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Arte, legge, restauro

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

a cura di
Chiara Mannoni



Edizioni
Ca' Foscari

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

a cura di Chiara Mannoni

Abstract

This volume collects the outcomes of the conference *Art – Law – Restoration*, that was held at the University Ca' Foscari of Venice in July 2021. Through the studies outlined by several international scholars, crucial aspects of the history of heritage protection and restoration in sixteenth- to nineteenth-century Europe are reconsidered, combining different disciplines and geographical contexts into a comparative perspective. The systems elaborated in the early modern States to preserve artefacts, monuments, and antiquities are evaluated following multifarious approaches – including archaeology, art history, history of law, social history, and the history of museums. Particular consideration is given to the practices established in the Kingdom of Naples, Spain, the Grand Duchy of Tuscany, Greece, Prussia, the Papal States, Portugal, and the Scandinavian Countries to protect what they thought of as 'heritage' respectively. The project *LawLove* and the publication of this volume are supported by the European Commission (Marie Skłodowska-Curie project no. 837857).

Keywords Heritage protection. History of law. History of restoration. Europe. Early modern centuries.

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A Comparative Reading to Move Beyond a Historiographic Paradigm

The Approach to the Protection of Artistic and Archaeological Heritage in the Kingdoms of Naples and Spain in the First Half of the Eighteenth Century

Paola D'Alconzo

Università degli Studi di Napoli "Federico II", Italia

Abstract The essay reconsiders a historiographic paradigm that often tends to emphasise the role of the discovery of Herculaneum and Pompeii in the affirmation of a generalised interest in the protection of antiquities, and the reflection it had in Spain, in the years that saw the alternation of a sole sovereign, Charles of Bourbon. With this purpose, it proposes a comparative reading of the ways of considering the archaeological heritage that characterised the Kingdom of Naples and the Kingdom of Spain in the Neapolitan years of the sovereign (1734-59) and in those immediately following his transfer to Madrid (1759-61).

Keywords Carlos III. Herculaneum. Heritage. Kingdom of Naples. Kingdom of Spain. Pompeii. Protection of cultural heritage.

Summary 1 Introduction. – 2 The Kingdom of Naples: A Non-Linear Path. – 3 The Spanish Situation: Early Measures and the Role of the Academies. – 4 Conclusions.



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1 Introduction

This contribution proposes to reconsider, at least in part, and from a specific point of view, a historiographical paradigm that often tends to emphasise the role of the discovery of Herculaneum and Pompeii, and thus of the Kingdom of Naples, in the emergence of a generalised interest in antiquities; at the same time, it aims to assess the implications of this abroad, specifically in Spain, in the years when a single sovereign took the throne of the two kingdoms.

To this end, I intend to present a comparative reading of the ways in which the artistic and archaeological heritage – i.e. the activities of protection, not exclusively regulatory, of that heritage – was taken into consideration in the two kingdoms during the Neapolitan years of Charles of Bourbon and those immediately before and after the sovereign's move to Madrid, in the conviction that a parallel analysis of the events that affected the two shores of the Mediterranean offers various points for reflection. Observing from a comparative point of view the events in Spain over a narrow span of years, just before Carlos III's accession to the throne (1759), there emerges a concern for protection that outlines a panorama characterised by imperfect but precocious regulatory instruments, and by a cognitive demand aimed at a public function that in the Neapolitan context would emerge with considerable delay.

So, in the two states of the Ancien Régime, how was the artistic and archaeological heritage considered in the years when the idea emerged and then became structured that special legislation was needed to safeguard it? Studies often interpret the first Neapolitan laws of protection as an immediate consequence, almost a form of mirroring of the Vesuvian discoveries, whose influence would also prove decisive on the decisions taken in the Spanish territories (Almagro Gorbea 2012). This hypothesis can be reconsidered, highlighting complexities and possible contradictions, so as to avoid the risk of historiographical oversimplifications.

As far as the Kingdom of Naples is concerned, it is necessary to reflect, for example, on the reasons for the lag between the precocious fame of what from the very beginning was configured as the archaeological enterprise of the century and the late recognition of its real significance by a sovereign such as Charles of Bourbon, who had promoted it immediately, but only later adopted it as an essential part of his cultural policy (D'Alconzo 2017). This shift has first and foremost to do with the more general problem of the periodisation of a complex of activities that is almost always read as an indistinct continuum, whereas it is characterised by internal divisions that

Unless otherwise stated, all translations into are by Richard Sadler. I would like to thank Richard Sadler for revising the English translation of this essay.

marked its outcomes. I have dealt with these aspects elsewhere, but suffice it to say that the shift in policy would become marked when, in 1755, Marquis Bernardo Tanucci arrived at the head of the Secretariat of State, whose direction would mark its most innovative and fruitful years (D'Alconzo 2018).

In Spain, on the other hand, the value attached to the material evidence of the past emerged in an autonomous form, with initiatives that not only preceded the Neapolitan laws, even though they could not boast, on a legislative level, an equally coherent and articulated structure, but above all demonstrated attention to certain aspects that did were disregarded in Naples. In the years that followed, these different instances tended at least partially to become aligned, in a process that allowed the Neapolitan model (and before that, the Roman one) to be effectively recognised as a source of inspiration, though never cogent.

Having already anticipated the themes to which I intend to draw attention, it would be useful to reinterpret in this perspective a series of elements that constitute the basis on which to articulate new reflections.

2 The Kingdom of Naples: A Non-Linear Path

It is well known that in Naples, in 1755, Charles of Bourbon promulgated two laws that – in terms of method, approach and inspiring principles – placed the young kingdom in line with the most advanced of the pre-unification Italian states, the Papal States, which boasted a long and consolidated tradition in this sector. Before assessing their characteristics, however, it is necessary to ask ourselves what was the path by which these laws were arrived at, to better understand their merits and limitations. In other words, it is necessary to observe how the artistic and archaeological heritage was considered in the little less than twenty years between the start of the excavations at Herculaneum (begun in 1738 and continued a decade later in Pompeii and Stabia) and the enactment of the first protection regulations, avoiding taking for granted the direct influence exercised by archaeological investigations on the drafting of legislative instruments. Some episodes, in fact, show that, even in the years following the first Vesuvian discoveries, an attitude that was at the very least ambiguous can be recorded.

The first example dates back to 1740, when – as is well known – the architect Ferdinando Sanfelice proposed using the surviving columns of the temples of Paestum [fig. 1] for the construction of the Royal Palace of Capodimonte: the surprising proposal met with the interest of the Secretary of State Montealegre, Marquis of Salas, who asked the Governor of the Province of Salerno to have their size and number



Figure 1 Antonio Joli, *A View of Paestum*. 1759. Oil on canvas, 76.7 × 121.3 cm. Pasadena, Norton Simon Museum. © Norton Simon Art Foundation

verified on site, as well as the possibility of organising their transport to Naples. More specifically, the architect suggested that, in order to make the construction of the Neapolitan royal palace proceed more smoothly, he could

to take the stones that are in the ancient city of Paestum [...] since there are more than a hundred columns of immense size with their capitals, architraves, friezes, and cornices [...] and in such a form, Your Majesty would have all the stone needed, without waiting to have it quarried from the mountains; besides, since the pieces are so large, the jambs of the balconies could be made in a single piece, and the stones could be cut like marble [...]. The quality of the stones is for the most part like the two columns that stand in front of the Reggij Studij, which were also transported from the said city, although there are much larger ones [...], because if by chance any of them should break at any point, since they must be worked in another form, nothing would matter if any piece broke.¹

1 “Prendere le pietre che sono nell’antica città di Pesto [...] essendovi più di cento colonne di smisurata grandezza con i loro capitelli, architravi, fregi, e cornicioni [...] et in tal forma la M.V. avrebbe tutta la quantità di pietra necessaria, senza aspettare a farla cavare da monti; oltreché essendo pezzi così grandi si potrebbero gli stipidi deli balconi farli d’un sol pezzo, potendosi quelli secare all’uso dei marmi, [...] la qualità delle pietre sono la maggior parte come le due colonne che stanno davanti li Reggij Studij, le quali furono trasportate anche da detta città, benché ve ne siano di grandezza assai maggiore [...], perché se per caso qualched’una si rombesse a qualche parte,

We also learn from the document that the Paestan temples had already been despoiled of two columns, placed in front of the building that at the time was the seat of the University (but which in 1777 was to become the premises of the Royal Museum); this practice was not isolated, if Marcello Venuti, describing the excavation of the theatre of ancient Herculaneum, in 1748 stated that “large columns, which were extracted there [...], part of which can be seen in the Royal Palace of Portici, and part of which were transported to Naples Cathedral”.²

It cannot be ruled out that the timely intervention of some court intellectuals such as Matteo Egizio, perhaps prompted by the interest shown in the Paestan remains by foreign scholars and antiquarians, ensured that the disconcerting idea of using them almost as quarries was not pursued, before Felice Gazzola and Mario Gioffredo focused their the attention on them, followed by many artists including Antonio Joli e Giovan Battista Piranesi (Longo, Pontrandolfo 2020, 387-90). However, we know that, in those same days, Charles of Bourbon was also interested in the purchase of the columns and “other marbles” of the early Christian baptistery of Santa Maria Maggiore, at Nocera Superiore [fig. 2]. Once again, the minister Montealegre wrote to the Dean of the Province of Salerno, informing him that

it is His Majesty’s wish to have all the aforesaid columns and the other marbles that are or may be found in said church, I warn Your Excellency so that, with your skill and prudence, you may procure, without fuss, to arrange things in such a way that they come within your power [...] it will be well for you to handle this affair as if it were for some private individual, for the very reason that other individuals are negotiating to have said columns, which Your Excellency must absolutely prevent them from being sold to others.³

come che s’hanno da lavorare in altra forma, nulla importerebbe se qualche pezzo si spezzasse”. The document is published in Laveglia 1971, 216-17, 248-9. See also Chioisi, Mascoli, Vallet 1986, 19-20; d’Henry 1986, 140; D’Alconzo 1999, 37 note 45; Moleón Gavilanes 2012, 93-5; Pollone 2016.

2 “Grandi colonne, che in quello [...] si sono cavate, parte delle quali nella Real Villa di Portici si possono vedere, e parte sono state trasportate nella Cattedrale di Napoli” (Venuti 1748, 99).

3 “È desiderio di S.M. avere le suddette colonne tutte e gli altri marmi che si ritrovano o si ritrovassero in detta chiesa, io ne prevengo V.S. Ill.ma affinché colla sua destrezza e prudenza procuri senza strepito di disporre le cose in maniera che vengano in suo potere [...] sarà bene ch’ella maneggi quest’affare come se fosse per un qualche particolare, col motivo massimo che altri particolari appunto stan trattando per avere dette colonne, le quali assolutamente deve V.S. Ill.ma impedire che ad altri si vendano”. The document is published in Strazzullo 1982, 328-31. The building ran again the risk of being stripped in 1758, when Luigi Vanvitelli visited it to verify the feasibility of re-using its columns in the construction of the Royal Palace of Caserta (Strazzullo 1955, 9-10; Fresa, Fresa 1974, 234-5).



Figure 2 Jean Pierre Louis Laurent Houël, *Visitors with Torches Inside a Circular Building (The interior of Santa Maria Maggiore at Nocera Superiore, near Naples)*. Ca. 1769. Pen and brown ink, gray-brown wash, heightened with touches of white, over traces of black chalk, 268 × 393 cm. New York, The Metropolitan Museum of Art. © The Metropolitan Museum of Art

The words of the Marquis of Salas make it clear not only that the marbles were freely available to unspecified holders who were evidently willing to sell them, but also that the purchase of *spolia* must have been common practice on the part of any private individual (“particolare”), with whom the king could even find himself in competition, unless he had the support of the local authorities.

Even Giuseppe Canart – a court sculptor and restorer,⁴ whose dedication to the protection of the historical-artistic heritage, as we shall see, is not in doubt – does not seem to have shunned such a practice, since in 1748 he travelled to Apulia to find marbles for the capital’s buildings, and to this end he proposed stripping the churches of Lucera, Canosa, Trani and Troia (Don Fastidio 1898). We also know that in 1752 he had two *verde antique* columns removed from Ravello cathedral and transferred to the royal palace of Portici (Strazzullo 1982, 81). This *modus operandi* of Canart had already attracted the attention of Gino Chierici:

⁴ On Canart, for brevity see D’Alconzo 2014, with previous references.

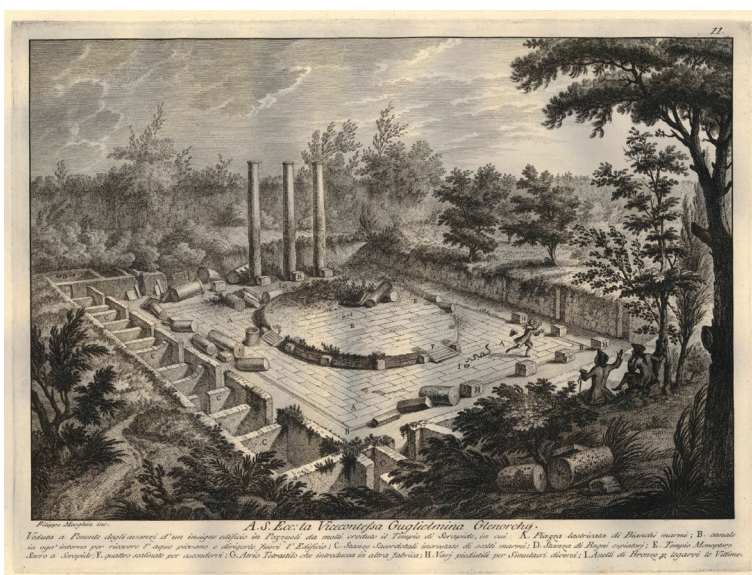


Figure 3 Filippo Morghen (inc.), *Veduta a Ponente degli avanzi d'un insigne edificio in Pozzuoli da molti creduto il Tempio di Serapide*. Etching, 290 × 388 mm. In *Le Antichità di Pozzuoli, Baja, e Cuma, Naples, 1769*, plate 11. London, British Museum. © The Trustees of the British Museum

Castel del Monte also ran the risk of being stripped of what little remained of its ancient splendour, but fortunately Vanvitelli objected that the columns “in the Gothic manner worked three by three” could not be used in modern buildings but at most as a “playful extravagance” in some fountain that, for the moment, could not be thought of.⁵

The reference to architect Luigi Vanvitelli might lead one to believe that he had more consideration for the preservation of those marbles, but this is not the case. In 1756, he is said to have written to his brother that he had made an inspection of the so-called Temple of Serapis at Pozzuoli (fig. 3) to check “some granite and cipolin columns, which are excellent for placing in the porticos of the courtyards of Caserta to prevent the passage of carriages”, adding that “there are four

⁵ “Anche Castel del Monte corse il rischio di essere spogliato di quel po' che gli rimaneva dell'antico splendore, ma per fortuna il Vanvitelli obiettò che le colonne ‘alla gotica maniera lavorate a tre per tre’ non potevano essere impiegate in fabbriche moderne ma tutt'al più per ‘bizzarria giocosa’ in qualche fontana alla quale, pel momento, non si poteva pensare” (Chierici 1937, 91). Cf. also Strazzullo 1955, 9-10.

of Porta Santa that are broken, yet beautiful for making chimneys or doors". Indeed, the *giallo antico* marble columns of the Serapeum, reduced to slabs, were later used to cover the walls of the Palatine Chapel of the Royal Palace of Caserta.⁶ Besides, the monument of Pozzuoli had begun to be used in this way soon after the start of the excavation; as early as 1753 Giovanni Sirignano, "first doctor of the city" ("primo Medico della città") of Pozzuoli, recalled that "however, most of the capitals have been found intact, and have been used to cover the columns in *verde antique* marble that His Majesty [...] has found in various parts of the Kingdom, and which are located in his Royal Gallery of the Royal Villa of Portici".⁷

Finally, there are documentary traces of an episode that is even more singular to our eyes: in 1749, from a Roman building discovered in Pollena Trocchia, in addition to the archaeological finds, Alcupierre took 18,000 bricks of the wall face in several instalments, transported - we do not know for what purpose - to the San Carlo Theatre in Naples, where they were consigned to the painter and scenographer Vincenzo Re (Pagano 1991-92, 231-2).

The cases just recalled suggest that two criteria were applied at such junctures. On the one hand, there emerges a complete disregard for the protection of the integrity of medieval monuments, evidently not yet redeemed from a stylistic censorship that allowed them to be considered almost as sites for the provisioning of materials for reuse. On the other hand, if it is true that, as time progressed, the remains of the Classical period would be looked at with increasing attention, this occurred - not without exceptions, as in the case of Pozzuoli or Pollena Trocchia - only in the surroundings of the capital, but much less so in the peripheral territories of the kingdom, at the time still rarely included among the destinations of the Grand Tour and perhaps also for this reason not considered worthy of special care.

This selective survey of examples is not to be understood as an anachronistic *cahier de doléances* on the Bourbon court's indifference to ancient monuments; rather, it aims to highlight - in the years when excavations in the Vesuvian territories ran in parallel - how little, at least in the short-term, these had an impact on increasing an interest in safeguarding not only the integrity of the contexts, but even of individual finds.

6 "Alcune colonne di granito e cipollino, che sono ottime per mettere nelli portici dei cortili di Caserta per impedire il passaggio delle carrozze", and "ve ne sono quattro di Porta Santa che sono spezzate, ma belle per fare camini o porte". The letter is published in Strazzullo 1976-77, 1: 141-2. Cf. also Hersey 1983, 202; Ciancio 2009, 43.

7 "Li capitelli però in buona parte si sono ritrovati intieri, e sono andati a coprire le colonne di verde antico, che Sua Maestà [...] ha ritrovato in varie parti del Regno, e situate dentro la sua Regia Galleria della Regal Villa di Portici" (Ciancio 2009, 16 fn 15).

Firstly, one cannot fail to note that in the case of Herculaneum, Pompeii and Stabia, those precious ancient artefacts, although removed from their places of origin and decontextualised, were in any case destined from the outset for exhibition, if not actually for museums (as was gradually to happen later); and only on very rare occasions, already harshly criticised at the time, were they were reworked to obtain modern works.⁸ On the other hand, the belated reduction of episodes relating to 'peripheral' pre-existences – some, as we have just seen, even after the protection laws enacted only in 1755 – may also be due to the structuring of a new awareness of the value of the sites in themselves, which was influenced by the refinement of the methodology developed in Pompeii; it was only in the first half of the sixties that this led to the decision to conduct the excavation in the open air (D'Alconzo 2020, 114 and fn 31).

This, in short, is the panorama in which the legislation promulgated more than fifteen years after the beginning of the excavations at Herculaneum should be placed. And it is symptomatic that the same Giuseppe Canart, who travelled the kingdom in search of ancient marbles to be freely used in the capital's construction sites, on 2 October 1751, reporting on some recent discoveries in Abruzzo, for the first time pointed out the advisability of issuing a law to regulate excavations and the export of archaeological goods, pointing to the Papal State as a model.⁹ Nor should the apparent contradiction in the court sculptor's conduct come as too much of a surprise, given that he aimed to comply with the sovereign's wishes and interests, so all his proposals, in the absence of any general indications, were primarily aimed at this objective, whether it was to recover marble for the royal residences or to set up a system of control and safeguards that would also guarantee some fiscal revenue.

In the above-mentioned report of 1751, the first point highlighted by Canart concerned the regulation of excavations carried out by private individuals, even on their own land, thus suggesting that the matter was not regulated at the time. On this aspect, though, the surviving documentation from the years of Charles of Bourbon is rather scarce, and above all lacking specific regulatory references.¹⁰ From the various clues available from sources and documents,¹⁰ however, it is clear that it was forbidden to conduct excavations

8 The destruction of some of the bronzes was denounced by Winckelmann, but even Tanucci himself felt that the restoration practices adopted in Portici in the early years had not been too respectful; even in the late 1950s, it was decided to destroy murals on site that were not to be removed, to prevent them from being illegally removed and ending up on the market (D'Alconzo 2002, 48-53).

9 For the transcription of the document see D'Alconzo 1999, 24, 143.

10 In 1755, measures were taken against the 'ciceroni' of Pozzuoli who, not content with accompanying foreign visitors for a fee, conducted illegal excavations in order to sell them the finds (Ciancio 2009, 43-4). Winckelmann, on the other hand, complained

on one's own, and this inference is confirmed by a report of 1785, when – wishing to introduce a clearly more liberalist legislation, favourable to the encouragement of the antiquities trade – an “ancient general prohibition” (“antica general proibizione”) was mentioned, which considered the matter similar to that regulated by the laws on treasures and mines, for which the “sovereign right of regalia” (“sovrano diritto di regalia”) applied (D’Alconzo 1999, 67-72; Napolitano 2005, 166-7). This, nonetheless, did not prevent clandestine private excavations from being undertaken, but of these, precisely because they were indiscriminately considered illicit, few and confused traces remain (nor did they leave many already at the time, if only to avoid incurring penalties); and, in the absence of a control body, it is evident that it became very difficult to follow the commercial circulation of the finds, most often sold to wealthy foreign travellers. It was precisely to avoid this risk that the proposal put forward by the court sculptor was aimed, not by chance modelled on the Roman example, on which he drew to suggest making the sale of ancient finds abroad subject to authorisation. Only this second suggestion, however, found its way into the final formulation of the legislation actually promulgated, while the part concerning the regulation of private excavations was left out, for reasons to which we will return.

In any case, it took four years for the legislation called for by Carnat to see the light of day, and it was achieved through a rather complex legislative process, at the end of which two closely related laws were published.¹¹ Beyond the merely procedural issues, of particular interest are the contents of the first of the two dispatches sent by Charles of Bourbon to the Regia Camera della Sommaria, Supreme Court of the kingdom, to prepare the text of the law. In brief, the instances that motivated the sovereign despatches are threefold: the safeguarding of the mobile artistic and archaeological heritage, explicitly understood as an identitarian element; the emulation of the more culturally advanced European states; attention to the economic-cultural benefits that the protective action could guarantee.

In particular, the safeguarding of the young kingdom's archaeological heritage, although not the sole objective of the law, was understood as an incentive for the recovery and construction of a national identity: in the first instance, the recognition of the value of those assets implied criticism of past viceregal governments, which had impoverished

in 1762 that the court did not give “permission to anyone to make a considerable excavation on their own account”.

11 “L'estrazione di sì fatte reliquie di antichità, senza espressa licenza de' Sovrani è stata vietata” (Giustiniani 1803-08, 4: 201-5).

the southern territories, to the benefit of foreign countries; the regret, however, immediately translated into a stimulus to emulate the “most cultured” (“più culti”) European states, where “the extraction of such relics of antiquity, without express licence from the Sovereigns has been forbidden” (Giustiniani 1803-08, 4: 201). Having stated this premise, it was established that in order to export protected goods abroad – the identification of which was entrusted to a long taxonomic list that ranged from ancient finds to works of art from more recent centuries, from marble to gold and silver, according to a legal model that was widely attested, particularly in Rome, although in Naples it lacked what jurists called a “drainage rule” (Speroni 1988, 19) – one had to ask for a licence and pay a tax in percentage of the ascertained value. In a subsequent dispatch, Charles of Bourbon approved the appointments of the experts in charge of issuing the licences, chosen on the basis of their specific skills. They were the renowned antiquarian Alessio Simmaco Mazzocchi and the court painter Giuseppe Bonito, to whom the king decided to add Giuseppe Canart, in acknowledgement of his having been the first to draw attention to the problem which, after years, the new rules were intended to remedy.

Having completed all the steps, on 16 October 1755 the two laws were published as *Prammatica LVII* and *Prammatica LVII*, understood as separate but interconnected parts of a single text. Clearly articulated, they are motivated above all by the affirmation of the historical and patrimonial identity of the young kingdom, which here was given absolute pre-eminence. This factor took precedence over the references in the papal edicts to “decorum”, “erudition” and the function of “a sure principle of study to those who apply themselves to the exercise of those noble arts”.¹²

Having said this, I think that the conceptual elaboration that must have preceded the drafting of these two laws also ended by having a positive influence on the consideration of the Vesuvian excavations, rather than the opposite, as is usually claimed. The dates seem to confirm this hypothesis: the foundation of the Accademia Ercolanese dates from the following December, a full seventeen years after the start of the most important archaeological enterprise of the century, finally giving new impetus to the long-awaited publication of the findings; and the Museo Ercolanese would only officially open in 1758, although already in the previous years the findings had been given a kind of display inside the Palazzo Reale of Portici and the adjacent Palazzo Caramanico.¹³

12 For the papal edicts, see Speroni 1988, 13-48, with the texts of the Albani (1726) and Valenti (1750) edicts in Appendix: 191-203.

13 On the Accademia Ercolanese: Chiosi 1986; 2007; D'Iorio 2002. On the Museo di Portici: Allroggen-Bedel, Kammerer-Grothaus 1980; Cantilena, Porzio 2008; D'Alconzo 2019.

So, what changed from the mid-fifties onwards, triggering a new mechanism of symbolic interpretation that mainly concerned the archaeological heritage? While it is true that Charles of Bourbon showed great personal interest in the finds from the very beginning, it was not until fifteen years after the start of the Vesuvian excavations, and thanks to Bernardo Tanucci's arrival at the Secretariat of State (1755), that the potential inherent in that enterprise was institutionalised and resematicised, moving beyond an exclusively historical or antiquarian approach in favour of a complex and interrelated system, serving the image of the young monarchy (D'Alconzo 2017; 2018; 2020).

In this context, even the much-criticised secrecy surrounding the results of the discoveries can be better understood on the basis of the desire to affirm the "privativa", i.e. the exclusive right of the sovereign, over a patrimony that was certainly considered as a sort of ornament of royalty (Allroggen-Bedel 1993; 2008; Zevi 1980; 1988), but which was also entrusted with the function of leveraging the identity of the monarchy, by which the Crown of Naples could be projected into the circuit of the great European monarchies: an institutional task, which therefore could not be delegated to personnel outside the court. This point is now confirmed by a manuscript by Ferdinando Galiani, dated 1756 and entitled *Pitture antiche che si conservano nella Real Villa di Portici dissotterate per ordine del Re*.¹⁴ This is not the place to dwell, as I have already done elsewhere, on the characteristics of this text and its purpose, but it is worth quoting here a passage in which Galiani claims the characteristics of the excavation of Herculaneum, linking good laws and proper management of archaeological discoveries:

Because the happiness of his subjects, the sole object of his thoughts, is more directly served by the good laws and excellent regulations he has made than by the discovery of ancient statues, paintings, vases and instruments. If he had done so, as has always been done in every other place, [...] he would have been no more to blame than many other glorious Princes, and especially the Supreme Pontiffs Leo X, Paul III, and Urban VIII, in the age of which Rome saw, not without astonishment, the rise and glory of modern art united with the destruction of the ancient. Having done it in the manner described above, he deserves all the more applause and glory as he is the first sovereign to have made such a vast, lasting and lavish excavation at his own expense and in his own name, and he is the first to have done it as befitting a king.¹⁵

¹⁴ Biblioteca della Società Napoletana di Storia Patria, XXXI C 10.1.

¹⁵ "Perciocchè alla felicità de' sudditi, unico oggetto de' pensieri suoi, troppo più direttamente conducono le buone leggi, e gli ottimi regolamenti da lui fatti, che non la

It is therefore understandable that, in 1755, the regulation of private excavations was renounced: because maintaining the “ancient general prohibition” served to affirm the absolute pre-eminence of what today we would call ‘state’ excavations. The fact that the only permissible explorations were those “of Royal account” implied the strict privilege of the sovereign, and with it all the consequent restrictions; but it also aimed at guaranteeing – and in fact guaranteed – the transmission of a heritage that otherwise, if the new legislation had provided for the authorisation of searches conducted by private individuals, as in the Roman model, would have been more likely to be dispersed. It is no coincidence that even a few years later a singular proposal for the ‘privatisation’ of the excavations of Pompeii was dropped, probably because it aimed to enhance the tourist value of the archaeological site in the service of the interests of the landed aristocracy (D’Alconzo 2020, 118).

On the other hand, if that choice allowed for the centralised management of extraordinary sites such as the Vesuvian ones, it also failed, as I have already mentioned, to prevent the spread of clandestine excavations of lesser extent but no less fruitful. These were uncontrolled and supplied the antiquities market for a long time.

In 1759, Charles sailed to Madrid to receive the Spanish crown. Ideally retracing his steps, let us therefore travel to the other side of the Mediterranean, for some reflections on the Iberian situation in the years immediately before and after his accession to the throne.

3 The Spanish Situation: Early Measures and the Role of the Academies

Unlike the Neapolitan kingdom, the Spanish one was an ancient monarchy that did not need to accredit itself by leveraging its cultural heritage. Conversely, although it had monumental and historical-artistic remains of considerable importance, on the archaeological front it was not comparable to that of the Vesuvian sites, besides being scattered over an enormously larger territory. These two factors motivated a different attitude, aimed, on the one hand, at promoting knowledge of the remains of antiquity already visible rather than

scoperta d'antiche statue, pitture, vasi, ed istrumenti. Che se l'avesse fatta come sempre ed in ogni altro luogo s'è usato, [...] non sarebbe stato da biasimare più di tanti altri gloriosi Principi, e massimamente de' Sommi Pontefici Leone X, Paolo III, ed Urbano VIII nell'età de' quali vide Roma non senza stupore unita l'auge, e la somma gloria delle arti moderne, e la distruzione delle antiche. Avendola poi egli fatta nel modo di sopra descritto, merita tanto maggiore applauso e gloria, quanto egli è il primo de' Sovrani, ch'abbia fatto uno scavamento così vasto, durevole, e dovizioso a spese, ed a nome suo, ed egli è il primo, che l'abbia fatto, come convenivasi ad un Re” (D’Alconzo 2020, 117-18).

launching new excavation campaigns, and on the other at triggering a mechanism of control of the centre over the periphery, where new discoveries, random or otherwise, could take place.

During the reign of Felipe V (1700-46), and even more so under Fernando VI (1746-59), the protagonists of the antiquarian studies and the safeguarding of the cultural heritage were the academic institutions: the Real Academia de la Historia, established in 1738, and the Real Academia de San Fernando, officially founded in 1752, after the years of the so-called *Junta Preparatoria*. Reference must be made to them in order to follow the traces of early protection, including legislation, of archaeological and historical-artistic heritage.¹⁶

On the antiquarian side, of particular importance is an initiative that is part of the various ones sponsored, also in this sphere, by Zenón de Somodevilla y Bengoechea, Marquis de la Ensenada, from 1743 to 1754 Secretario de Hacienda, Guerra, Marina y Indias: an enterprise that, in terms of methodology, is part of the various *viajes literarios* promoted especially in the following years. In 1752, the Real Academia de la Historia, drawing inspiration from a report received from Mérida concerning the state of conservation of the local Roman remains, presented the king with a plan for an extensive survey, the *Viaje de las Antigüedades de España*, approved by the sovereign on 2 November, on the basis of an *Istrucción* that Maier Allende has described as “one of the first and most complete regulations [...] for the study, documentation and preservation of ancient monuments”.¹⁷ The implementation of the initiative, based on the transcription of epigraphs and documents, as well as detailed drawings of the monuments, was entrusted to Luis José Velázquez de Velasco y Cruzado, Marquis of Valdeflores. Unfortunately, from 1755 the *Viaje* was no longer financed, and nevertheless its curator continued for some years at his own expense, finally publishing the *Noticia del Viaje de España* (1765) [fig. 4], although most of the documents remained unpublished until very recently.¹⁸

Incidentally, it is worth mentioning here another similar initiative, albeit of a more restricted scope, both in terms of the means adopted and the context of application, and involving another academic institution: a proposal from the Real Academia de Bella Artes de San

16 For a general overview, including the activities of the Real Academia de la Historia, see Mora 1998; Beltrán Fortes 2003; the various contributions collected in Almagro Corbea, Maier Allende 2010; J. Maier Allende in Velázquez 2015, 20-35. On the Academia de San Fernando: Bedat 1989.

17 “Una de las primeras y mas completa normativa [...] para el estudio, documentación y conservación de los monumentos antiguos”: J. Maier Allende in Velázquez 2015, 1: 50, with previous bibliography. See also Abascal 2012, 55-62.

18 Mora 1998, 44-5, 90-1; Salas Álvarez 2010; J. Maier Allende in Velázquez 2015, 1: 44-116.

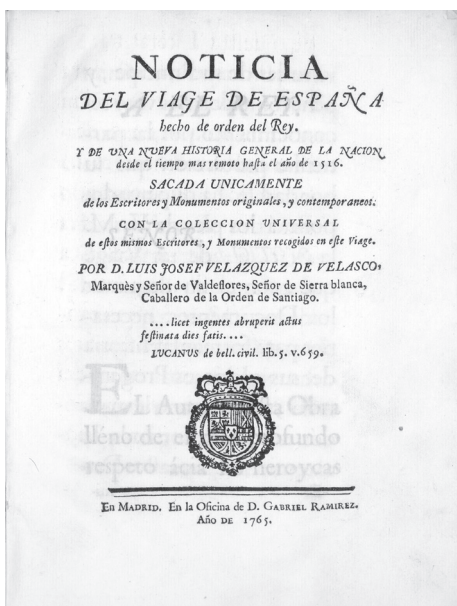


Figure 4 Luis Josef Velazquez de Velasco, marqués de Valdeflores, *Noticia del Viage de España hecho de orden del Rey*, Madrid, 1765. Frontispiece. © Biblioteca de la Universidad de Sevilla

Fernando, explicitly motivated by the need “to preserve and spread information about our antiquities and monuments, especially those that are most in danger of being lost in the course of time”.¹⁹ The project was presented in October 1756, when it was considered that the twofold objective of a survey and conservation could be achieved by entrusting a painter with the task of faithfully copying on paper some of the frescoes of the Alhambra in Granada, a task that would then take several years to complete.

Regardless of the concrete outcome, initiatives of this tenor have no comparison in the Kingdom of Naples where, on the contrary, as we have seen, in those same years monuments far from the capital did not seem to arouse any institutional interest, except as possible

19 “Conservar y propagar la noticia de nuestras antigüedades y monumentos, singularmente de aquellas que están mas expuestas a perderse con el trascurso del tiempo”: Madrid, Archivo de la Real Academia de Bellas Artes de San Fernando (ARABASF), *Junta ordinaria* de 14 octubre 1756, legajo 3-81, fol. 52r-v; mentioned in Bedat 1989, 433-5 and in Arbaiza Blanco-Soler 1999, 28-9; the question is reconstructed in Rodríguez Ruiz 1990. Quirosa García (2008, 28) deduces from it general indications aimed at the enactment of “nuevas normas”, which, however, a complete reading of the text does not allow to endorse. The Real Academia de la Historia was soon involved in the project, which would later result in the collection of the *Antigüedades Árabes de España*: Rodríguez Ruiz 1990; Maier Allende 2010, 275-6; Almagro Gorbea 2015, 15-19.

quarries of material, and where the Accademia Ercolanese's range of action was territorially circumscribed, albeit very significant.

If, therefore, in the cases just mentioned it was recognised that the action of protection had to derive from an effort that was first and foremost knowledge-based, even from a strictly regulatory point of view the first measures taken in the Iberian territory preceded the Neapolitan laws by a couple of years, although they could not boast an equally coherent and articulated structure. A royal order dates from 8 April 1752, also by the Marquis de la Ensenada: it was motivated by the construction of the arsenal of Cartagena [fig. 5] and aimed at the conservation of ancient artefacts found during the works. By only very slightly forcing our interpretation of it, we can almost glimpse the distant origins of what we now call preventive archaeology: it stipulated that discoveries, even if minor or poorly preserved, should be returned to Madrid so that they could be properly studied (Béthencourt Massieu 1963, 80-7; Mora 1998, 90).

Those same intentions were taken up and expanded with the Royal Decree of 14 July 1753, which can rightly be considered the first general provision aimed at the 'active' protection of the archaeological heritage:

it is ordered to the Justices and Courts of the Kingdom to send to Madrid [...] all the pieces of antiquity that are to be discovered, with an expression of the place in which they are found, such as statues of marble, bronze or other metal, broken or entire, mosaic pavements or of any other kind, tools, or instruments of wood, stone or leather, coins, or gravestones, and what is said of them by writings, traditions, or notices, which the said Justices must communicate to the Intendants, who must pay the cost of the discovery on behalf of the Royal Treasury, and provide notification to H.M., by confidential means or by the Minister [...].²⁰

Drawing attention to the earliness of these two directives with respect to the first Neapolitan laws is intended to bring out the fact that in those same years the Iberian development was proceeding

20 "Está mandado á los Corregidores, y Justicia del Reino remitan á Madrid [...] todas las piezas de antigüedad que se hallasen, con expresión del sitio en que se encuentren, como son estatuas de marmol, bronce ù otro metal, rotas ò enteras, pavimentos mosaicos ò de otra especie, erramientas, ó instrumentos de madera, piedra ó suela, monedas, ó lapidas, y lo que de ellas se diga por escritos, tradiciones, ó noticias, que las dichas Justicias deben comunicar á los Intendentes, estos pagar el coste del descubrimiento de cuenta de la Real Hacienda, y dar el aviso con su remisión á S.M. por la via reservada, ó por el Ministro [...]", in Martínez Silvestre 1768, 4: 51. The decree is commented on in Quirosa García 2008, 27, where it is interpreted as a "modelo de protección selectiva" of only the categories of goods expressly listed, misinterpreting an incompleteness that I do not consider intentional but due, as already noted for Naples, to the absence of a cautionary expression 'of drainage'.



Figure 5 Juan Fernando Palomino, *Vista de la ciudad, puerto y arsenal de Cartagena*. Engraving, 147 × 182 mm. In Bernardo Espinallt y García, *Atlante español, ó Descripción general geográfica, è histórica de España, por Reunos y Provincias*, Madrid, 1778-95, vol. 1 (1778), plate 4. © Biblioteca Nacional de España

independently and that, although it did not go so far as to regulate private excavations explicitly aimed at the search for antiquities, at least a process was set in motion that denoted an interest in knowing and acquiring – at State expense – finds and any other evidence, regardless of where and how they were found. On the other hand, precisely because it was not inspired by laws that had already been in operation for some time, such as the pontifical ones, even the 1753 decree revealed more good intentions than the capability to support them with an adequate administrative structure, and this limit would have inevitable long-term repercussions.

The timing of the Spanish initiatives also concerns the other area of application of legal protection, namely the need to control the possible commercial circulation of archaeological and historical-artistic artefacts. To follow its traces, it is necessary to leaf through the documents that mark the years of the *Junta Preparatoria* of the Academia de San Fernando, a transitional period that served to finalise its definitive statute. It is not possible here to set out the various steps, already reconstructed by Claude Bedat, but it is sufficient to recall that the first reference to the issues that we are discussing here is to be found in the *Adiciones* drafted by Felipe de Castro, *Escultor*

de cámara of the king, who in 1748 – on the basis of his role, but also of the experience he had gained from fifteen years in Italy – was called on, along with others, to examine the draft statute presented the previous year by Fernando Triviño. De Castro's text is not dated, but it has been rightly assumed that it was drafted by 8 April 1751, when the new version of the statute was approved, which incorporated many of its observations.²¹

Amongst the many comments in the *Adiciones*, paragraph XIV suggested publishing a proclamation preventing the sale abroad of ancient works of art, both paintings and sculptures, “things, these, which greatly glorify and embellish the Court of a Monarch and make it more considerable among the Nations”; moreover, this proposal was openly inspired by the measures adopted in the Papal States (“For this reason Rome forbids by public edict even their owners from taking out of the city the excellent and antique things of these fine arts, and so His Majesty by public decree can prohibit it in this Court, and in the Customs of the places of departure from the Kingdom”).²² The statute of 1751, and in particular a section annexed to it under the title *Miscelaneos*, actually contains the proposal to prohibit the export from the kingdom of historical-artistic items, coupled with the request that appraisals of works of art should only be permitted to competent professionals, i.e. the Academy's own members.²³ So, it seems that Felipe de Castro's suggestions were taken on board (at least until 1757, when the statute was again modified), even if it is perceptible that, perhaps on the basis of corporative urges, the sculptor's all-cultural concern was partly reworked to support mainly patrimonial interests. In any case, those developments were destined to

21 Bedat 1989, 75-81. On Felipe de Castro, Bedat 1971 remains fundamental; for bibliographical updates, in addition to Azcue Brea 1992; Urrea 2014, 26; and Brook 2020, 18-23, see the entry “Felipe de Castro”, by Xoán Xosé Mariño Reino, in the *Diccionario Biográfico electrónico de la Real Academia de la Historia* (<https://dbe.rah.es/biografias/11668/felipe-de-castro>).

22 “Cosas estas que mas ilustran, y hermosean la Corte de un Monarca y la hacen en las Naciones mas considerable”; “Por eso Roma prohíbe por edicto publico, el que ni sus mismos dueños puedan sacar de la ciudad las cosas excelentes y antiguas de estas bellas artes, y así S.M. con decreto público lo puede prohibir en esta Corte, y en las Aduanas delas salidas del Reyno”. Both quotations in *Adiciones que de orden de Fernando VI hizo a los estatutos formados por Fernando Triviño [...] Felipe de Castro, escultor de la real persona y de su real cámara y director extraordinario nombrado por el mismo Fernando VI [...]* (ARABASF, legajos 1-3-31-3). See also Bedat 1989, 81; Geal 2005, 75.

23 “[...] se establece, lo primero, que exponiendolo reverentemente á S. Mag.d se solicite mover su Real benevolencia á evitarlos, prohibiendo, con rigorosas penas, á exemplo de las demas Naciones, la salida de sus dominios de toda especie de obra de alguna de estas facultades, ó sus anexas: y lo segundo que en el casco de Madrid sean siempre tassadores generales de las tres, cadauno respecto de la que hiciere mas especial profesión, el Director General, y los Maestros Directores [...]” (ARABASF, *Secretaría. Estatutos. Copia de los Estatutos de 1751*, legajos 1-3-32-1).

leave their mark on the legislation of the time, but it took ten years for the farsightedness of an individual to be adopted by the sovereign and above all by the Academia, his institutional arm, accepting in more concrete terms the need to protect a heritage that was becoming impoverished daily.

On 24 February and 7 March 1761, in fact, the Real Academia de San Fernando again proposed that the king should prevent the export of ancient works of art outside the kingdom, this time explicitly citing the regulations of the Papal States and the Kingdom of Naples as examples, but also referring in general to other 'cultivated' countries, just as in the dispatches from which the approval process of the Neapolitan Pragmatics of 1755 had begun:

In all cultivated States, exports of famous paintings and sculptures of deceased artists is forbidden with the most rigorous penalties, and the magistrates set great importance on this with the greatest vigilance: we know that this happens in Naples and Rome; but among us there is no court that takes care to prevent these exports, nor do we know if they have taken the least precaution about them.²⁴

The proposal, as we have seen, took up Felipe de Castro's wish, which had already been partly incorporated into the statute of 1751. But there was even more to it, because in the meantime a further element may have contributed to the inclusion of the Neapolitan laws promulgated a few years earlier as a reference model, at the same time marking a 'restrictive' interpretation that would have affected the effectiveness of the Spanish measures. I put forward this hypothesis because five years earlier, exactly on 10 February 1756, Alfonso Clemente de Aróstegui, minister plenipotentiary to the court of Naples [fig. 6], had sent to Madrid, to the minister of State Ricardo Wall, a detailed report in which the text of the two laws promulgated by Charles of Bourbon just six months earlier was given in full. Actually, that report was in response to a request for information on the ex-

24 "En todos lo Pueblos cultos está prohibida la extraccion de Pinturas y Esculturas famosas de Autores difuntos con las mas rigurosas penas, y los Magistrados cuidan de esta importancia con el mayor desvelo: Sabemos que sucede asi en Napoles y en Roma; pero entre nosotros ni hay Tribunal que cuide de impedir estas salidas, ni sabemos si haya tomado la menor providencia sobre ellas". The quotation is taken from the *Consul-ta* of 24 February 1761, in ARABASF, legajos 1-34-2 and 2-57-13. Reported in Antigüedad del Castillo 1994, 391-2; Navarrete Martínez 1999, 429; Arbaiza Blanco-Soler 1999, 30; Geal 2005, 76; Chávarri Caro 2012, 39-40. About this matter, see also the *Juntas ordinarias* of 27 [actually, 22] February, 8 March and 1 April 1761, in ARABASF, *Libros de actas de las sesiones particulares, ordinarias, generales, extraordinarias, públicas y solemnes (1752-1984)*, libro 3-82, accessible through the Virtual Library Miguel de Cervantes: <https://www.cervantesvirtual.com/nd/ark:/59851/bmctx3s6>.



Figure 6 Felipe de Castro, *Alfonso Clemente de Aróstegui*. 1746. Marble. Madrid, Real Academia de Bellas Artes de San Fernando. © Real Academia de Bellas Artes de San Fernando

istence in the Kingdom of Naples of legislation on the sale and export of precious metals, but the author had seen fit to include that relating to works of art as well, thus making the two Neapolitan regulations of 1755 known in a very timely way.²⁵ This seemingly marginal episode, involving two figures – Aróstegui and Wall – both connected with the Academia de San Fernando,²⁶ constitutes a first point of interference between two systems that until then had acted without any evident reciprocal influence; not to mention that the academic motion of 1761, by then openly inspired by the Neapolitan measures, was presented to Carlos III, who had promoted them before assuming the Spanish crown.

While the sovereign approved the general request made on 24 February, this was not the case for the organisational suggestions made at the second *Consulta* on 7 March, to which he replied that “The Paintings and Sculptures, about which the Academy refers to me, will be

²⁵ Simancas (Valladolid), Archivo General de Simancas, *Secretaria de Estado*, legajo 5863, fols. 11-15.

²⁶ Alfonso Clemente de Aróstegui was *Viceprotector* of the Academia in the years 1752-53 and again from 1771 to 1774; Ricardo Wall y Devreux was *Protector* from 1754 to 1763 (García Sepúlveda, Navarrete Martínez 2008, 50, 444).

considered, as regards the prohibition to extract them, and the penalties incurred by the offenders, as the other types of contraband”.²⁷ This generic assimilation to smuggling, however, as well as appearing rather surprising compared to the more analytical provisions of the Neapolitan laws, also meant the renunciation of creating an administrative structure to control the circulation of those specific goods, as the academicians, albeit in a somewhat confused manner, had requested, suggesting that the illegally exported works of art should be confiscated and attributed to the Academy itself, if representing profane subjects, or to the churches of the capital, if of a religious nature. With this act – formalised by royal approval but not comparable to the publication of a special decree, of which no trace remains in the compilations of the time – the problem of the exportation of historical-artistic assets was indeed addressed, but by a path that only partly resembled the measure that movement of ideas that in slightly earlier years had characterised the creation of the first legislation promoted in the Kingdom of Naples, and at the same time that marks the different attitude taken by Carlos III once he arrived in Madrid.²⁸

4 Conclusions

Summarising the elements brought together here, it can be stated that by the middle of the century in Spain – on the one hand due to the initiatives of the Marquis de la Ensenada and the increased role of the Academia de la Historia, and on the other thanks to the contribution of a sculptor such as Felipe de Castro and the more recent Academia de San Fernando – a comprehensive process of protection of the heritage was launched, mainly but not only archaeological, with an action financially supported by the State, both through a knowledge of the pre-existing and in the promotion of new research, as well as in the acquisition of artefacts found during other activities.

On the archaeological side, this also means that – with regard to what has emerged to date, and in the presence of much more concise provisions than the Italian pre-unification laws – in the same period

27 “Las Pinturas, y Esculturas, sobre que me representa la Academia, se considerarán, en quanto á la prohibicion de extraerse, y penas, en que incurran los contraventores, como los demas generos de contravando”: *Consulta* of 7 March 1761, with royal resolution of 21 March, in ARABASF, legajos 1-34-2 and 2-57-13. See also *Junta particular* of 3 March 1761, in ARABASF, *Actas de sesiones particulares y de gobierno de la Real Academia de Bellas Artes de San Fernando, 1757-1854*, libro 3-121, accessible through the Virtual Library Miguel de Cervantes: <https://www.cervantesvirtual.com/nd/ark:/59851/bmcpn9j9>.

28 Without reference to this specific aspect, Carlos III’s un-innovative and ‘lukewarm’ attitude towards Spanish antiquities is highlighted in Mora 1998, 108; following her, with further arguments, Alonso Rodríguez 2017.

in the Iberian territories the conduct of private excavations was not regulated. Although no information has been found on the reasons for this choice, I would exclude that it was determined by the desire to reserve its exercise exclusively to the sovereign, who at this stage had little interest in promoting it; nor does it appear that there was any fear of the proliferation of local research, not conducted under institutional impetus.²⁹ This must have favoured the decision to entrust the role of gathering both information and artefacts to the existing administrative network, the only one that was widespread over such a vast territory but – compared to central-southern Italy – not as widely frequented by foreign collectors. On the other hand, with regard to the problem of commercial circulation, and in particular the export of ancient works of art, the path to the enactment of a law began earlier than in the Kingdom of Naples, but at the same time appeared slower and more rugged, finally settling on a measure that was too vague and generic to guarantee concrete application, and moreover marked by a contradiction with respect to the declared aims. The result was that the very works competing with the prestige and decorum of the State – i.e., the very ones that were to be seized because they were about to be illegally exported – were to be auctioned off, treating them in the same way as any other smuggled goods.

Assessing similarities and differences, the unstable balance between the Neapolitan and Spanish approaches also highlights, on the one hand, the similar propelling role played by two artists, Giuseppe Canart and Felipe de Castro, both court sculptors; on the other hand, and conversely, the considerable asymmetry between the respective academic institutions, in Madrid well-established and endowed with wide-ranging functions, whereas the Accademia Ercolanese was established not only belatedly, but with a much more circumscribed role (although the immense scope of the Vesuvian archaeological enterprise justified its specialisation).

Therefore, that sort of historiographical refrain according to which from the great enterprise of the Vesuvian excavations a renewed and more pregnant interest in the cultural heritage seems to emanate also abroad, as if by concentric circles, should be at least partially reconsidered, recognising that each country, especially in these early phases, developed its own approach independently, and was not necessarily derivative. Of course, in the end there would be a partial realignment between the two countries, which significantly followed the arrival of Charles of Bourbon in Madrid; but that alignment was the fruit of a later season, even though only a few years later. And on closer observation it also contributes to highlighting that, in the passage from one throne to another, not even the decisions of

²⁹ This is what can be inferred from Mora 1998, 89-106; Beltrán Fortes 2003; Alvar 2010.

the same sovereign turn out to be perfectly specular or overlapping, confirming the crucial role played by the cultural and administrative peculiarities of each country.

In spite of the good intentions that guided the first regulatory measures, it is indeed significant that the fact that the same king, once installed in Madrid, assigned Camillo Paderni, custodian of the Herculaneum Museum in Portici, the task of purchasing antiquities to increase the Spanish collections, would be criticised by one of his former Neapolitan subjects; so in 1766 the antiquarian Giacomo Martorelli complained of the “antiquities, which are bought for the Monarch of Spain, and Italy is deprived of the most beautiful rarities which, preserved among us, would draw all the remotest people to admire them”.³⁰

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30 “Anticaglie, le quali si comprano per il Monarca delle Spagne, e si priva Italia delle più belle rarità che, serbandosi tra noi, tirerebbono tutte le più rimote genti ad ammirarle”: Giacomo Martorelli to Francesco Vargas Maciucca (Portici, 18 October [1766]), in Strazzullo 1993, 260; mentioned in Alonso Rodríguez 2010, 239-40.

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