

Government Orders

lishing a system of appeal to the Tax Court of Canada would be a very important step toward encouraging the concept of making donations in our country, a step that the donors as much as the institutions are anxiously awaiting. That also has to be borne in mind. This is not only important to the institutions and the art community, it is important to the donors. In fact it is important to all Canadians.

• (1130)

Over the past few years, the Canadian Cultural Property Export Review Board has been the object of press articles focusing on the board's reduction of proposed fair market values in applications for certification of cultural property for income tax purposes. These stories, by the way, refer to a small proportion of all certification applications. The review board has responded by expressing the challenge of determining fair market value in these economic times where the markets in which cultural property circulates are extremely weak.

It is therefore crucial that the mandate for determining fair market value rests in the hands of experts who are knowledgeable about the twists and turns, the ups and downs of the marketplace and who know how to relate often conflicting trends in the marketplace to the cultural property applications it has before them. This is a very intricate business and it cannot be left to rank amateurs. If the job is going to be done properly it has to be left to knowledgeable people, people who are experts and people in whom we have confidence. This has been thought out and taken into account.

Mr. Mills (Broadview—Greenwood): Integrity.

Mr. Harvard: Yes, as my good friend from Broadview—Greenwood pointed out, people of integrity are also important.

Speaking of people and integrity, the current review board consists of 10 members, the maximum number allowable under current legislation. These members represent the myriad of players who are actively involved in the process of preserving cultural property in institutions or public authorities who are designated to do so.

Let us go through this. Two of the members are contemporary art dealers. Four members are or were employees of designated institutions who have expertise in archival material, Canadiana, contemporary and Inuit art. One member is an accountant, another is a lawyer and the remaining two members are members of the public at large. Several of the members who sit on the board are also collectors who are fully aware of the dynamics that come into play between institutions that collect and collectors who become donors.

This not something that has been slapped together. This has been thought through very well. When we take into account the composition of the 10-member board we can appreciate the kind of thought that has gone into making up the board.

In my opening remarks I referred to comments made by the hon. member for Medicine Hat. That same member at second reading of the bill expressed concern that a board appointed by the government and consisting of members who represent the community it serves could be—to use his words—too cosy, leading to a scratch my back and I will scratch your back situation. That kind of assumption places subjectivity over expertise and suggests that human beings are by nature incapable of assessing their peers objectively. I think he has underestimated the capabilities of people and perhaps even their integrity.

• (1135)

We are not talking about amateurs, we are talking about professionals, professionals that value and wish to maintain their professional integrity. Further, as is the case with all professional organizations, the Cultural Property Export Review Board has a strict code of ethics to avoid any conflict of interest.

I might add that the transfer of determining fair market value to the board in 1991 was not an arbitrary move, but rather the result of the realization that such determinations can best be made only by individuals who are actively involved in the environment in which cultural property circulates.

The appeal process which the bill proposes will ensure the full use of the expertise available on the board. It is intended that given the thoroughness with which the first stage of the appeal process would be handled through a request for redetermination by a subcommittee, most issues with determinations of fair market value would be resolved and that requests for a further appeal to the Tax Court of Canada would be minimal. In other words, we do not see the two-stage review process being used on every occasion. We believe in most cases that all questions will be settled after the first go-around. Very few of these cases go to the Tax Court of Canada. It is important to keep that in mind. We are not interested in a prolonged process where both stages are used up on almost every occasion. We do not think that will happen.

The second stage of the appeal process necessitates that the donor make an irrevocable gift to the institution. Only the donor would be able to request an appeal to the tax court up to 90 days after the redetermination process is completed. Again we are not talking about people who are in the game for frivolous reasons. They are serious donors.

As with anything new, the first and second stages of the appeal process will be subject to trial and error before an efficient and workable system is developed. In other words, we can see this system, to some extent, maturing. One would hope that after the system has been used for a number of years, it will be more efficient and more mature. I believe that is a safe assumption. As with most processes, over a period of time after they have been used again and again, do get better.