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The "Dodington Gold Coins"

John Gribble
Maritime Archaeologist
National Monuments Council
South Africa

ABSTRACT

In October 1997 the NMC received an article from *The Times* of London announcing the sale by auction of 1400 eighteenth-century gold coins. What set this particular announcement apart from other such sale notices, however, was the suggestion by the sellers, that these coins were part of the hoard lost by Lord Robert Clive - better known as Clive of India - in 1755. The association of these coins with Robert Clive set alarm bells ringing at the NMC because there is strong documentary evidence to suggest that Clive's gold was aboard the East Indiaman *Dodington* when it was wrecked on Bird Island in Algoa Bay on 17 July 1755. The wreck and its contents therefore lie within South African territorial waters, and are protected by the National Monuments Act.

Very little gold has ever been recovered from the wreck, despite ongoing salvage work on the site, and no permits have been issued by the NMC for the export and sale of any gold coins. However, the fact that the sellers were making the claim that this gold was Clive's could not be ignored, and the NMC decided to act. Representations to the auction house resulted in the withdrawal of the coins from the sale, followed by the institution of legal steps by the NMC aimed at the repatriation of the coins if it was found that they were illegally removed from South African territorial waters and exported from the country.

This paper will present the background to the case, including an account of the loss of the *Dodington*, the discovery of the wreck in 1977, and the subsequent and ongoing salvage work that has been carried out on the site. Although the outcome of the case has yet to be decided,

this paper will examine a number of pivotal issues that it has raised with regard to shipwreck management in South Africa, which include the repatriation of cultural material, South Africa's locus standi in terms of international law, maritime law and the ownership of shipwreck material in South Africa, the financial implications enforcing the Act, and other issues that have been brought into focus by this case.

INTRODUCTION:

On 1 October 1997 the National Monuments Council (NMC) received from London a copy of an article published in *The Times* (Monday 29 September) entitled "Clive of India's Gold Found in Pirate Wreck". The article was an advert for a forthcoming London auction at which 1200 gold coins, weighing a total of 620 ounces, were to be sold. What was important about these particular coins, however, was the claim made in the article that they were part of the 653 ounces of gold that Robert Clive - better known as Clive of India - took with him when he sailed from England for India in 1755.

For reasons that will be discussed later in this paper, the NMC felt itself bound to challenge the sale of these coins. The result is that the National Monuments Council is currently involved in international legal proceedings for the first time in the 29-year history of the organisation.

For a variety of reasons the NMC has historically not had a great deal of success prosecuting offences under the National Monuments Act, even in South Africa. Reasons include the low priority and status cultural heritage offences enjoy within the justice system, and financial considerations such as the implications for the NMC's very limited budget of legal fees and costs. Perhaps the major constraint however, has been a lack of confidence by the NMC itself in the legal strength and validity of sections of the Act, the result of which was that the Council was unwilling to embark on costly legal proceedings with no guarantee of success.

In legal systems around the world legislation is based within the framework of a country's legal system, and is deemed to carry the force of law and to be legally binding upon its citizens. Laws, however, are open to various interpretations. It is not, therefore, until a piece of legislation and the principles and ideals enshrined in it have been tested in court, that it can claim to be worth more than the paper it is written on. Until that time the legality and validity of that law, or section of a law, is questionable and its implementation is open to question and challenge.

The National Monuments Act (Act No. 28 of 1969) is a good example of exactly this dilemma. The result of the reticence to enforce contraventions of the Act has been the development of a general perception of the NMC as a toothless dog, without the will to act. The results of this perception are abundantly clear - a lack of respect for the Act, and for the NMC as the compliance agency. The need for the NMC to be seen to be actively enforcing

the Act, and not shying away from prosecuting offences is therefore of the utmost importance for improving its credibility, that of the Act, and that of heritage management in South Africa in general. The NMC needs to judge its decisions to prosecute offences against the Act not only according to likelihood of success, but must take cognisance of the importance of demonstrating a will to fight, and of the legal importance of testing the Act in court.

In discussing the current case of the so-called “*Dodington* Gold Coins” this paper will attempt to offer some insight into the positive results of these legal proceedings for the image of the NMC and some of the practical implications of the case for historical shipwreck management in South Africa.

THE LOSS OF THE *DODINGTON*:

In late 1754, in an effort to force the French out of the Indian subcontinent once and for all, and to ensure the dominance of the British East India Company in the region, the Directors of the Company appointed Robert Clive - later to be known as Baron Plassey - to lead their forces in India (Spear, 1975; Allen & Allen, 1978b).

A fleet of Company vessels, comprising the *Stretham*, *Dodington*, *Pelham*, *Edgecote* and *Houghton* was assembled, and sailed from the Downs near Dover on 22 April 1755. The first half of the voyage was uneventful, with the *Dodington* proving herself a superior vessel by outstripping the rest of the fleet. After rounding Cape Agulhas however, the master of the *Dodington*, James Sampson committed a navigational error common at the time, which was to ultimately result in the loss of his vessel. The charts he was using were based on the original Portuguese *Roteiro*, or sailing instructions, compiled by Manuel de Mesquita Perestrelo in 1576 (Axelson, 1988; Knox-Johnson, 1989), which showed the south-east coast of Africa cutting away too rapidly to the north, and which meant that vessels sailing according to this chart were in fact far closer to the coast than they realised. This error put the *Dodington* directly on course to the low rocky island named Chaos Island by Bartholemeu Dias 1488, and today known as Bird Island, situated near Port Elizabeth in Algoa Bay.

Shortly after midnight on 17 July 1755, the *Dodington* struck a reef off Bird Island and, according to survivors accounts, broke up within 20 minutes. Only 23 of the 270 people on board made it ashore. These survivors managed to salvage some items, including tools, food and two chests of Company silver from the wreck before it disintegrated completely. They spent nearly seven months on the island building a small open boat which they named *Happy Deliverance*, and eventually sailed to Mozambique where they were rescued (Allen & Allen, 1978b).

When she was wrecked, the *Dodington* was carrying a cargo which included silver specie (35 000 ounces), copper ingots, military hardware and artillery pieces for Clive’s campaign, and a variety of personal cargo. Historical records indicate that Clive was unable to get a passage on the *Dodington*, and had to settle for a berth on her sister ship, the *Stretham*. He nevertheless put his personal fortune of gold aboard the *Dodington*, as reflected in the “Manifest of private gold, silver and wrought plate Lycenced to be shipped on Board the *Doddington* (sic) for Fort. St. George”, which is preserved in the Records of the East India Company, and reads:

“For Robert Clive Esqr. Governor for Fort St. David, One Chest of Gold, Marked R.C. No. 1qt - 653 Oz, 6 pennyweight”

Further evidence that this gold was indeed on board the *Dodington*, is to be found in a letter dated 5 October 1756 written by Clive to his father, in which he confirms that he lost £3000 when the vessel was wrecked (Allen & Allen, 1978b).

Although two chests of Company silver were recovered from the wreck by survivors and later returned to the Company through the unstinting honesty of the First Mate, Evan Jones, there is no evidence to suggest that the chest containing Clive’s gold was ever recovered. In light of Jones’ efforts with the Company silver there is every reason to believe that had the gold been found, it would have been returned to its owner.

DISCOVERY OF THE WRECK:

Although the perception that the *Dodington* was a treasure ship ensured that she was never forgotten, the location of the wreck itself was lost, and it wasn’t until 1977, after years of patient research, that the vessel was discovered off Bird Island by David Allen and Gerry van Niekerk. Based on archival research, and discounting later guesses as to the location of the wreck, it took Allen only ten minutes to find the wreck once he got into the water. The discovery of a number of bronze howitzers on the site, together with other artefacts proved conclusively that the wreck was that of the *Dodington* (Allen & Allen, 1978b).

In 1982, following an amendment to the National Monuments Act which made permits a requirement, Allen applied for, and was granted a NMC permit to investigate the wreck, and the Port Elizabeth Museum agreed to collaborate on the project. David Allen’s permit was renewed a number of times, until his tragic death in 1987. The NMC immediately received a number of applications from other divers for the *Dodington* permit, but decided to keep the permit with Allen’s original team and issued it to his father, Charles J Allen. In June 1990 the NMC was notified by Mr Allen that he could no longer carry on with the project, and that he recommended the permit be transferred to Gerry van Niekerk, his son’s original partner. The permit was reissued in Van Niekerk’s name on 5 July 1990, and he has held it ever since. It currently expires on 1 December 1998.

SHIPWRECKS AND THE NATIONAL MONUMENTS ACT:

In the two decades that the Allens and Van Niekerk have been working on the site they have recovered a large number of historical artefacts, most of which have been donated to the Port Elizabeth Museum. During this time, there have also been sweeping changes in official attitudes to historical shipwrecks, and a heritage resource which enjoyed no legal protection when the *Dodington* was first discovered, is now covered by blanket legislative protection.

It is interesting to note in this regard that it was in fact the discovery by Allen and van Niekerk of the *Dodington*, and an older Portuguese wreck, the *Sacramento* (1647) (Allen & Allen 1978a), near Port Elizabeth in the same year, that was the catalyst for the first legislation to protect historical shipwrecks.

Their experience after the locating the *Sacramento* of ruthless poaching and plundering of the site by other divers and salvors as soon as word of its discovery leaked out, led them to approach Mr John Wiley, a Cape Town MP who had an interest in historical shipwrecks, with their concerns. Wiley took up the cause, and in an address to Parliament on 17 May 1977 called for legislation to protect historical shipwrecks (Hansard 1977).

This resulted in 1979 in an amendment to the National Monuments Act - Act No. 35 of 1979 - which allowed the NMC to declare as a national monument any shipwreck in South African territorial waters more than 80 years of age. Once declared it was an offence to destroy or damage such a wreck (Deacon 1993). Where this legislation fell down, however, was in the fact that no legal protection was given to the contents of declared wrecks, which meant that artefacts could still be legally removed from sites. Furthermore, it was not until 1984 that 23 wrecks were actually provisionally declared for a period of five years (Deacon 1993). The failure of this legislation to go far enough, and the fact that salvors were primarily interested in the contents of the wrecks which were not protected, meant that artefacts and cargo continued to be removed from wrecks by salvors and divers at will. There was increasing concern from both the NMC and coastal museums (Bell-Cross 1980) that these individuals were profiting from the exploitation of a national heritage resource at the expense of the rest of the nation, and that due to their primarily commercial interest in the wrecks, their over-hasty methods were destroying valuable historical and archaeological sites and data.

As a result of pressure from the NMC and SAMA (Bell-Cross 1980) a second amendment to the National Monuments Act (Act No. 13 of 1981) was passed in 1981, in terms of which a permit was required from the NMC to “destroy, damage, alter or export from the Republic” any one of a list of artefacts known to have been in the country or its territorial waters for more than 100 years (Deacon 1993). Although this piece of legislation did attempt to control the movement of and trade in items of cultural heritage, it was ineffective due to a lack of personnel to implement and enforce it. Furthermore, because the legislation again did not make it an offence to remove material from a wreck or wreck site, the exploitation of sites did not diminish.

Continued lobbying by both SAMA and the South African Association of Archaeologists (SA3) resulted in the most recent amendment to the National Monuments Act in 1986, with the insertion of Section 12 (2C). This paragraph extended a blanket protection to all shipwrecks and shipwreck material over the age of 50 years, making it an offence to interfere with or disturb a shipwreck in any way, except under the terms of a permit issued by the NMC.

THE CASE:

The historical association of the *Dodington* with Robert Clive and the personal fortune he lost when the vessel was wrecked meant that the announcement in the British press of the impending sale of coins reputed to be Clives’ gold, set alarm bells ringing at the NMC.

Although the announcement did not specifically refer to the coins as having come from the wreck of the *Dodington*, the claim was nevertheless that they were those lost by Clive. According to the *Times* article, the sellers claimed that the coins were recovered from the

wreck of a small, heavily armed eighteenth century privateer or pirate vessel which they had stumbled upon off the South African east coast after an exhaustive search of the *Dodington* site failed to yield the gold.

The extremely implausible implication is, therefore, that Clive's gold was recovered from the *Dodington* by pirates not long after the vessel was wrecked, was lost again when that vessel foundered, only to be found, quite by chance, by modern divers. On top of that, the press report claimed that the wreck in question lay in international waters, thereby neatly and fortuitously placing it outside the legal jurisdiction of any adjacent coastal state.

For a wreck to lie in international waters off the South African coast it would have to be located at least 24 nautical miles (44.4 kilometres) from the shore. This is because South Africa has chosen to include in its Maritime Zones Act (Act No. 15 of 1994), the provision made in the United Nations Convention on the Law of the Sea (1982) for a contiguous zone of a further 12 nautical miles beyond the extent of the territorial waters. Within this contiguous zone coastal states may decide to exercise the control necessary to prevent and punish the infringement of certain of their laws, and may also exercise jurisdiction for underwater cultural heritage. At this distance from the South African east coast, average water depth is around 200 metres, ruling out conventional diving, and requiring extremely sophisticated and expensive equipment and skills. Furthermore, to stumble across the wreck of a small wooden vessel (probably not much more than 30 metres in length) on a virtually limitless expanse of seabed is extremely unlikely.

The suspicious nature of the entire claim was further fuelled by the fact that the identities of the divers involved in retrieving this material were kept secret, as was any other information regarding the identity and location of the alleged wreck of the privateer. This was ostensibly to "stop opportunists from profiting from the discovery" (*The Times*, 29 September 1997), although the *Times* article does report that despite the wreck being scoured by the divers, the only items of value found were the gold coins.

Requests to the auctioneers, Spink & Sons of London, for further information as to the identity of the seller/s and the location of the alleged second wreck were not successful. As a result of the NMC's enquiries however, the auctioneers did withdraw the coins from the auction, and although immediately instructed by the seller/s to return the coins, decided to hold them in their vault until the matter of their origin and any claims the Republic of South Africa may have had on them were resolved.

The flimsy and suspicious nature of the claims made by the sellers as to the provenance of the coins, and their refusal to cooperate with the NMC, led the NMC to suspect that the alleged privateer was a fabrication designed to sidestep South Africa's heritage legislation and Customs and Excise regulations, and that the wreck of the *Dodington*, or some other historical wreck in South African territorial waters had been illegally looted and the gold recovered illegally exported from the country. As the legislated custodians of South Africa's cultural heritage, the NMC was bound to pursue the matter, and instructed its attorneys to take up the case. Since the matter is still *sub judice*, I cannot discuss it any further, but would like to consider some of the interesting and important issues it had raised, which are likely to affect historical shipwreck management in South Africa in the future.

THE ISSUES:

As in any litigation involving cultural property, the prosecution of a case involving maritime cultural property can be extremely complex and presents unique legal problems, especially when the material in question is no longer in its country of origin.

The obvious financial rewards of salvaging material from historical shipwrecks, and easier access in the last three decades to shipwreck sites, have breathed new life and energy the world over into the age-old industry of salvage. Competition for a limited resource has also ensured that international salvage is a murky, cloak and dagger world of intrigue and secrecy. This has very clear implications for the management of historical shipwrecks as a cultural heritage and archaeological resource, and the battle between salvor and archaeologist is far from over. The issue of archaeology versus salvage has been debated elsewhere, however (Marx, 1977; Van der Heide, 1977; Pendleton & Cox, 1985; Johnston, 1993; Werz, 1993a; Zander, 1996), and will not be dealt with here.

What is important in considering this case, is the issue of wreck, the salvage and ownership thereof, and the legal framework within which this takes place. Legal opinion arising from this case has revealed some interesting interpretations applicable to South Africa's historical wrecks in these areas.

1. The Judicial Status of Historical Shipwrecks in South Africa:

Because of the singular lack of success to date in prosecuting offences involving historical wrecks in South Africa, little thought has been given to the legal framework within which such prosecutions would take place. Offences under the Act involving terrestrial heritage sites or objects have always been heard by a Magistrates Court, in the execution of its penal and common law jurisdiction. The single, unsuccessful maritime case that has been brought in South Africa was heard in the same forum. Opinion received in the *Dodington* case however, has suggested that the juristic body for cases involving historical shipwrecks would be the Admiralty Court of South Africa.

Prior to 1890, British Vice-Admiralty courts applying English Admiralty law sat in the Cape of Good Hope and Natal to consider maritime cases, including those involving "wreck" (as defined in the Merchant Shipping Act of 1857). In that year, an Act of the British parliament - the Colonial Courts of Admiralty Act - abolished the Vice-Admiralty courts and established Colonial Courts of Admiralty. These Colonial Courts sat in every British possession, had the same jurisdiction as the High Court of England, and applied English Admiralty Law as it stood in 1890. Furthermore, in terms of the Act, every Court of Law in a British possession was also a Court of Admiralty.

English Admiralty Law, which includes jurisdiction over matters relating to "wreck", applied in South Africa until 1983, when the Admiralty Jurisdiction Regulations Act (No. 105 of 1983) (AJRA) was passed. The AJRA stated that the South African High Court in the exercise of its Admiralty Jurisdiction would continue to apply English Admiralty Law as at 1 November 1983.

What this means is that in South African courts cases involving historical shipwrecks should be decided under Admiralty rather than penal or common law, which is largely based on Roman Dutch law. Aside from the implications for cases within South Africa of the application of Admiralty Law to cases involving historical wrecks, legal opinion has suggested that this avenue of the law has other important implications, particularly in the areas of South Africa's *locus standi* in a foreign court, and the ownership of wreck material.

2. The Application of the National Monuments Act in a British Court:

The applicability and validity of the National Monuments Act, and the *locus standi* of the NMC in South African courts has never been in doubt, and although this has never been tested, the same has been assumed to be true for cases beyond our borders.

Legal opinion obtained in the *Dodington* case however, has indicated that it is a well-established rule of English law that their courts will not enforce the penal, revenue or other public laws of another country. The reasons given for this policy stem from the belief by the British legal establishment that they should not be relied on by other states to carry out their work for them. As a piece of foreign penal legislation therefore, the National Monuments Act lacks *locus standi* in a British court, and will not be enforced by such a body.

Since wreck and wrecks fall within the jurisdiction of both penal legislation and Admiralty Law, and since the application of British Admiralty Law is entrenched in South African legislation and South African Admiralty courts are deemed to be the legal successors to the Colonial Courts of Admiralty, the NMC has been able to apply to have this case heard in a British Admiralty court, thereby solving the problem of legal *locus standi*.

Having now been alerted to the glaring shortcomings of South African heritage legislation and its application in a British court, the NMC needs to investigate whether similar problems are likely to manifest themselves in launching legal proceedings in other countries in the future. It must also be noted that these problems are unlikely to be limited to matters maritime, and will undoubtedly apply across the entire cultural heritage spectrum.

As far as solutions to these legal problems are concerned, there are two international conventions which may offer some relief. The UNIDROIT *Convention on the International Return of Stolen or Illegally Exported Cultural Objects* drafted by the International Institute for the Unification of Private Law (UNIDROIT), has already been adopted, and is designed to facilitate international claims by and between states for the repatriation of stolen or illegally exported cultural material. South Africa is unfortunately not yet a signatory to the convention, and so enjoys none of the possible benefits such an agreement would offer.

As a member of the Commonwealth, South Africa could also benefit in the longer term from a *Scheme for the Protection of Cultural Heritage within the Commonwealth* which is still being drafted. Although this would need to be investigated more thoroughly, the Commonwealth scheme may be a very effective tool for the cases involving the repatriation of cultural property within the Commonwealth, because of the common inherited legal heritage of past British colonial possessions.

3. The Ownership of Wreck:

Perhaps one of the most contentious issues in the management of shipwrecks in South Africa relates to the ownership of wreck. The perception prevalent amongst divers and salvors is that wrecks and their contents are governed by the Roman Dutch legal concept of *res derelicta*, or abandoned goods, in terms of which the principle of finders keepers applies, ownership being vested in the *occupator*, or person who physically holds the material.

While this is to some extent indeed the case with contemporary wreck and salvage, the NMC has always believed that by virtue of the fact that historical shipwrecks are archaeological sites, and are protected by the National Monuments Act, this principle does not apply to them. While the question of ownership of this material is not explicitly addressed in the National Monuments Act, Section 12 (2C) stipulates that all wreck recovered must be placed in the custody of a museum, who, in conjunction with the NMC, will decide on the disposal of the material. Although this implies ownership by the state, the issue has never been satisfactorily addressed because it has never been challenged.

However, in the legal proceedings surrounding the “*Dodington* coins”, the NMC has been obliged to resolve this lack of clarity on the question of the ownership of shipwreck material. Received wisdom, based on the contents of the Sea Shore Act (No. 21 of 1935), which vests ownership of the sea, including the seabed and sea shore in the State President, and the Maritime Zones Act (Act No. 15 of 1994), which defines the extent of South Africa’s territorial waters, suggested that ownership of wreck material did vest with the State. As South Africa’s statutory body for cultural heritage management, and an arm of the state therefore, the NMC believed that if the “*Dodington* coins” came from South African territorial waters, the state, through the NMC, had a legal claim to their ownership.

The legal opinion obtained on this issue is based once again on English Admiralty Law, and has suggested that ownership of shipwreck material does indeed vest with the State, and more particularly with the State President as the representative of the nation.

According to English Admiralty Law the Crown is entitled to all unclaimed wrecks found in its territorial waters as *droits* of Admiralty, which are defined in the Oxford English Dictionary as “rights to which one has a legal claim”. As the legal successor to the British Crown therefore, the South African state, in the person of the State President, is entitled to claim ownership of all unclaimed or abandoned wrecks within South African territorial waters.

Furthermore, this would tend to imply that the NMC, as the legislated state body for cultural heritage management, can assert ownership on behalf of the State President and the nation of all unclaimed or abandoned shipwrecks and their contents within our territorial waters.

4. The Financial Implications of Litigation:

Recent increased interest in South African shipwrecks by large, well-funded and well-equipped international salvage companies has been of concern to the NMC because our current lack of capacity to effectively enforce the Act and police the shipwreck resource make it relatively easy for international salvors to exploit shipwreck sites without our

knowledge and leave the country with the material recovered. Although NMC has implemented a policy of generally refusing permits to international concerns, interest by these companies has set the stage for potential international litigation, and it was simply a matter of time before the NMC would have to take up a case in a foreign court.

It is common knowledge that the funding of heritage management in South Africa has and does leave a lot to be desired. The NMC is severely underfunded, and financial constraints have certainly been one of the primary reasons in the past for the organisation's lack of success in enforcing the Act and prosecuting offences. The cost of launching legal proceedings in a foreign country has meant that the prosecution of an international case is out of the question on the NMC's meagre budget. In the case of the "*Dodington* coins", the NMC would not have been able to act if the State, in the form of the Department of Arts, Culture, Science and Technology had not agreed to bear the legal costs.

There has been concern expressed in some quarters that the substantial legal bill this case is going to generate is not justified, and that the money could have been better spent elsewhere in heritage conservation. For the reasons given earlier however, the NMC was left with no alternative but to pursue the case and institute legal proceedings. It is perhaps also important to view the issue of cost from an alternative perspective. The NMC's poor record in prosecuting and enforcing the Act has bred a culture of disrespect for the NMC and the Act. The opportunity a case such as this offers to send a message to the country, and to the world that the NMC is committed to acting to protect South Africa's cultural heritage is therefore worth every cent in legal costs.

DISCUSSION:

What the *Dodington* case has made clear is the fact - so obvious that it has tended to be overlooked - that historical shipwrecks are very different from other heritage sites and materials, and that they present different management and legal problems which require different solutions.

The assumption that the National Monuments Act is not only the appropriate piece of legislation for the prosecution of shipwreck offences such as this one, but that it has international applicability has been clearly shown to be flawed. Fortunately, the avenue of Admiralty Law was open in this case. It is clear however, that the NMC will have to reconsider its approach to international cases, and further investigate the validity of the Act abroad, as well as alternative approaches that exist for international cases of this nature.

The fact that wrecks are invariably found in maritime zones has profound implications for their management and treatment under the law. Their relative inaccessibility, and the fact that their exact locations are often not known means that their control and protection are fraught with very specific difficulties not usually encountered with terrestrial heritage resources. Furthermore, disputes relating to wreck and other heritage resources will be heard in terms of different concepts of law in different courts which have different rules and procedures.

This raises the question of the appropriateness of the inclusion of historical shipwrecks in a piece of general heritage legislation like the National Monuments Act, and in the draft Heritage Bill. The scrutiny to which both of these pieces of legislation were subjected in the

Dodington case has suggested that the provisions they contain relating to the protection of historical wrecks and artefacts are not clear, and that it is a flaw in both the Act and the draft Bill that the bulk of the legal provisions are contained in the Regulations that accompany them, rather than in the legislation itself.

In virtually all other countries with a rich shipwreck resource, separate legislation has been enacted for historical wrecks which acknowledges their unique legal status and management problems, and although the idea of a separate South African act for wrecks is not new, it has never been properly considered. The *Dodington* case has demonstrated some of the weaknesses of the present legislative protection of wrecks, and future cases are likely to show others. If the future protection and management of historical shipwrecks in South Africa is to do justice to the rich and internationally renowned resource in our waters, now is the time to consider the possibility of separate legislation for historical wrecks.

CONCLUSION:

The case of the “*Dodington* coins” has served the important purpose of highlighting a number of fundamental problems, issues and challenges relating to the management of historical shipwrecks in South Africa and South African heritage legislation.

This case has demonstrated the shortcomings of our heritage legislation, and has suggested alternative legal avenues for shipwreck cases that have not been considered before, but its greatest importance perhaps lies in the fact that through this case the NMC has demonstrated to South Africa and the world that it not only has the will to enforce the Act, but that this is not judged entirely according to whether the NMC thinks the case will be successful or not. The pursuance of this case is important for the strong message it will convey to the ever-increasing numbers of foreign and local salvors wanting to work on South African historical shipwrecks that the NMC won't tolerate the plundering of our cultural heritage.

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