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The Impact of the Find on Our Heritage

by Michael Ryan

It is, I believe, true to say that the beauty, the estimated financial value and the religious and historical implications of the objects from Derrynaflan tend to overwhelm debating the significance of the find and also to encourage some very simplistic views of what public policy towards ancient sites and artefacts should be. The discovery of the Derrynaflan Hoard had, of course, a significant bearing on how we think about ancient Ireland, the organisation of crafts, the system of patronage, the relationship between spirituality and art, the liturgy, the complex origins of Irish Christianity, trade, technology and cultural contacts of all kinds.

There is a large and growing literature on these aspects, and I will not deal with them here. There is a select bibliography at the end of this article, which will indicate the scope of the back-room work which has gone on quietly since 1980.

While Marcus Bourke (in the next article) has sketched the history of the hoard, it is worth repeating some of the details to put them in their wider context. The hoard was found in February 1980 by a search of the ancient monastic site of Derrynaflan, using a metal-detector. The High Court found that this search did not have the agreement of the landowners. The subsequent digging was not covered by an excavation licence under the National Monuments Act, 1930. It was by no means the first occasion on which metal detectors had been used in Ireland to search ancient sites; but the exceptional nature of the material, the complications of the circumstances of the finding and the difficulties of resolving them were at once apparent to the National Museum.

Since the early 1970s the National Museum had been concerned about the use of these machines, especially on the *cranannógs* of the midlands. All the evidence available suggested that the activity was confined to a small group of individuals. While digging at sites (unlawful except under a licence granted for the purpose by the Commissioner of Public Works) was suspected, evidence of this sufficient for a successful prosecution was not forthcoming. It is also true to say that some of those involved in serious treasure-hunting were expert in confusing the issues by laying misleading trails of information.

Side by side with the knowledgeable and determined few who ransacked sites there were others who strayed into hobby metal-detecting for a variety of reasons, many of them innocent and even praiseworthy in themselves but not necessarily, by that token, lawful. Although the National Monuments Act had been passed in 1930, no prosecution had been brought under its provisions to protect artefacts and inflation had long since overtaken the fines laid down as deterrents.

By and large, however, it could be said that finds were reported in substantial numbers to the Museum each year, with donations and purchases running at about equal rates over the last thirty years. In the main, Museum archaeologists met with co-operation everywhere — and still do — and questions of law rarely arose! The enormous publicity generated by the Derrynaflan find, and the impression it created in some quarters that metal detecting was a legitimate *archaeological* technique, changed the climate completely.

At a stroke, it appeared that there was a strong incentive to extract the mere metal content of



ancient sites, regardless of the destruction of context and knowledge, or of the horrendous and insoluble conservation problems involved. Most depressing, the unscrupulous few saw in metal detecting a short cut to getting rich quick and the reports of interference with sites sharply increased. The authorities were obliged to respond to the accelerating pace of attacks on monuments.

In 1981 co-operation with the Garda Síochána led to the recovery of an important series of Viking Age silver hoards from the midlands and opened up new areas for the collecting of intelligence. The first prosecution of illegal excavation followed in 1985 and another came in 1986 for other offences under the National Monuments Act.

The defeat of the State in the Derrynaflan High Court case in 1986 created a period of uncertainty. Treasure hunters frequently told Museum officers that they felt that they were free to step up their searches of sites and to attempt to sell finds abroad. The list of named sites searched, amongst them some of the most famous in Irish archaeology — Tara, Emain Macha, Kilcooly, Athassel, Grey Abbey, Clonmacnoise, Inish Cealtra, Uisneach and many more — confirms this.

The reports of illicit digging on *crannógs* were almost too numerous to quantify in detail. As many as 600 *crannóg* sites, out of about 1,000 then recorded, were known to have been interfered with. Treasure hunters openly boasted of having searched large numbers of ringforts and some were known to have destroyed material of low monetary value or objects too difficult to handle for conservation reasons.

The reporting of the Lough Kinale book shrine in late 1986 dramatised the problem created by the availability of underwater metal detectors. These had encouraged organised groups of divers to begin searching sites in lakes and rivers. They were evidently successful in locating and looting important archaeological deposits and in extending greatly the attack on *crannógs*.

In January 1987 the Irish Antiquities Division of the National Museum began a systematic investigation of the whole situation — rather than its previous *ad hoc* case-by-case approach — and, with Garda co-operation, a clear picture of a network of treasure-hunting groups and a system of dealing in archaeological objects was brought to light in great detail. Patterns of activity were established and successes followed in terms of the recovery of illegally excavated material and of artefacts legitimately found but which had passed into the system of below-the-line dealers. Attempts to export artefacts were frustrated and the return of some material illegally exported was forced.

The investigation, which is still active, is very costly in the manpower of a small, understaffed department, but the dividend for the public interest has been considerable. The preliminary results of the work in 1987 were so alarming that the National Monuments (Amendment) Bill, then going through the Oireachtas, was modified specifically to deal with metal detecting; see Appendix.

Private individuals have more freedom of action than public servants in many areas, especially where public relations are concerned. State officials have to be punctilious about procedures, and so (unjustly) often appear flat-footed in public debate because they must often stick to generalities and avoid pointing the finger of censure at individual citizens.

Nevertheless, the issues raised by metal detecting were fought out in a propaganda campaign in the media with metal detecting societies. These counted many law-abiding citizens amongst their members, but also a number of unscrupulous treasure-hunters who were glad of an apparently respectable front to camouflage their purpose.

Demands were made for the payment of “full market value” for artefacts, and the case was made that metal detectorists were pursuing a legitimate hobby and that the heritage was not in danger from them¹. No government could accept that private individuals could be permitted to dip at will into public funds and the evidence for metal detecting on archaeological sites and illegal trading



in antiquities was damning. The lobby had little practical effect.

Paradoxically, the defeat of the State in the Derrynaflan High Court case in 1986 had a second, and beneficial, result. It concentrated attention on the seriousness of the issues involved, and the Museum received promises of support as the implications of the judgement sank in. As a direct outcome one major artefact, the Iron Age sculptured head from Beltany, Co. Donegal was presented to the national collections. The number of reports made by members of the public of illegal activity on ancient sites greatly increased.

The Supreme Court decision in 1987 made the State's claim to archaeological material more secure and opened up the way for new legislation. The majority judgement clearly implies that arrangements will have to be made to deal with issues such as the payment of rewards and new legislation to address the issues has been promised. The Derrynaflan case raised so many issues of public interest about property, trespass, bailment and the Constitution in general, that no museum officials could resolve it. As a shock to the system, to shake it up and to cause old approaches to be re-examined, its effect was dramatic — and is not yet completed.

It is interesting to speculate on the impact that the find has had in the formation of Government policy in other ways. The discovery became public knowledge in March 1980, and obviously contributed to the discussions which led to the various legislative initiatives on the heritage made in the 1980s. Measures to deal with metal detecting were included in the first Bill proposing the establishment of a National Heritage Council.

While this lapsed with the changes of Government of the 1980s, the provisions relating to national monuments were carried over and later expanded in the National Monuments (Amendment) Act, 1987. The Heritage Council proposal was revived on a non-statutory basis in 1988 and a new National Heritage Bill is in preparation. The work of co-ordination that the council will undertake will have a significant effect on archaeology.

Conservation of Artefacts

Lack of investment and changing policies in public service staffing left this country very unprepared for the major complex tasks of artefact conservation raised by the Derrynaflan paten, which was in a very poor state of preservation and almost completely reduced to its component parts. When requested, the Trustees and Director of the British Museum generously agreed to conserve and, if possible, reconstruct the objects in the hoard for a nominal sum.

This was a great relief to those of us responsible for the material, although many people were disappointed that the work had to be done abroad. To do otherwise than to have sent the material to the British Museum in 1981 would have been very irresponsible. It would have postponed the urgently needed work of preservation while a conservation infra-structure was established — something which would take years.

The National Museum has sought proper staffing for a large-scale conservation laboratory for over twenty years and the difficulties posed by the Derrynaflan find significantly boosted the case made. In the short term conservation facilities were upgraded by the purchase of new equipment and by obtaining increased training for staff engaged in conservation. The quality and complexity of the work done was greatly improved.

Regrettably, plans to re-organise staff and relocate a conservation laboratory have fallen victim of the necessarily austere policies of recent years. In that same period the need for increased facilities has grown tenfold, with excavation, museum acquisitions and underwater exploration all adding to the immense backlog of unconserved material held in collections in this country. This is a problem which remains to be solved.



'Find of the Century'?

The Derrynaflan Hoard has often been described as the archaeological find of the century but how do we measure a concept like this? Archaeological value is not measured in terms of beauty or monetary value but in the contribution to knowledge. Measured in this way, the Derrynaflan Hoard has deepened and enriched our knowledge of early Irish art, sharpened some of our perceptions and raised many questions which we cannot yet answer.

It has not, however, fundamentally changed the way we think about ancient society, as so many discoveries in prehistoric and early medieval archaeology have in recent decades. The excavations of mesolithic habitation sites and the discovery of pre-bog neolithic landscapes in the West of Ireland spring immediately to mind as having had a revolutionary impact on our thought.

This in no way diminishes the Derrynaflan objects themselves, nor the importance of the enjoyment they give to laymen and scholar alike. They have become, in the ten years since they have been found, important — perhaps central — symbols of our inheritance from the past.

General Comment

The long-term effect of the publicity has been good for the archaeological heritage. There is now a wider understanding of the need to preserve it and to exploit it in a reasonable way. The National Museum's Irish Antiquities Division is now talking to well-disposed diving groups, with the backing of the Underwater Council, and to metal detecting society representatives with a view to finding within the law constructive solutions to conflicts.

The thrust of these talks is to find legitimate outlets for people who are genuinely interested in the heritage. Archaeologists themselves are leaving their stage of primitive innocence and are grappling daily with problems of law and development. A more realistic assessment of the conflicts which arise, and of the limits of power to solve them, is abroad. This can only lead in the long term to better systems of management for our fragile and diminishing heritage.

The Derrynaflan case is not responsible for all of this but it has done much to highlight the issues, and the highest court in the land has been obliged to look at and to tidy-up the law on the finding of such objects. The implications of the judgement extend far more widely than archaeology.

FOOTNOTE

1. There is a great deal of misunderstanding about professional "valuations". The concept is an elastic one, depending on whether one is selling, hoping to buy, having objects valued for probate or insurance purposes, etc. Fashions change and prices achieved by categories of objects fluctuate. Very high valuations for certain high-quality archaeological objects, including medieval religious objects, are fairly recent developments — most since the 1960s. The sale of the Von Hirsch collection in 1979 'hyped' the prices greatly but they have since fallen back. Much has been made of the difference between the National Museum's valuation of the Derrynaflan Hoard and that of Sotheby's Director, Mr. Camber. The Museum's valuation was made in 1980, Mr. Camber's given in Court in 1986 after inflation and 'hype' had had their effect. Publicity always affects prices, which is why auction houses advertise.

APPENDIX

Extracts from the National Monuments (Amendment) Act, 1987

Restriction of use of detection devices	2.—(1) Subject to the provisions of this section a person shall not—	
	(a) use or be in possession of a detection device—	
	(i) in, or at the site of, a monument of which the Commissioners or a local authority are the owners or guardians or in respect of which a preservation order is in force or which stands registered in the Register, or	15
	(ii) in an archaeological area that stands registered in the Register, or	20
	(iii) in a restricted area,	
	or	
	(b) use, at a place other than a place specified in <i>paragraph (a)</i> of this subsection, a detection device for the purpose of searching for archaeological objects, or	
	(c) promote, whether by advertising or otherwise, the sale or use of detection devices for the purpose of searching for archaeological objects.	25



Amendment of section 23 of Principal Act

15.—Section 23 of the Principal Act is hereby amended by the substitution of the following subsections for subsection (1):

“(1) A person who finds an archaeological object shall, within 4 days after the finding, make a report of it to a member of the Garda Síochána on duty in the district in which the object was found or the Director of the National Museum or a servant or agent of his and shall when making the report state his own name and address, the nature or character of the said object and the time and place at which and the circumstances in which it was found, and shall also, and whether he has or has not made such report as aforesaid, and irrespective of the person to whom he has made the report (if any), give to any member of the Garda Síochána or to the said Director or a servant or agent of his on request any information within his knowledge in relation to the object or the finding thereof and shall permit—

- (a) any member of the Garda Síochána or the said Director or a servant or agent of his to inspect, examine or photograph the object, and
- (b) the said Director or a servant or agent of his to take possession of the object.

(1A) A member of the Garda Síochána to whom a report under subsection (1) of this section is made shall, without undue delay, notify the said Director, or a servant or agent of his, of the finding to which the report relates and the said Director, or a servant or agent of his duly authorised by him in that behalf, may take possession of the object to which a report under the said subsection (1) relates and the said Director may retain possession of it until the expiration of the period of 6 weeks from the time when the said Director or a servant or agent of his was informed in pursuance of this section of the finding and the Director shall then return the object to the person from whom possession of it was taken under this subsection.”.

Withholding information regarding archaeological objects.

20.—(1) Where a member of the Garda Síochána—

- (a) has reasonable grounds for believing that an offence under the National Monuments Acts, 1930 to 1987, involving an archaeological object has been committed,
- (b) finds any person in possession of an archaeological object.
- (c) has reasonable grounds for believing that the archaeological object referred to in *paragraph (b)* of this subsection is the archaeological object referred to in *paragraph (a)* of this subsection.

he may require the person to give him an account of how he came by the object, and if the person fails or refuses, without reasonable excuse, to do so or gives information that he knows to be false or misleading, he shall be guilty of an offence.

Duty to give name and address to member of Garda Síochána

21.—(1) Where a member of the Garda Síochána suspects that a person has committed a specified offence under the *National Monuments Acts, 1930 to 1987*, and so alleges to the person, the member may demand of the person his name and address and may, if the person refuses to give his name and address or gives a name or address that the member has reasonable grounds for believing to be false or misleading, arrest the person without warrant.

(2) Where a person, when his name and address is demanded of him under this section, refuses or fails to give his name and address or gives a name and address which is false or misleading, he shall be guilty of an offence.

Powers of search and seizure

22.—(1) If a justice of the District Court is satisfied, by information on oath and in writing furnished by a member of the Garda Síochána, that there are reasonable grounds for believing that evidence relating to the commission of an offence under the *National Monuments Act, 1930 to 1987*, is to be found in any building or part of a building or in any vehicle, vessel, aircraft or hovercraft or in any other place whatsoever, he may issue to the member a search warrant in relation to such place.

(2) A search warrant under this section shall operate to authorise the member of the Garda Síochána named in the warrant, accompanied by any other member of the Garda Síochána, to enter, within one week from the date of the warrant, and if necessary by the use of force, any building or part of a building or any vehicle, vessel, aircraft or hovercraft or any other place named in the warrant, and to search it any any person found there, and to seize anything found there or on any such person that may be such evidence as aforesaid.

(3) A member of the Garda Síochána acting under the authority of a search warrant under this section may—

- (a) demand of a person found at the place of search his name and address, and
- (b) if the person refuses to give his name and address or gives a name and address that the member has reasonable grounds for believing to be false or misleading, arrest the person without warrant.

(4) Any person who obstructs or attempts to obstruct a member of the Garda Síochána acting under the authority of a search warrant under this section or who, when his name and address is demanded of him pursuant to *subsection (3)* of this section, fails or refuses to give his name and address or gives a name and address that is false or misleading shall be guilty of an offence.



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Facing Page: An aerial view of the Derrynaflan site.

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