

*Cultural Property*

resources to compete with foreign buyers. In this way, the Manoir Richelieu collection was purchased in 1970 and the Borduas collection in 1972. Indeed, in March, 1972, my predecessor, reflecting the growing concern of Canadians for the preservation of the heritage, implemented a national museum policy.

This policy made provision for the creation of an emergency purchase fund. The idea was to provide ready funds to stem the continuing departure of national treasures, and even to buy back treasures which had left the country in the past, until appropriate measures could be taken better to control the export of heritage objects. This emergency purchase fund, developed as an interim measure, provided moneys so that the government could act quickly in the case of national treasures threatened by export or national treasures appearing on the international market which should be repatriated.

Since 1972 the fund has provided the means to buy a number of such national treasures that were in danger of being exported or that became available for repatriation on foreign markets. Within Canada this has involved such diverse objects as collections of decorative art from Quebec and a Tufts printing press in the maritimes. We have been able to preserve here treasures reflecting the artistic traditions of our native peoples. Many outstanding objects have been repatriated, perhaps most notably the Speyer collection of Amerindian cultural and artistic material from Canada which was purchased in West Germany last spring. Some members will recall the repatriation of the eighteenth century portrait by Greuze that had been part of the famous collection of Sir William Van Horne.

But the existence of an emergency purchase fund is only a measure suitable for a hit-or-miss operation. For one thing, it depends on the competent authorities getting advance warning of an upcoming "export" sale and an owner who is willing to accept a fair market price. Because of this hit-or-miss aspect, and in order to make special funding available to a wider range of custodial institutions such as archives, libraries and public authorities as well as museums, we decided on recourse to legislation. By establishing a system of control over the export of cultural property and by providing funds to facilitate the purchase of objects stopped by the control system, the emergency purchase fund would no longer be needed. The fund will, of course, remain in operation until this new legislation comes into force.

While developing the policy for this new legislation we studied the export control systems in force in a number of countries. The systems adopted by the United Kingdom and France turned out to be of particular interest in terms of the Canadian situation. The French system provided the example of a decentralized operation. To apply to export cultural property from France it is necessary to deal with certain designated Customs offices located throughout France in the areas of heaviest traffic. Members will recognize how, for a large country like Canada, it would be preferable to adopt a system which would provide for a number of centres where applications could be dealt with and decided on with the help of local professional expertise.

If the French system provided the practical example of a decentralized control suitable to Canadian needs, the philosophy upon which the British export provisions were based seemed to represent an approach to emulate with its record of 25 years of successful implementation. Further, this experience has been characterized by support from all groups in the United Kingdom with a direct interest.

Thus, the legislation before the House proposes that the export of cultural property be based on two factors, age and value; that an independent review board be charged with the responsibility of judging appeals from individuals who, having applied for permission to export an object, have been refused by the Customs authorities on the advice of expert examiners; that in dealing with cases referred to it, the review board, like the expert examiners, be guided by criteria which, although by necessity subjective, have been inspired by successful experience in the application of like rules in the United Kingdom.

In 1952 the British government published the exhaustive report of the Waverley committee which had been appointed to recommend improvements in the practical application of export control. Among the principal recommendations which the British adopted, and which we believe should also inspire a Canadian system of control, are the following. First, the state must retain the right to prevent the export of objects of high importance in suitable cases. Second, in every case in which export is prevented, the owner must be assured of an offer to purchase at a fair price. Third, export control should be confined to limited categories of objects of high importance. Fourth, there should be a time limit within which the natural free flow of commerce in objects recently imported is exempted from controls. Fifth, offers to purchase should be related to the market price wherever the conditions admit of a general and reasonable market price being arrived at. Sixth, a special fund be established which could be drawn upon to assist in financing the retention of cultural property in appropriate institutions in the country after they have been declared to be of national importance.

In concluding this reference to foreign precedents, I would like to draw the attention of the House to two matters of practice and principle that both France and Britain have adopted. First, both recognize the critical importance of enlisting the co-operation of collectors and the trade if an export system is going to be able to work effectively and, second, in order to encourage the movement of national treasures into those institutions best able to preserve them, both countries offer various tax incentives to encourage gifts and the sale of national treasures to appropriate custodial institutions.

The system of control that I am proposing in Bill C-33 envisages the establishment, by order in council, of a control list based on age and value limits. The application of a broad criteria of age and value offers the simplest and most efficient way to apply control. Age, for example, is a factor that helps to establish rarity; value, on the other hand, helps to establish quality. Thus, the control list establishes the basis upon which the system will operate. It sets the ground rules, so to speak. However, Bill C-33 allows for changes to be made in the control list in response to the upward movement of prices on the market or in cases where the control may have been originally set