

*Cultural Property*

at too low a price. At its simplest, the idea is to apply control to objects above certain age and value limits and to make no attempt to exert control over objects beneath these limits.

The categories of objects upon which the control list will be based and the age and value limits for these categories have been established in the legislation as the result of consultations with the professional community concerned. And I would emphasize that these age and value limits set minimum levels beneath which there would be no control.

● (1230)

Now to some specifics. Why must an object be more than 50 years old to be subject to control? Why must it be made by a person who is no longer living? Why is an application for a permit to export an object subject to control, but imported into Canada within the previous 35 years granted automatically? Canada is a young country. Our cultural traditions, except for those of our native peoples, have developed over a relatively short period of time. So although most European countries base control on cultural property 100 years old, 50 years seems a more reasonable and realistic time period to adopt for our Canadian situation. Of course, there are national treasures to be found in Canada that are less than 50 years old, but to try to safeguard them by the system I am proposing is impractical and, I suggest, undesirable. First of all, it would vastly increase the number of objects to be scrutinized. Then, it offers much greater scope for differences of opinion, legitimate differences of opinion, as to whether particular objects are or are not national treasures.

It is also worth pointing out that the control of trade in objects of less than 50 years of age would discourage the vigorous sort of two-way traffic I think we all wish to encourage which brings recent, important works of foreign provenance into the country in exchange for those that leave Canada and which testify to our growing artistic reputation abroad.

I think that all hon. members would agree that we should not try to exert control over an object created by a living artist. It would infringe upon the artist's right to dispose of a work as that individual sees fit. Further, during an active, creative life the artist should be enabled, with complete freedom—even encouraged—to gain an international reputation. Then there is the practical consideration that, while an artist is living, the body of work is not finite and the institutions responsible for selecting from it can do so in free competition with foreign private collectors and institutions.

I now come to the principles that I propose should be adopted in the case of objects imported to Canada which owners wish to export. Here, Madam Speaker, the aim must be to give collectors and the trade as much freedom as possible. It was clear that the only practical test is the length of time an object has been in Canada. In establishing criteria, we recognize that too short a time would cause genuine hardship to owners and dealers. If the time is too long, genuine national treasures may be lost without being given proper consideration.

Some European countries consider 50 years, the equivalent of two generations, as the passage of time necessary

[Mr. Faulkner.]

for an object to become a national treasure "by association". For Canada, a younger country with a shorter history, I am suggesting 35 years, or a generation and a half. In fact, the watershed being proposed to start the control system off, if the legislation is implemented in 1975, brings us to the beginning of the Second World War, a time during which important works were not coming into Canada in any large numbers.

What the legislation requires, Madam Speaker, is that if any object falls within the control list, a person wishing to export that object must obtain an export permit. People will be able to apply at Customs offices at least one of which will be located in each province. If after comparing the description of the object as detailed on the application form with the control list, the Customs officer concludes that the object in question is subject to control, he refers the application to a local expert examiner. Otherwise, of course, he would issue a permit. Before going any further, I should like to emphasize to hon. members that the duties of the Customs officer are purely administrative. They make no artistic judgment.

Coming back to our expert examiner, if he decides, on the basis of the criteria set forth in the act for judging the significance and national importance of the object, that a permit should be granted, he advises the Customs officer, who then is required to issue an export permit. If, on the other hand, he advises that an export permit should not be granted, the Customs officer will not issue it and the applicant can keep the object, try to sell it in Canada or appeal to an independent review board. This board is to be equally representative of Canadian custodial institutions and dealers in and collectors of art and antiques.

This Canadian cultural property export review board, as its name suggests, will review the decision of the local expert examiner, on the basis of the same criteria, in order to determine whether the object really falls within the category of a national treasure. If the board decides the object is not a national treasure, it will direct that an export permit be issued. If, on the other hand, the board decides that the object is a national treasure within the meaning of the legislation, and if it is of the opinion that some institution or public authority in Canada might make an offer to purchase, it may establish a delay period of up to six months. If it decides that an offer to purchase is not likely, or in the event that a delay period had been established but no offer to purchase had been made within that time, the board would direct that an export permit be issued. Here I should note that there will be a procedure for determining what is a "fair offer to purchase" in cases where the parties cannot agree.

I should like to emphasize the necessity for limiting control to a minimum. After examining export control systems in force abroad, we concluded that all have some inherent defects which become greater as the number of objects it is sought to control increases. Whatever arrangements are decided upon must be administratively practical. Any attempt to be over-meticulous defeats itself. A workable system of export control must confine itself to limited, well defined categories. As Britain's Waverley report demonstrated, control has been least effective and most irksome when it deals with objects not of the first order of importance.