

Government Orders

institutions, people who buy and sell cultural property, or people who actively collect objects that are important to Canada's cultural heritage. The review board is therefore a board of experts who are knowledgeable about both the significant and fair market value of cultural property.

When the previous government decided to transfer the responsibility for determining the fair market value of cultural property from Revenue Canada to the Canadian Cultural Property Export Review Board it did so without consultation. Members of the review board were not consulted. Dealers and collectors of art and antiques were not consulted. Custodial institutions were not consulted.

In the course of implementing its new mandate, the review board sometimes lowered the proposed fair market value of cultural property. While this was inevitable and had also been the practice at Revenue Canada, the result was that some donors felt that their donations had been undervalued. When they attempted to appeal the board's determination, it was discovered that the right of appeal that had existed under the Income Tax Act had been lost.

In response to the concerns raised, consultations then took place with members of the review board, dealers, donors and representatives of the institutions that collect cultural property. Their response was unanimous: The right to appeal review board decisions was necessary to ensure that the system continued to work fairly.

Bill C-93 is a manifestation of the will of the people. It is not something that was dreamed up by this government, nor is it an expansion of existing tax incentives for the donation of cultural property. It is instead the reinstatement of a right that was lost in 1991. It is also a tangible demonstration that this government listens to the people of Canada and is prepared to move quickly to correct imbalances and inequities in the tax system.

There has been much talk from members of the third party about fairness in the tax system yet they oppose a bill that is just about that, fairness. The current system with the lack of an appeal of determination of fair market value has been characterized by many people as being unfair. The establishment of not one but two appeal processes will restore fairness to the system. It will ensure that if donors believe they have a legitimate dispute with the review board they will be able to pursue it first with the review board and, if necessary, in the tax courts.

Donations to museums, archives and libraries involve a triangular relationship between the donor, the recipient institution and when certification as cultural property is required, between the donor and the institution on one hand and the Canadian Cultural Property Export Review Board on the other. This relationship is one of mutual respect and co-operation in the preservation of Canada's heritage in movable cultural property. This relationship must also include a mechanism for dispute resolution if and when the participants cannot agree about the value of the gift.

The appeal process of determinations by the Canadian Cultural Property Export Review Board proposed in Bill C-93 will permit any donor of cultural property who disagrees with a review board determination the opportunity to pursue this first with the board and if necessary ultimately with the Tax Court of Canada.

The amendments proposed in the bill should be viewed as a guarantee of the donor's right to natural justice through an appeal to the judicial system if that is warranted. These amendments should also be viewed as a reinstatement of a right of appeal that was lost in 1991 when the responsibility for determining fair market value was transferred to the review board.

• (1230)

We believe it is important that the decisions of government boards and agencies be subject to appeal because even in the honest exercise of judgment, differences of opinion can occur. An open and transparent process with respect to determinations by the review board is essential and the right to pursue the matter in the courts, if no other resolution can be found, is consistent with both the Canadian legal system and the concept of natural justice.

As Canadians we have the privilege to live in a country with many cultures. The material history, the cultural property of many diverse groups that make up Canadian society must continue to be preserved for the benefit of all Canadians. I believe the amendments contained in Bill C-93 will help to ensure this happens and will only improve the already unique Canadian approach to protecting cultural property.

In conclusion, I would urge the support of the House for Bill C-93.

[Translation]

Mr. Dan McTeague (Ontario, Lib.): Mr. Speaker, I listened carefully to the comments by my dear colleague, the member for Edmonton North.

[English]

This is a very innovative bill. I have had a chance to review both the comments and some of the supporting documentation provided by the minister of heritage.

I am interested in the comments that my colleague from Edmonton made just a moment ago. In Ontario riding we have many museums and a number of people have donated artefacts over the years. It may come as a surprise to the House that Ontario riding was the riding and the county after which the rest of the province was named in 1867. Previous to that it was Upper Canada and Canada East.

I have a very simple question for the member. Perhaps he could explain to the House some of the significant impacts the bill might have in the area like Edmonton where I know there are many people of various backgrounds who moved there over the years,