local authorities and to those trying to procure objects as well as the broader academic antiquarian community (Mannoni 2022, with examples). Objects were allowed, on the whole, to be exported on aesthetic grounds as being “mediocre” or “ordinary”, as the excellent work of Chiara Mannoni (2021a; 2022) illustrates; and these judgments were made by the advisory “committee of wise men” and the commissary for antiquities responsible for those matters – a model Maurer, now, copied for Greece with the establishment of the Archaeological Service and the setting up of committees of experts.

Yet the situation did start to change with the issuing by Carlo Fea of the Edict Chiaramonti in 1802.<sup>38</sup> Soon after the early 1800s, the purchase and export of ancient sculptures in Rome became extremely restricted compared to the previous decades, to the point that numerous local antiquity dealers reported a severe drop in their business

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**36** For examples, see Galanakis 2011; 2012c; 2012d; 2013.

**37** Condemi 1987; Speroni 1988; Ridley 1992; Emiliani 1996; Curzi 2004; Valsecchi, De’ Prati 2009; Bignamini, Hornsby 2010; Karmon 2011; Mannoni 2022.

**38** On Carlo Fea see Rossi Pinelli 1978-79; Ridley 1992; 2000.

to the office of the Camerlengo, the office responsible for administering the property and revenues of the Holy See as well as its heritage (Mannoni 2022). With the issuing of the Edict of cardinal Pacca in 1820, new criteria for granting export licences emerged – not least in establishing the first official customs duty on the export of both antiquities and paintings, calculated as 20% of the value set by the administration for each of the pieces for which licences were requested.<sup>39</sup> Obviously, the tax and restrictions were not imposed on everybody – e.g., in 1819 and in relation to the sale of the Barberini Faun to Ludwig I (Otto's father) the Pope approved a licence of export because Ludwig had been a strong defender of the rights of the Papacy during the Congress of Vienna (e.g., Ridley 2000, 216-20); a concession not dissimilar to the one made by Kapodistrias to the French government's request for the export of the Olympian antiquities of the *Expédition de Morée*. It cannot therefore escape one's attention that while a genuine cultural interest may indeed have existed in the safeguarding of antiquities and the protection of heritage as a whole, there were also very strong social and economic dimensions behind the emergence of these early legislative measures – from which the Papal States and prominent individuals and their circles were meant to benefit from, economically and socially.<sup>40</sup>

I mention these issues for two reasons: firstly, for understanding the context within which the Greek heritage legislation emerged from in the 1820s and 1830s;<sup>41</sup> and secondly, to point out that while Maurer and Weissenburg may have indeed got inspiration from similar laws of the Papal States, ultimately, they tailored the 1834 law of Greece to serve local needs and agenda. E.g., Maurer's law seems to rely a lot more on the Edict Valenti Gonzaga of 1750<sup>42</sup> than on the later, stricter, laws not least in allowing for certain objects to be deemed "significant" and others "worthless" exactly to make them fit for sale and export. The 1834 law imposed no tax on export; and instead of making the legislation stricter – perhaps along the lines envisaged by Moustoxydis, who was probably inspired by the Edict of cardinal Pacca – made steps backwards by relaxing it to allow for the free circulation of antiquities within the kingdom. Ultimately, Maurer's measures allowed the local population to continue their private

**39** Emiliani 1996, 130-45, esp. 136-7, Art. 14 of the Edict Pacca.

**40** A point made not only in relation to Rome but also Venice, Tuscany and Naples. See also, the papers by Valsecchi and D'Alconzo in this volume; D'Alconzo 1999; Valsecchi, De' Prati 2009; D'Alconzo, Milanese 2018. On the economic dimensions, see Piva 2012; Mannoni 2022.

**41** For a comparison of the Italian and Greek contexts of the time see also Mannoni 2022.

**42** The Edict Gonzaga introduced the first effective procedures for approving licences of export and supervising the trading of artworks in Rome: paper by Valsecchi (this volume) and Valsecchi, De' Prati 2009.

digging, collecting and selling of antiquities, benefitting this way the local grandees of Greece as well as the European antiquarian circles of the time. Museums in Berlin and Munich, and in other European major cities became richer in their Greek collections thanks to the 1834 legislation – legislation which the Greek state was so reluctant in changing that it took 70 years after deposing Otto to replace completely (i.e., in 1932 with the third archaeological law of Greece, which dropped entirely the leftover, problematic, remnants of Bavarian administration) (Petraikos 1982; 2013).

Ultimately, the issue was not just about some details in the law – but about how individuals with different visions and interests saw and made use of the past in early modern Greece. While there was unanimous agreement that the ancient past made modern Greece famous and recognizable across the world, at the same time there was disagreement as to who should have a say and a share in that past. Despite the 1834 law's novel extent – covering also natural and technological collections – in reality the debate about the law and the issues regarding its enforcement focused, in the vast majority of cases, on just one period of Greece's complex multi-layered past – the Classical one, which over time became particularly valorised and heroised by the state for its own national agenda. This rhetoric, however, which fully materialised in the twentieth century, is only one side of the story. The main aim for the legislators of the 1834 law, as I tried to argue above, was to maintain to some extent, at least, the pre-1830 power balance in Greece with regards to land ownership and the control of antiquities. By doing so, they facilitated the continuation of the ever-growing antiquities trade. Only in the 1870s/1880s, we can observe more clearly negative responses to the illicit trade gaining momentum across a wider segment of the population – an element that helped further transform the past into a symbolic capital in the building of the nation state in Greece.

The 1834 law satisfied fully the ever-increasing demand for antiquities across Europe (and by the end of the century also the United States) that politically and socially important individuals and their circles controlled.<sup>43</sup> This is not to say that specific functionaries and other individuals across Greece in the nineteenth century did not try their best to safeguard and protect antiquities (they are the ones who should take all the credit after all);<sup>44</sup> but to stress that the 1834 law,

<sup>43</sup> Note, for example, how even prominent academics and collectors were trying to preserve the 1834 law as long as it lasted opposing the development of a stricter legislation, especially one that removed the shared ownership and prohibited the sale of antiquities: Reinach 1883.

<sup>44</sup> One should also acknowledge here not only the heroic efforts of the archaeologists and state functionaries, very few in number, who tried to implement the 1834 law, but also the issuing of a number of government correctives and circulars until 1899, when

unlike the efforts of Moustoxydis and Kapoditrias, may have worked more in favour of and have facilitated the actions of all other parties interested in antiquities than the state itself.<sup>45</sup> In a sense, therefore, the 1834 law must be understood as crypto-colonial<sup>46</sup> – in transforming Greece into a marketplace for European antiquities dealers. Moreover, and despite the law's national rhetoric and progressive embeddedness of antiquity in the national consciousness, the actual nationalisation of antiquities was only partially successful in nineteenth-century Greece.

## 5 Whose Heritage and Safeguarding?

My main aim in this paper has been twofold from the start: firstly, to present the tensions that existed in the decisions of the early leaders of modern Greece to introduce measures for the safeguarding of antiquities; and secondly, to explore the political, economic and cultural dimensions surrounding these efforts. The lawmakers had to deal with a series of challenges, practical based on the conditions in Greece in the 1820s and 1830s, but also legal: whose heritage needs protection and who is meant to be doing the safeguarding? Should the sale of antiquities be allowed? Should private collections or even private digging take place? Or should the state have full responsibility and control? Should tax be imposed on finds and activities, should rewards be given to encourage the sale of antiquities to the state? How would the local population and other interested parties in these discussions react to the measures? After all, they were the ones most affected: not only did some of them actually profit directly from the demand on and sale of antiquities, but also had long been accustomed to the idea of literally living among ruins. I tried to highlight the language that was used by Kapoditrias and Moustoxydis as opposed to that of the Bavarian regency in an effort to underline the differ-

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the second antiquities law of Greece was finally ratified (see in detail Petrakos 1982). Yet only the 1932 legislation (despite its own shortcomings) tried to effectively address the issues of past heritage legislation in Greece, contributing this way to a more substantial change in heritage protection and control in the country.

**45** On the critical question as to why it should be the state that looks after cultural heritage, rather than private individuals, see also the discussion in Voutsakis 2017.

**46** I am following Herzfeld (2002) here, who defines crypto-colonialism as the grounding of one's national 'independence' in idioms of cultural and territorial integrity largely modelled on exemplars of western European powers. In turn, these idioms are restricted by the practical needs and intentions of the western (often colonial) powers. The relationship of the Greeks with their past, as formed by state legislation and narratives, can be understood as constituting one such idiom. For a recent application of this concept, of archaeology in the 'crypto-colonies' of Greece and Israel, see Greenberg, Hamilakis 2022, esp. ch. 3.

ent approaches taken on the issue of recording, protecting, conserving and ultimately controlling antiquities in early modern Greece.

The approach of Kapodistrias and Moustoxydis, contrary to that of Maurer and Weissenburg, is described by a reserved national rhetoric, with the main interest directed towards a complete control and ownership of antiquities by the state. Their approach is further emphasised by the lack of shared ownership or the ability of private individuals to sell antiquities other than to the state. For example, handing antiquities over and receiving the state's recognition in return instead of financial compensation appears to have been the government's preferred method. The full control of heritage protection came under the state's jurisdiction. Less detailed, the 1829 draft by Moustoxydis and the 1830 Kapodistrias' Circular were both more practical and less over-prescriptive than the 1834 law, while also acknowledging the difficulties of the nascent state.

As Michalis Fotiadis reminds us

our dispositions [towards antiquities, archaeology and the past] have been shaped by the relevant laws [...] to such an extent that we are likely to forget that those laws are human institutions - products of history, that is - and treat them instead as if they draw their authority from a timeless universal sense of right or wrong. Our relationship with antiquities [...] is now mediated by a quasi-naturalised legal framework. (Fotiadis 2010, 453)<sup>47</sup>

While I agree entirely with this statement, I hope to have also shown what the measures under study here may have tried to do, or actually did, for the people to which they were directed. The introduction of laws to protect heritage certainly contributed, especially over time, to the shaping of people's relations and attitudes towards the past, therefore informing this way the development of modern Greek identity. However, it would be short-sighted to think that it was on these grounds that legislation was introduced (i.e., out of sheer love and respect to classical Greece) or that the only interest of the legislators was to protect antiquities. There were clear tensions, opposing interests, political, social and economic conflicts that the legislators tried to take into account, each on his own right and based on their ideologies tried to then implement.

Obviously, we will never know how things would have developed should the Kapodistrias and Moustoxydis measures have been fully implemented - and as observed, their measures also had problems

<sup>47</sup> Indeed, we sometimes think only of the end result - national laws that is - as being always there and forget of the discussions and debates that preceded their drafting and passing.



and faced opposition. Given the efforts of Kapodistrias and Moustoxydis, it is impossible to think (not least also because of the experiences of Maurer and Weissenburg from Bavaria and Italy) that those responsible for the 1834 law could not foresee its ineffectiveness and problematic enforcement which led over the course of the nineteenth century to the blossoming of (largely illicit and more aggressive as time went on) antiquities trade. Its comprehensiveness should not only be seen as a plus but also as a negative element in that it made enforcement almost impossible with its articles being susceptible to manipulation.<sup>48</sup> The desire to keep those interested parties content appears, at least to this author, to have been far stronger than the efficacy, or actual implementation for that matter, of the legislation they were introducing.

The issues discussed above lead to one last important point: while all those involved in these early legal efforts recognised the modern Greek state's connection to the classical past, it transpires that the degree of this connection and level of 'exclusivity' was under discussion and negotiation in the early 1830s and was understood differently by different parties. The Bavarians introduced, more systematically than before, a national rhetoric, best summarised in Section 3, Chapter 1, Article 61 of the 1834 law already mentioned above (about all objects of antiquity being "national property of all Hellenes" since they were products of the "ancestors of the Hellenic people"). Yet this shared ownership coupled with the free circulation of antiquities and the law's leeway for the export of antiquities from the country invalidated, or at least compromised significantly, this national claim. While the 1834 law was in effect, almost every 'civilised' nation could actually acquire Greek antiquities, so exclusiveness was faint. It is this relationship that I consider crypto-colonial here. It gave the allusion to people and state officials of cultural and territorial integrity and control, when actually the 1834 law, on the whole, served the practical needs and intentions of local and international actors that tried to influence and regulate Greece socially and economically in the nineteenth century, including its thriving antiquities trade.

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**48** See, e.g., the justification offered by Rhusopoulos, the most prolific antiquities dealer in the second half of the nineteenth century in Greece, who used the articles of the 1834 law in defence of his dealings: Galanakis 2011.

## 6 Heritage Protection, National Consciousness, and the Multiple Pasts of Greece

The emergence of national heritage protection measures coincided, and came into conflict, in Greece as well as in other countries – especially of the Mediterranean – with the economic and political agendas of the time, as well as with the rise and strengthening of national identities and new aesthetic sensitivities when it came to viewing the past through its material remains (e.g., the ‘canon’ of classical art and how, with several archaeological projects now taking place, was being reshaped in the course of the century) (e.g., Blix 2009; Vout 2018). Although the protection and preservation of cultural heritage, a notion that developed more clearly and became more widespread in the course of the twentieth century, was certainly embedded in the minds of individuals, approaches differed significantly as argued here.<sup>49</sup>

Within the specific intellectual framework that I have tried to delineate – and the dialectics of law and infringement that accompanied it – it is possible to argue that the antiquities trade and its legislative framework in the nineteenth century should be approached and understood not only as part of the cultural heritage debate; that is to say, we should approach laws not only for what they say, but more importantly for what they do *to* and *for* people – to investigate the social impact that they had in informing modern attitudes towards the ways our multi-layered complex pasts are approached and understood (in the case of Greece, and for the most part of the nineteenth century actually, these multiple pasts were condensed to one period – the Classical). These uses are clearly not just educational or for informing one’s identity in the present. From early on, antiquities and the past were appreciated for what they were – a major (re)source, also of national pride, and a cultural and political/economic capital for those living in Greece and abroad. These benefits and the symbolic capital of the past actually have a long ancestry in Europe, at least since the sixteenth century (Mannoni 2021b), and the Greek case should be understood as part of this ‘tradition’; a tradition that in the course of the nineteenth century became entangled with emerging nationalist agendas.<sup>50</sup>

<sup>49</sup> Nevertheless, 140 years later we find these notions of the 1834 law forming the basis for the definition of what constitutes an “αρχαιοκάπηλος” – or an ‘illicit dealer in antiquities’, for the modern Greek state in the twenty-first century; in a recent exhibition catalogue issued by the Greek Ministry of Culture, we read “αρχαιοκάπηλος is the person who illicitly deals in and thus betrays the values of his motherland, as well as, the ideals and works of his ancestors” (Adam-Veleni 2012, on the back cover of the exhibition booklet) – a definition, more or less, echoing the values and ideals that the state was hoping to embed, first to its officials and then to the wider population as early as the 1830s.

<sup>50</sup> On antiquity and its symbolic capital in Greece see Hamilakis, Yalouri 1996; also, Voudouri 2017.

The story of these early efforts, as discussed in this paper, is only one such example of what heritage protection measures may have done and may have served for the people of early modern Greece – and their impact, one could argue, is felt to this day. Legislation shapes and dictates behaviour – and that is exactly what happened in the case of the early Greek heritage measures. Undoubtedly, these measures primarily shaped and dictated behaviour in relation to Greece's classical past. But any heritage legislation should not be about any one period or a particular cultural aspect; it should be inclusive and effective in dealing with our multiple pasts and the multiple and diverse levels of human creativity. After all, that is what archaeologists and heritage specialists are always confronted with: multiples lives and complex (hi)stories.

The multiple layers that we encounter in the history of any modern state should be sources of inspiration and reflection for all. They offer insights into the diverse human history of which we are part. It is for these reasons that we must protect them – and it is for these reasons that we must move past heritage legislation embedded in nineteenth and early twentieth century nationalistic rhetorics towards measures that appeal to more people, are up-to-date with the ethical concerns of the twenty-first century, and help restart a dialogue with regards to the complex relationship of law, heritage and conservation. After all, we should not forget that any measures introduced, while directed to safeguarding and promoting tangible and intangible cultural heritage, are thought by people for people. They are informed by contemporary concerns and ultimately have significant impact on *our* attitudes and dispositions towards the past.

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