

THE UNIVERSITY OF CALGARY

Changing Meanings of Native Cultural Objects:

Taste, Politics and Processes of Culture

by

Anne E. Price

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE

DEGREE OF

MASTER OF ARTS

DEPARTMENT OF COMMUNICATION STUDIES

CALGARY, ALBERTA

APRIL, 1992

© Anne E. Price 1992



National Library
of Canada

Bibliothèque nationale
du Canada

Canadian Theses Service Service des thèses canadiennes

Ottawa, Canada
K1A 0N4

The author has granted an irrevocable non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without his/her permission.

L'auteur a accordé une licence irrévocable et non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

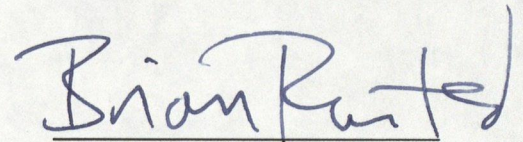
L'auteur conserve la propriété du droit d'auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ISBN 0-315-75136-3

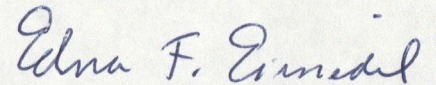
Canada

THE UNIVERSITY OF CALGARY
FACULTY OF GRADUATE STUDIES

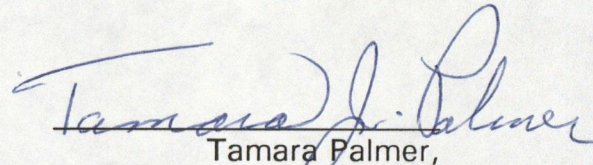
The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies for acceptance, a thesis entitled "Changing Meanings of Native Cultural Objects: Taste, Politics and Processes of Culture" submitted by Anne E. Price in partial fulfillment of the requirements for the degree of Master of Arts.



Supervisor, Brian Rustel,
Faculty of General Studies



Edna Einsiedel,
Communication Studies, Graduate Program



Tamara Palmer,
Faculty of General Studies

(Date)

24 April 92

ABSTRACT

Native cultural property has been exported from Canada since first contact with Europeans. At various times these objects have been viewed as curiosities, scientific specimens, and art. Most recently they have become a site for a political discourse related to native claims for self-government. This research enquires into the changing meanings of native cultural objects, and the ways in which public institutions participate in a process of legitimation of particular meanings. Specifically, government policy is seen to be an index of the historical changes in meaning, and to have contributed to particularized understandings which we have of these cultural objects through the enactment of legislation which reflects taste cultures. As such one piece of legislation, the Cultural Property Export and Import Act, is examined through a three-fold analysis. First, the Act is placed in the historical context of the government policy - or absence of policy - related to the export of native cultural property since the 1800s. Second, the 1975 discussions in parliament regarding the Act are analysed, and the perceptions of legislators are examined. Third, interviews with individuals who are, or have been, intimately involved with the preparation and the implementation of the Act are analysed. The findings evidence not only a shift in attitudes towards these objects since the 1800s, but provide an example of the legitimation of cultural values, and of significantly changed awareness of the meanings of

native cultural objects since 1975. In addition, the analysis gives insight into the ways in which ideologies and perceptions are translated into governmental research objectives and ultimately into policy statements.

PREFACE

In 1988, when the Lubicon Indian Band was protesting the failure to resolve their land claims, I acceded to their request for a boycott of the exhibition The Spirit Sings. My knowledge of native cultural activities and objects was slight, as was my knowledge of the political issues involved in the protest, but I succumbed to a sympathy with the Lubicon which one of the interviewees in this study described as "Rousseauesque."

This research springs, in part, from that idealistic sympathy which, in turn has its roots in other experiences. In concert with the guilt associated with what is called the 'white man's burden,' I can point to two particular circumstances which bear some relationship to this issue and my response to it.

On the face of it a white woman from England would seem to have little in common with Canadian aboriginal people, but as I examined my emotional response to their cause I realised a few things. First, I had experienced the take-over of elements of my own culture by other social groups. As a member of a working-class community in London, I participated in and enjoyed the culture of the cockneys whose humour and songs permeate much of suburban life in that part of the world. I was raised listening to my mother singing music hall songs, my father's offbeat humour,

the Billy Cotton Band Show on Sunday morning radio, and my brother's Tony Hancock records. When, therefore, as a teenager I watched Dick Van Dyke do a dreadful imitation of a London cockney in Mary Poppins, and Julie Andrews unlearn her feigned cockney dialect in My Fair Lady, I was outraged. How dare they? These usurpers had taken and abused my cultural heritage. It was not theirs to take, and having taken it they showed it little respect.

The second circumstance which influenced my response to Canadian native people and their culture was the period of four years I spent in the Northwest Territories. During that time I travelled extensively in the Great Slave Lake area and visited a number of native communities. The cultural shock was, initially, so great that in Fort Rae I was afraid to get out of my car. I realised that this lifestyle was not that which Canada projects abroad, and I began to reflect upon the Canadian images with which I had immigrated. At that time, also, Georges Erasmus was just beginning to make a political impact and I remember being very impressed by his defense of his people and their place in the nation of Canada.

Later, as a student of communications, I began to take an interest in the cultural products that Canada exports, and what they project about the Canadian identity. In the process I ran across the Control List for the Cultural Property Export and Import Act (see Appendix A). This struck me initially as a bizarre document which attempted to identify, categorize, and place a value on the national heritage in movable cultural property. In doing so, it seemed

to me, the drafters of this document had reduced the concept of the national treasure to bureaucratically digestible portions but had somehow failed to offer the complete meal. Was this all there was to it?

They had also, it seemed, presumed a custodianship of native cultural objects which, in the light of The Spirit Sings, I found to be uncomfortably patronizing. Feeling once again the dismay I had felt in watching Mary Poppins, I turned my attention to the process by which native material cultural came to be in the hands of Euro-Canadians. Thus, I began this study, and a journey of discovery into the ways in which cultural objects have meaning, the relationship between taste cultures and class structures, the production of cultural 'texts,' and the processes by which meanings are defined, redefined, legitimated and reproduced.

For Geoff, Ken and Nancy

Contents

Approval Page	ii
Abstract	iii
Preface	v
Dedication	viii
I. Introduction	1
Definitions	1
Policy and Cultural Goods	3
The Significance of the Study	15
II. Review of Literature	18
Ethnography of Communications	19
Communications Theory and Cultural Policy	24
Collectors and Their Visions	28
III. Methodology	37
Historical Overview, Social Context	39
Case Study	39
Personal Interviews	43
Limitations	44
IV. The History and Meanings of Collections	46
Yes, But is it Art?	47
The History of Collecting	49
A Rising Canadian Nationalism	52
Scientific Trends and Devaluation	57
Surrealist Appropriation	61
Trafficking in Antiquities	65
V. Talking Culture, Talking Nationalism	68
The Need for Legislation	72
National Heritage	80
Collectors and the Trade	92
Cultural Property	100

VI.	Then and Now: The Act, its Preparation and its Applications	112
	The Ethos of the Time	114
	Perceptions of Cultural Property	120
	Cultural Property as a Component of National Heritage	129
	Commerce, Collectors and 'The Trade'	142
	The Review Board	146
VII.	Conclusion	149
	The Record Shows ...	151
	Control and Classification	154
	National Heritage	156
	Signification and Meanings	158
	Social Contexts and Communications	160
VIII.	Bibliography	163
IX.	Appendixes	172
	A. Excerpts from the Canadian Cultural Property Export Control List	172
	B. Text References for Parliamentary Debates	174
	C. Contributors to the Parliamentary Debates	175
	D. Excerpts from the 1970 UNESCO Convention	176

Chapter I

INTRODUCTION

The Purpose of the Study:

This study seeks to address factors which contribute to the changing meaning of native material culture. The question being asked is essentially: "how does cultural legislation legitimate particular meanings for native cultural objects?"

Before embarking on the journey to discover this, it is important to explain what is meant by two key terms: "policy" and "culture". Each of these is mentioned repeatedly in this study, and definitions are in order at the outset. Following these there is here an introductory assessment of the discussion surrounding state intervention in culture, and subsequent to this is an indication of the significance of this research.

1. Definitions:

Policy

'Policy' can be understood as having quite a broad definition. It can be viewed as broadly as any government behavior related to the question at hand (Jones, 1977:4). This broad definition allows for an analysis of inaction on the part of governments to be analysed as an expression of policy, and thus the absence of legislation in the 1800s can be viewed as such (Heclo, 1972:85).

More specifically, however, I will focus upon the 1977 Act which controls the import and export of native cultural objects, and the discussions which lead to its enactment. Policy, in this case then, refers quite specifically to one piece of legislation; the Cultural Property Import and Export Act.

Culture

Before assessing the policy relating to the import and export of native cultural goods it is necessary to clarify the broadness of the classification under which cultural goods may fall for the purposes of this discussion. This complex term has been used, with various connotations, by anyone concerned with self-conscious creative activities of every kind. Indeed, in Culture: A Critical Review of Concepts and Definitions (1952) Kroeber and Kluckhohn listed 164 different definitions of culture and then added more of their own. Accordingly Raymond Williams, in Culture (1981) indicates his need to specify his own understanding and use of the term. This is described in two fairly "common sense" interpretations. The first uses 'culture' to describe the 'informing spirit' of a whole way of life, and which is most evident in such activities as language, styles of art, and so on. This understanding is most likely to be in play when discussing, for example, the role of culture in uniting the nation. The second interpretation uses 'culture' to describe 'a whole social order' which sees styles of art as the product of "an order primarily constituted by other social activities". (Williams,

1981:12). This interpretation is used primarily when discussing other nations as in, for example, discussions around the notion that "the Arabian culture is quite different from ours." At the same time, however, Williams notes that there is some practical convergence between the concept of culture as a whole way of life and the common sense of culture as artistic and intellectual activities.

My research hopes to illustrate this convergence by using policy as a cultural text. In this way, analysis of policy may be seen as discussing not only artistic and intellectual activities, but also indicating some significant aspects of the 'whole way of life' of the policy makers. This assessment will focus not only upon the export and import of native material culture, but also upon the role of the state in relation to these activities.

2. Policy and Cultural Goods

An expression of our values in relation to cultural objects is our government policy, and as this research makes clear, the government has a significant role to play in assigning meaning. This role has been analysed academically from a number of perspectives, although policy on cultural goods is most often analyzed for the implications which it has domestically (see Audley, Eaman, Starowitz among others). Most often policy is analysed realistically as discussing those issues which are its subject, and only rarely are cultural policies addressed as ideological, indicating the biases, values,

tastes, assumptions or attitudes of their authors.

In addition, government support for the arts (and particularly for museums) is generally perceived as a longstanding tradition. It is widely perceived as a public good; its maintenance is applauded and its increase promoted. Enthusiasm for government support is often couched in terms of education, nationalism, moral imperative, support for commerce, and international relations. That it is a "good" is seldom questioned. However, as the historical record shows it is a relatively recent phenomenon in terms both of European and Canadian history. As David Mitchell has found, culture first entered the realm of political discourse in western nations in the 1940s, at which time it was implied that the rationale for government intervention was "for the sake of society" (Mitchell, 1988:160,161).

Mitchell notes, as do DiMaggio and Useem (1978) among others, that the arts are, and have always been, largely the province of an economic and social elite. "Elite presence on art-organization governing boards is matched by the virtual absence of members of the middle class, working class, or poor" (DiMaggio and Useem, 1978:361). And, one should add, of ethnic minorities. In addition, not only does the elite dominate the policymaking bodies, but also the audiences for the arts. As such the arts themselves are useful as instruments for the maintenance of position in social class hierarchy. The policymakers, therefore, have to deal with a conflict between the notion of art as a public good, and the elite domination of it, since the control of arts

institutions allows for what DiMaggio and Useem call "the cultural power to define art" (1978:369).

Public funding for the arts is justified under essentially three different rationales; public support, economic impact, and educational value.

However, all of these rationales can be faulted, and have been criticized by DiMaggio and Useem, and also by Steven Globerman (1983). Globerman takes an economic perspective on the debate and finds that government intervenes because the market has otherwise failed the arts. This market failure argument takes three forms: meritocracy, unfair competition, and information, all of which roughly correspond to the three rationales which DiMaggio and Useem present of public support, economic impact and educational value.

a) Public Support Rationale:

The first rationale for government intervention is that there is public support for public funding of the arts. In Globerman's terms, the market fails to respond to an unsatisfied public demand for culture: the meritocracy argument. That is, particular expressions of culture are deemed as necessary and/or beneficial (notably elite culture) but the market is unable to supply it. Not surprisingly Globerman, DiMaggio and Useem all find that the greatest support is from that sector of society which benefits from it the most directly - the upper and upper-middle class.

b) Economic Impact Rationale

The second rationale is that cultural institutions have a positive impact upon the economy. They attract visitors to cities, influence relocation decisions, employ artists, and so on. This rationale has become increasingly significant in recent years and, as Berland and Straw (1991) have found, has emphasized "the need to win a larger share of the national and international market in this sector" (1991:277). Globerman's argument against the notion that culture-is-good-for-the-economy is that Canadian producers of cultural products are seen to suffer a disadvantage in relation to American producers: the unfair competition argument. DiMaggio and Useem find the economic-impact argument flawed in as much as "it is not at all clear that public support for the arts is preferable, on economic and social grounds, to public investment in other fields" (1978:375).

Mitchell (1988) describes, in addition, four categories of economic impact rationale for intervention in culture:

1. The 'market-failure' rationale, which suggests that the arts are entering a financial crisis caused by spiralling production costs and thus require government subsidy.
2. The 'market-failure/merit-goods' rationale, which contends that the state should support cultural activities when necessary because the goods and services benefit society.
3. The 'multiplier-effect' rationale which accepts the economic failure

of cultural activities on the grounds that they are labour-intensive and thus benefit the local economy and government through taxes.

4. The 'cultural industries development' rationale contends that financially weak activities which are both cultural and business ventures, could become solvent through government intervention and ultimately benefit the economy.

Whatever slant one may take on the economic-impact argument, it seems clear that from this perspective the state displays no particular interest in works of art as such. "Its concern, rather, lies in creating the conditions for routine economic activity, art simply being one of the commodities traded" (Becker, 1982:167). Native art objects, therefore, are perceived in this way as a commodity, and the relationship to the community is purely economic.

c) Educational Value Rationale:

The third rationale for state-supported culture is that of the value of education which is derived from the arts. Globerman's interpretation of this is that subsidies allow production of the arts to give large numbers of people, who would otherwise be ignorant, firsthand experience of them; the information argument. He points out that, in fact, museums have a quite limited educational function in relation to their roles as collectors and exhibitors. Although education in the arts is sometimes perceived as "opening the learning pores," DiMaggio and Useem waste no time in pointing

out that this notion has very little evidence with which to support it.

Globerman shares with DiMaggio and Useem the view that in fact the primary impact of the educational value of the arts goes to frequent spectators at cultural events who, by and large, enjoy above-average incomes and possess above-average educational levels.

Globerman suggests that if we perceive of the issue as a purely economic one related to market failure, we will find that government subsidies are not justified. As it is, he says, we are simply left with the notion that the promotion of culture is necessary for social survival, and this idea is typically stated as an axiom (1983:xviii).

2. i. The Manipulation of Culture

The promotion of culture as a public good is seldom challenged. The implication is that cultural goods and activities represent the social cement which unites peoples, regions, and nations in order that they may go forward together into the future. Just as unity and forward-thinking are perceived of as "good things" so, logically, must be the binding factor: cultural production.

Historically, however, there has been an added dimension to this urge to promote cultural activities for the social good. There has been an ethnocentric moral dimension. Simply put, some cultural activities and objects are perceived as being socially and spiritually better than others. In

any attempt to intervene in the cultural life of a region, "one becomes gradually aware that the manipulation of culture ... inevitably reflects value and ideological differences as well as the inequalities inhering in class" (Whisnant, 1983:8). David Whisnant became aware of this when he evaluated the political impact which well-meaning missionaries and school teachers had upon the cultural activities of the mountain people of Appalachia in the United States. The intervenors were literate, Protestant, white, and middle-class and they believed that they had the duty to "rectify certain moral and institutional evils" (Whisnant, 1983: 9). The primary mechanisms of "personal and group advancement" were then, as they are today, through education and moral suasion. Their educational programs incorporated elaborate cultural endeavours, as do ours. Unfortunately their endeavours "were based upon a flawed reading of local culture, as well as upon naive analysis of the relationship between culture, political and economic power, and social change" (1983:11).

An intervenor, by virtue of his or her status, power, and established credibility, is frequently able to define what the culture is, to normalize and legitimize that definition in the larger society, and even to feed it back into the culture itself, where it may be internalized as "real" or "traditional" or "authentic." ... The "culture" that is perceived by the intervenor .. is rarely congruent with the culture that is actually there. It is a selection, an arrangement, an accommodation to preconceptions (Whisnant, 1983:260).

Whisnant warns us that this process directs our attention away from dominant structural realities which may be unsavoury. For example we may

be allowed to overlook colonial subjugation, or the exploitation of resources, if we see that the natives are engaged in enjoyable and fruitful cultural activities. "'Culture,'" Whisnant says, "provides a convenient mask for other agendas of change and throws a warm glow upon the cold realities of social dislocation" (1983:260).

This has very obvious parallels with the European exploitation of the culture and cultural objects of North America's aboriginal people, and Whisnant himself draws attention to that in his work. It also has parallels with the current legislative process which impacts upon Canadian native cultural objects. To the extent that government agencies continue to intervene in cultural activities, it is important to bear in mind this process by which institutions normalize and legitimize particular definitions of native material culture, and the possibility that there continues to exist a "mask for other agendas" in the cultural policies of Canadian governments.

2. ii. State Intervention in Culture

According to Howard Becker, the state is interested in the arts only to the extent that art affects mass mobilization. That is why the state retains the right, for example, to censorship. In some sense, Becker says, all works of art have a political meaning. In addition, he points out that it is the state which creates the framework of property rights within which artists get economic support and make their reputations. Similarly, it is the state which

defines the relationship between the art world and the museum world through legislation which circumscribes activities.

In Canada in the 1970s there was a marked increase in the legislation surrounding cultural objects and cultural activities. This was prompted to some extent by the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership in Cultural Property (see Appendix D). This research focusses upon only the Cultural Property Export and Import Act, but it should be recognized that where this legislation sought to protect the transfer of movable cultural property globally, other legislation in connection with cultural objects was also enacted. For examples, the Historic Sites and Monuments Act, the Indian Act, the Museums Act, and various provincial legislations protect objects in institutional collections, archaeological sites and archaeological artifacts in the field, and also buildings which are recognized as being of cultural value. The Culture Property Export and Import Act has been studied here because, through the Control List, it has sought to define those objects considered to represent the national heritage.

2. iii. Institutions: Culture and Government "Thinking"

Useem (1976) points out that evaluation of direct state expenditures on culture does not give a complete picture of government patronage since indirect subsidies, notably through tax laws, are enormous and as Peterson

points out, this power to exempt from taxation translates into the power to create (1976[b]:59). It is also noted that the most visible impact of government patronage is heightened productivity in government-supported areas and reduced effort in others.

At the same time, Mary Douglas (1986) has clearly established that when there are changes in the classifications of goods, concepts, or persons these are also accomplished through institutions. Thus, when Powhatan's mantle changes from being exotica, to being of scientific value, to being an art object, we know that institutions have made such changes in classifications. This is because, Douglas says, the names and classification processes are indicative of control. Thus, new institutions (from corporations to newly elected governments) make new labels. Further than this, however, we find that the "institutions veil their influence so that we hardly notice any change" (Douglas, 1986:103). In this process, she says, the institution:

In marking its own boundaries affects all lower level thinking, so that persons realize their own identities and classify each other through community affiliation (Douglas:102).

The control which the Canadian government has in its support for the arts, and intervention in cultural activities, has an agenda which can be found in a statement from the Department of Communications in 1985:

As arts and culture thrive, so too does a sense of national identity and of pride in the products of creative endeavours (Dept of Communications, 1985:1). (Emphasis mine).

This perspective would appear to embrace the arts as a relatively autonomous subsystem such that the arts and culture are supported for their own sake except, and it is a significant exception, this is linked to a notion of nationhood. This, then, adds an element of ideological control to the equation. Cultural apparatus has always been linked to national authority and national propaganda because science and art are potentially strong instruments for ideological control. Useem suggests that in the United States direct federal patronage of the arts occurred only when, in the mid-1960s, the "government was confronted by a sharp upsurge in political dissidence and decline in legitimacy" (Useem, 1976:133). It is significant that in Canada, state involvement in the arts and culture increased significantly in the early and mid-1970s, when Canada was undergoing similar political crises.

2. iv. Communications and National Identity

In the 1970s and 1980s the concept of media imperialism had been revised by those who have analysed the encoding and decoding of media discourses (Ien Ang, Peter Dahlgren, Elihu Katz and Tamar Liebes), and a new line of enquiry was initiated by Stuart Hall and other scholars whose work has developed from a Cultural Studies framework. What this approach has produced, however, is a micro-level of enquiry which "does not offer an especially good vantage-point for examining how large cultural collectives constitute their identities" (Schlesinger, 1987:233). Schlesinger suggests

that we need to begin by posing the problem of national identity first, and secondly we need to examine the relationships between a given communication, national identity and culture second. Schlesinger, bemoaning the inadequacies of the literature on communication to address the concept of national identity, has turned to sociological theory.

2. v. National Consciousness and Canadian Culture

Northrop Frye, in considering national identity in relation to literature, feels the need to distinguish what he considers to be decentralizing cultural issues from political and economic issues of centralization and hierarchy. He is also concerned about the social impact which government and institutional intervention has upon the cultural activities of the aboriginal peoples. Frye insists that Canadian culture is not a national development but a series of regional ones. The involvement of southern white Canadians with Indian and Eskimo art, he says, rather than contributing to a common sense of identity, is causing us some serious identity problems of our own. The anthropologist Clifford Geertz discusses this tendency in his observations concerning nationalism in new states. In short, he finds that it is necessary to transform the symbolic framework through which people experience reality. In so doing, he says, nationalist ideology must weigh two abstractions: "The Indigenous Way of Life" [essentialism] and "The Spirit of the Age" [epochalism] (1973:241). He found that in many instances:

The move toward national unity intensified group tensions within the society by raising settled cultural forms out of their particular contexts, expanding them into general allegiances, and politicizing them (Geertz, 1973:245).

This would appear to be precisely the process which native material culture has undergone in Canadian society. However, if politics and culture are to be linked, Geertz says, we must have a "less breathless view of the former and a less aesthetic view of the latter" (1973:311). This means, in effect, that political institutions must be established in which opposing groups can safely contend. Until that time, we have the museum/art world and the world of collectors, who provide the backdrop against which policy decisions are made, and within which policy decisions are carried out.

3. The Significance of the Study:

In as much as policy-making institutions have been capable of defining cultural commodities for export, and cultural commodities for repatriation, they play a significant role not only as gate-keeper for exports and imports, but in assigning meaning to cultural goods. In doing so they synthesize public perception of what is and is not 'Canadian culture,' as well as what is desirable or undesirable. They make indications about what differentiates elite art from popular culture, and they make distinctions between handicrafts, ethnographic artifacts, materials of historical interest, materials of practical purpose, and art (See Appendix A). They also make pronouncements about the quality of products, and the values placed on

them. They are, in effect, legislating taste.

It seems apparent that government institutions consider that there are some cultural products over which they have control, and that it is their duty to exercise that control for the benefit of the nation. Further, it seems that this element of control is being applied in order to contribute to a sense of nationhood. In much the same way as the railway was used in the past, cultural products and communications systems are being used to tie Canada together. Policy regarding cultural products is, then, both performance and a text that expresses shared meanings.

In studying the written text of the federal government's legislation, debates and speeches surrounding the export and import of material cultural products, the analysis will take into account the apparent meaning of the words, the intent of the authors, and the derived meaning as found in the enactment of legislation. In addition, as Rabinow and Sullivan (1979) have suggested, the analysis will show the extent to which the intent of any action and the empathy within any behavior is dependant upon the prior existence of a shared world of meaning.

The text, in this instance, is the government policy - whether it results in action or inaction, legislation or lack of it, or the collection or dispersal of cultural objects. What the text talks about, among other things, is the attitudes of institutional spokespersons and others who represent governments. These persons normally would reject such conceptions as

being outside of the scope of rational discussion about policy. However, inductive research makes it possible to take their statements and policies, which have been isolated from the whole human experience, and return them to a context which could "give some intrinsic sense to (their) formal operation" (Rabinow and Sullivan, 1979:14).

Chapter II

REVIEW OF LITERATURE

As the title of this paper suggests, the topic is situated at a convergence of a number of fields of interest. Fundamentally, the topic is concerned with changing meanings and the legitimization of these meanings. It is here that communication studies, as well as linguistic and cultural studies, form the foundation for the research. In addition, as the title indicates, the topic deals specifically with native cultural objects, and thus with an expression of native culture. Associated with this are those issues which surround collecting of objects and their custodianship. These topics can be considered from psychological, national, and social perspectives. Since the topic includes matters of tastes, which are related to values, these issues also may be considered from sociological and anthropological perspectives. In addition the research involves government legislation which normally would be considered within the fields of law and political science.

The research has, in fact, wandered through a number of these interesting fields and has been tempted to expand the findings to incorporate far more than is written here. Each academic field has generated many interesting discussions, some of which have found their way into the bibliography, but it has been necessary to be very selective in the inclusion of related research.

Accordingly, this section is divided into the three principle areas of

interest. First there is the literature which presents the foundation for an ethnography of communications, and for the analysis of language which provides the core of the research. Second, communications theory as it relates to cultural policy has been addressed. This examines the question of "taste cultures" and the ideologies which impact the processes of validation. Thirdly, because of the relationship between meaning and value, there is a review of the debate surrounding the role of collectors, and the impact which collections and displays have upon the relationship between audiences and cultural objects.

1. Ethnography of Communications

Anthropology and Communications Studies are very much correlated in my research since the lens through which this study views cultural policy is the process of assigning meaning. As such it owes a great deal to the work of Clifford Geertz (1973) who requires us to "cut the culture concept down to size" while at the same time engaging in what he calls "thick description" (1973:4,6). Clearly this is no easy task! Geertz, as an anthropologist, engages in research which is both interpretive and ethnographic. He finds that culture is public because meaning is public, and in order to describe those meanings it is necessary for the researcher to begin with the symbol-systems which are in use by the subjects of the study. Their interpretations must, he says, be the researcher's interpretations; the meanings assigned by

the subject must be taken at face value so that the researcher may not interpose her own interpretations from the perspective of another culture. From the subject's interpretations it may be possible to come up with "explanatory guesses" as to why these meanings are accepted within the given culture. By taking a series of "ethnographic miniatures," he says, it may be possible to create a "wall-sized landscape" which informs us about beliefs. Geertz uses this method in order to describe and make explanatory guesses about the Balinese Cock Fight (1979a). In this he says:

One can start anywhere in a culture's repertoire of forms and end up anywhere else. One can stay, as I have here, within a single, more or less bounded form and circle steadily within it. ... The guiding principle is [that] societies, like lives, contain their own interpretations. One has only to learn how to gain access to them (1979a:222).

This is a guiding principle of this research and it began a process of thinking about government policies in terms of an ethnography of communication. It has also allowed the research to start from the Control List of the Cultural Property Export and Import Act and move around that to discover the language of the debates in parliament, and the perceptions of people involved in the administration of the Act. Also, Geertz's principle which allows societies to contain their own interpretations, is applied to allow interview subjects to present their world in their own way.

Ethnography of communications owes a great deal to Dell Hymes, whose theories regarding the processes and evidence of culture and language

have laid down the fundamental precepts which make this thesis possible. In pursuing his work in Linguistic Anthropology, Hymes makes reference to a number of scholars and theories including Raymond Williams' concept of "structures of feeling." These are perceived as products of the lived cultures of particular times and places (Hymes, 1972:9).

Ethnographic enquiry also has a theoretical foundation in existential phenomenology and the ethnomethodology of Schutz and Garfinkel. Schutz's work focussed upon the everyday world (in contrast to that of the scientist), and insists that the 'natural attitude' is not to be dismissed. Garfinkel, who also drew upon the work of Schutz, finds that the lay person manages to order his experience so as to support the supposition that the world is as it appears to be. The scientist, by contrast, suspends belief that things are as they appear (Giddens, 1976:35). This difference is significant, and affects the ways in which we treat utterances. Thus, our sense of reality is supported and confirmed by intersubjective processes. Our interpretations of meaning, he says, are social and can be subject to systematic study. In the work of Berger and Luckmann (1966), these currents in social psychology, sociology and phenomenology have converged in the study of the processes of the social construction of reality (Holzner, 1978). From this has developed, in anthropology, the ethnographic method for the study of language.

In his study Linguistic Method in Anthropology (1983) Hymes describes

the historical development of linguistic anthropology. He shows how the scientific perception has changed so that the "what" and the "how" of culture and language have an increasingly active connection with one another. The two must, he says, be studied together. However, it was only after the work of Claude Levi-Strauss and Roman Jakobson became prominent in 1952 that the relationship between linguistics and anthropology began to change. Levi-Strauss had taken semiology, which he characterized as the "study of the life of signs in the bosom of social life," and subsumed both linguistics and social anthropology within it (Hymes, 1974:6).

Building upon this foundation, Hymes developed a linguistic method in ethnology which makes it possible for researchers to contribute to an understanding of language as integral to culture.

1. i. Language, Rhetoric and Motive

The view which Hymes expresses is, in part, a reflection of the view of Kenneth Burke. For Burke, language served to fit and adjust behavior to our symbolically created world (Golden, 1983:312). Burke finds that the way we receive ideas is not an immediate experience, but one mediated by "terministic screens." These terministic screens serve to direct the attention in keeping with the nature of the screen itself. Burke's view is that "reality," or what we know, is defined through the sets of terms we use. Linguistic terms are symbolic, and so their use evidences our opinions and attitudes. In

fact, he suggests, words may not be the signs of things so much as things are the signs of words. By starting with verbal expressions however, he says it is possible to sum up nonverbal situations. That is, we can see the things of which the words speak.

As a rhetorician, Burke is not so much concerned with who is doing the persuading, or the reasons why the audience would believe one thing over another. He is interested in the way in which symbols are equivalent to attitudes, and that their use indicates an attempt to feed into conversation information about ourselves. This is a valuable insight because it allows for the possibility that persuasion in this sense may be a tool to bring people closer together. Persuasion is, in Burke's theory, a means rather than an end, and it is a fundamental property of language.

Burke and Hymes provide a foundation upon which an ethnographic study of language is built. Two studies which have done this are Richard Bauman's Let Your Words Be Few, which addresses the symbolism of speaking and silence among seventeenth century Quakers, and Nigel Rapport's Talking Violence, which is an anthropological interpretation of conversation in the city. Each of these has been reviewed for this research as a means of assessing the practical application of the theories, and as examples of ethnographic analysis of both historical texts and spoken language. They have each provided a model of a way in which transcripts of spoken language may be related to an analysis of ideology. Rapport has

presented edited text separate from his analysis, while Bauman has integrated the two. The research at hand has adopted the latter approach.

2. Communications Theory and Cultural Policy

Communications theory may perceive meanings as being produced in the interactions between text and audience as, for example, in the work of George Gerbner. At the same time it may also perceive of meanings as being produced not only within the confines of the immediate interactions, but in the wider context of the lived cultural and social experience of the individual, and this is explored in the work of Cultural Studies theorists, notably Raymond Williams.

Cultural Studies theory finds, first, that communications (and media) cannot be viewed in isolation from the social context and, second, that any form of communication is public and therefore a construction and an expression of meaning which is shared within a specific social group.

Further, James Carey has said that cultural products effect "the maintenance of society in time" (Carey, 1975:6), not the extension of messages in space, and cultural studies do not "seek to explain human behavior, but to understand it" (Carey, 1977:418). For Raymond Williams (1981), the study of communication as "transmission" is contrasted with the notion of "shared process." The studies which have been carried out with Cultural Studies at their root, have in common an historical frame of

reference, and a consciousness of "difference," especially that of social class.

John Forester, in his discussion of critical theory and public life, says that our ideologies make it possible for us to lead a double life in relation to native cultural objects.

Ideologies, of course, are distortions of communication. ... They are distortions not because they are unclear, but because they are indeed clear; but they so misrepresent social and political reality that they may obscure alternatives, cover up responsibility, encourage passivity and fatalism, and justify the perpetuation of inequity and suffering. (Forester, 1985: 216).

Consequently Stuart Hall asks "how does the ideological process work" and "what are its mechanisms?" Carey suggests that the task is to discover the natural and abstract functions of policy-making which hold the social order together. Research with this goal would seek to bring into focus the "relation of these forms to social order, the historical transformation of these forms (and) their entrance into a subjective world of meaning and significance" (Carey, 1989:45).

Policy, however, often impacts the social order by reference to goods, and as Douglas and Isherwood have shown, "goods are a part of a live information system" (1979:10). The goods themselves may be neutral but their uses are social. In addition, Grant McCracken finds that the meanings of goods have a mobile quality. McCracken points out that because meaning is initially resident in the culturally constituted world, goods can be "systematically invested and divested of their meaningful properties"

(McCracken, 1990:79). As he says:

It is time to ask, systematically and continually, whence this meaning comes, by what means it is delivered, for whom it is intended, and where it comes to rest (McCracken, 1990:83).

My research attempts to do that for native material culture.

Since the meanings under discussion refer to cultural objects, however, they incorporate issues of taste which in turn relate to issues of social status and social class. In as much as taste has a relationship to social class, value (as a hierarchization of cultural objects relative to taste) is also socially determined. These issues were addressed by Herbert J. Gans who, in the 1960s and early 1970s, described the relationship between taste cultures and values. For Gans, an individual participates in a particular taste culture by choice, and people of all taste cultures apply aesthetic standards, not just in high culture (Gans, 1974:14). He questions, therefore, what is good or socially desirable and argues against the idea that society is evaluated on the quality of its high culture. Taste cultures, he says, are to be evaluated in terms of their taste publics and not by a comparison of the cultures alone. However, this has a political dimension in so far as people choose taste cultures in relation to their education. As such:

The desirability of the higher cultures cannot be used as a guide to policy as long as lower taste publics lack the socioeconomic and educational opportunities prerequisite to choosing the higher cultures (Gans, 1974:128).

Society, therefore, must either make it possible for increased social and

cultural mobility, or it must permit the creation of cultural content appropriate to the existing taste publics in order to create a cultural democracy.

If, however, the media provide a democratization of culture and a set of choices for us, how is the signification of a particular choice determined?

This question is taken up by Mark Fenster who asks:

Is the process of signification an individual or a cultural act? ... If neither "music" nor individuals or taste cultures have the power to define and symbolize, then how subjective is meaning and how free is choice? (Fenster, 1991:92).

The question of 'taste cultures' is also taken up by Pierre Bourdieu who, like Gans, sees taste as patterned. For Bourdieu, however, rather than groups sharing certain cultural forms he perceives taste as being structured within the patterns of social structures and of economic and cultural capital. He argues that consumption is a "stage in the process of communication, that is, an act of deciphering, decoding, which presupposes practical or explicit mastery of a cipher or code" (Bourdieu, 1984:2). Cultural forms, then are produced, consumed, and 'made to mean' in material social practice. That is, while choices appear to be 'free,' they are regulated by attributes of social class; the chances of access and the motivation for consumption. As such, Bourdieu sees the relationship between cultural forms and taste as a "'euphemized' form of the ideological struggle between and among classes" (Fenster, 1991:96). In so doing:

[The aesthetic judgements of the artist] provide a sort of absolute reference in the necessarily endless play of

mutually self-relativizing tastes. By a paradoxical reversal, they thereby help to legitimate the bourgeois claim to 'natural distinction' as difference made absolute (Bourdieu, 1980:254).

Thus, to the extent that legislators share in a high taste culture, their perceptions will be reflected in the cultural legislation which they create, and their claims to distinction will be made absolute in policy. Cultural values are thereby legitimated, reproduced, and naturalized.

3. Collectors and their Visions

In the process of establishing and maintaining a high taste culture, curators and collectors have an active role in establishing the signification of forms, and the values of objects. As such their role in assigning meaning, legitimation of cultural forms, and reproduction of values is significant.

The literature which addresses the roles of curators and collectors presents a discussion on the impact which those roles have on the collection and display of objects. In this, both private individuals and representatives of museums are perceived of as collectors (Hermann, Meyer), but Karl E. Meyer finds that the curator is a frustrated collector, "with the appetite for acquisition but without the means to satisfy it" (1973: 191). When personal zeal is combined with competition and the public purse, he says, then motives have a tendency to become mixed with a sense of virtue, the notion of a greater cause, and nationalist pride.

Meyer considers that there are three important types of collector: the

nationalist, the private collector, and the curator. Each of these, he says, views the past as a piece of property. The examples Meyer in this regard are the attitudes of three people who were concerned about the Elgin Marbles which were 'rescued' from Greece at the beginning of the nineteenth century.

When these Greek treasures were received in England there was, initially, no questioning of the right of the British to acquire them. Meyer finds, in the responses to the collection of the Elgin marbles, examples of three types of views: the artist, the nationalist, and the collector.

There is first the collector's view, that of Lord Elgin, who saw himself as a savior of antiquity while at the same time having an eye to future market values. Next is the curator's view, as embodied in Haydon, in which the end - the enrichment of national sensibility - is seen as justifying any doubtful means of acquisition. Finally, there is the Byronic attitude, which regards ancient monuments as indissoluble parts of the national patrimony (Meyer, 179).

Joseph Alsop, however, tells us that the Greeks may have contributed, ideologically, to their loss of the 'Elgin' marbles. Among so many other things, he says, the Greeks have contributed art collecting, art history and the art market to human culture, and it is art history which supplies the labels - or authentications - upon which the art market and art collectors depend.

3.i. The Ethics of Collecting the "Other."

As collectors, anthropologists, scholars and observers discuss the ethics of the trade in cultural properties, it becomes apparent that one of the principal issues is the way in which one conceives the dispute. Since each of

the parties involved has a differing perspective on the objects, the process, and the problem, it has become essential to find a framework for defining the dispute before fruitful discussion can begin.

Karen J. Warren (1989:2), in summarizing the issues surrounding the ethics of collecting cultural property, indicates that the discussions concern three key concepts:

- 1) Restitution of cultural properties to their countries of origin.
- 2) Restriction of imports and exports of cultural properties.
- 3) Rights (of ownership, access, inheritance) retained by relevant parties.

She outlines the arguments against, and the arguments for claims by countries of origin, and discusses the strengths and weaknesses of each argument but, she says, the whole debate can be "re-thought." Her suggestion, which deserves consideration in much greater detail, is that native material culture be viewed not as property but as a non-renewable resource. Similarly, Meyer considers an alternative view of art and antiquities as "our collective cultural remains ... a resource whose title is vested in all humanity" (Meyer, p 203). In this way, as Warren says, we will incorporate quite a different kind of language, and view our association with the objects quite differently. She presents four key issues:

- the nature and importance of conceptual frameworks
- the language used to discuss cultural properties

- ways of correcting bias in a theory or perspective, and
- alternate models of conflict resolution.

Warren's analysis provides a valuable tool for the assessment of cultural policy, and proposes contextual, holistic, and web-like ethic of care and responsibility which contrasts with the individualistic, hierarchical, rights/rules ethic which is the focus of the policy and the debates.

At present however, the policy related to cultural objects is conducted through the European-based ideological frameworks of government. In addition, Euro-American ideology has provided authoritative concepts that render meaningful (to both natives and non-natives) the blueprint of the art history/art market/art collections world. Thus ideology functions to make an autonomous politics possible in relation to these objects.

Whatever else ideologies may be - projections of unacknowledged fears, disguises for ulterior motives, phatic expressions of group solidarity - they are, most distinctively, maps of problematic social reality and matrices for the creation of collective conscience (Geertz, 1973: 220).

In the case of Canadian native material culture we can see how the European "map of a social reality" in relation to native culture was adopted by non-natives, and is now being accepted to some extent by native people themselves as a convenient matrix for the creation of what Geertz calls "collective conscience." Native North Americans now find it necessary to voice their interest in these objects through the Euro-American ideological interpretations. Indeed, to some extent, this ideology has become shared as

natives increasingly utilize the Euro-American cultural systems. In order to do so they may refer to publications such as American Indian Art Magazine for information related to the creation of "traditional" works. Very often these works are exhibited and sold within the Euro-American art world, and the new objects may not necessarily be appreciated or understood within the native community.

Similarly, native communities who wish to repatriate cultural objects are obliged to do so within the framework of the Euro-American art market which has classified them, given authenticated them, and placed a value upon them. Regardless of the role which an object may have had historically within the native community, it now must be viewed through the matrix of the art world.

Advertisements in native art magazines, for example, serve not only to provide a link between buyers and sellers, but also to signal the value of the object. As Mejer-Drees has found, this is done in a number of subtle ways and, depending upon the value ascribed, the item may be portrayed as related to museums, trading posts, art galleries, or other signifying environments which the advertiser has decided will enhance the sale of the object. When native cultures attempt to repatriate those objects, therefore, they must make their efforts in accordance with that created relevance.

Warren says that the debate over native material culture is being conducted within a conceptual framework which is oppressive. That is, it is a

product of Western patriarchy and incorporates the hierarchical organization of objects, people and cultures.

Secondly, Warren says, the language associated with the non-native conceptual framework revolves around issues of ownership of property. It presupposes, in fact, that it is both legitimate and efficient to construe the debate in this manner, and in doing so it also presupposes that the rights/rules ethic is an appropriate framework for addressing the ethical issues in the debate.

Bias has been introduced, she says, first by defining any dispute as being over ownership, property and rights, and secondly by resolving these conflicts from a value-hierarchical, win/lose perspective. Warren proposes that there are alternative methods of conflict resolution which are not hierarchical. One is the compromise model, and the other is the consensus model. However, each of these continues to conceive of the debate in terms of ownership and fails to meet her criteria for a new perspective.

Both Meyer and Warren suggest that we perceive of native material culture not as property but as non-renewable resources. In short, they see the need to rethink the debate in terms of preservation instead of ownership, and to rethink the resolution from conflict to compromise or consensus.

3. ii. The Museological Vision

The ideology which frames collections is fundamentally contrary to that

which frames the gift-giving of the potlatch. Where the Euro-American saves, catalogues, treasures and displays, the aboriginal American traditionally has used acquisitions as a means to enhance personal status by giving them away. This basic contradiction may well be at the heart of the current debate.

Awareness of the ethical inconsistencies associated with colonization has, in the early 1990s, resulted in expressions of horror at what is perceived as the white man's burden of guilt. A recent and most telling example of this has been the protest against Jeanne Cannizzo's exhibition entitled "Into the Heart of Africa." This exhibition was intended to examine "the role played by Canadians in the European colonization of Africa" in order to help Canadians "better understand the historical roots of racism" (Cannizzo, 1991:150). Its reception, however, betrayed the insecurities of the patrons of the Royal Ontario Museum in relation to colonization. While the exhibition strove to present an expose of racism, it was received as a celebration of imperialism and attacked as such (Fulford, 1991). While museums, as institutions, can provide evidence of social and political relationships, so too can the particular displays of objects.

3. iii. Limiting the Vision

In expressing the difference of native cultures from the Euro-American culture, museums also have at their disposal a number of techniques by

which audience responses to the objects can be manipulated. The way in which objects are displayed or photographed can be manipulated to reflect the interests of the exhibitor, regardless of their original functions (Jonaitis, 1981). Specifically, it seems, the interests of exhibitors are in shaping the terms on which the objects can be encountered. By presenting a definitive interpretation of exhibits, museums very often deny native Canadians a role in the presentation of their changing culture (McLoughlin, 1991).

The art market has, at the same time, expressed the difference between native material culture and the European culture by establishing definitions of types of art. These definitions serve to allow white North Americans to identify parts of the native symbol systems which are perceived as different from our own, while at the same time defining ways in which they can be absorbed into our own symbol systems (Wade, 1986:16). In response to this Clifford suggests that we need "exhibitions that question the boundaries of art and of the art world" (Clifford, 1990:421). This, of course, calls for a new perception not only of the different culture, but of one's own and of the new environment in which it is placed.

As Jonaitis has observed, we have moved from an admiration of shamanism (and the admiration of the non-rational, non-logical, and mystical) to an admiration of the "rational Indian" (and the admiration of the rational, logical, and philosophical) in cultural objects. In doing so, we should be aware that we are acquiring these changing perceptions from an evaluation of

the same unchanging objects. According to William Sturtevant (1986), for ancient objects at least it is not possible for us to derive the 'internal' meanings - the messages conveyed by the artist - since the artist and the observer do not share cultural understandings which would make such an interpretation possible. We can only, he says, derive 'external' meanings of Indian art through the qualities which our society has classified as art.

Sturtevant agrees with Hall that we can only understand Indian art if we suspend the ethnocentrism involved in classifying objects as fine art.

Haberland goes even further when he says that "European, or mainstream thought systems, categories, and values cannot be applied to North American Indian art, or to the art of any other non-European people" (1986:89). What we say about native art reflects our values.

Chapter III

METHODOLOGY

The purpose of this research is to describe policy and the language of individuals associated with that policy, in order to define the ideologies which underlie the words. The work engages in interpretive social science, derived from Hymes and Burke, which develops a generalization from the observed data which may help to explain the relationship between institutional statements about the export of native material culture, the attitudes of the policy-makers, and the role of public institutions in reflecting, maintaining and constructing meaning.

Rather than accepting or rejecting a hypothesis, this research will attempt to discover a pattern in the material under analysis. Accordingly, therefore, my research centers on a particular cultural policy as a context to provide an understanding of how the meanings of objects are perceived and translated into policy. The study does not seek to reduce attitudes and behaviors to underlying causes or structures, but to interpret their significance in relation to an understanding of the policies regarding native cultural commodities. As in the interpretive paradigm exemplified by Geertz (1979), this research attempts to understand the meanings that others have placed upon their experience of native cultural objects by interpreting the texts which regulate the import and export of them.

The research recognizes bias, the value-laden nature of the work, and

historical contexts. Communications are approached from an ethnographic or interpretive stance, drawing from the ethnography of communications and linguistics. The communication under examination is treated as a practice, not as a product. To paraphrase Pauly (1990), the goal is to render plausible the terms by which legislators explain themselves to the world, and to clarify the role that policy plays in such explanations. This process of qualitative research investigates meaning-making by studying the shared systems of meaning that render individual messages intelligible. In doing so, the researcher understands that senders and receivers of meanings compete and collaborate in constructing reality.

The design of this qualitative research has benefitted from the methods proposed by Catherine Marshall and Gretchen B. Rossman (1989), as well as those of Sandra Kirby and Kate McKenna (1989). In addition, James Spradley (1979) has provided a thorough methodology for the ethnographic interview. He also reminds us that we need to know how decisions are made, and how policy is enacted, if we are to effect change which will serve the needs of humankind.

Principally, there will be three approaches to this study of the Cultural Property Import and Export Act. First, a historical overview will place the export of native material culture in a historical and social context. Secondly, there will be an examination of the transcripts of the speeches and debates in parliament concerning the Cultural Property Import and Export Act, which

was passed in 1975 and became law in 1977. Thirdly, in-depth interviews with selected persons associated with the policy will provide additional insight into meanings associated with cultural goods.

1. Historical Overview, Social Context

In order to place the policy analysis in a social and historical context, there is an overview of the historical events relative to the export of native material culture from the time of first contact with Europeans until today. It is, necessarily, a broad framework, and it incorporates reflections of values and meanings associated with the objects from the perspective of anthropologists, museologists and historians. This serves not only to place the values and meanings of policy-makers in a context of prevalent attitudes, it also contrasts their attitudes with others in a social context. In addition, this overview also places the policy-makers in a social and historical context.

2. Case Study

A case study is made of one particular government act; the 1977 Import and Export of Cultural Properties Act. The case study is a characteristic component of qualitative research and is particularly helpful when the boundaries between the phenomenon and context are not clearly evident (Yin, 1984:44). In this, the language of the legislators is examined as expressed in the transcripts of parliamentary speeches, debates, and

committee hearings.

These resources will be examined according to the principles proposed by Dell Hymes for the ethnography of communication, and modelled after Bauman and Rapport. This will take advantage of factors which have been defined in communications theory (participants, channels, codes, settings etc.), and which have been adapted to linguistics by Roman Jakobson (Hymes, 1974:10). Hymes suggests that an "etic grid" - which provides a preliminary framework for a structural account - requires us to focus on the addressor, the addressee, the channels, the codes, the settings, the message-form, the topic, and the event. These terms are defined and explained in his Foundations in Sociolinguistics: An Ethnographic Approach (1974). In analysing the text of the parliamentary debates, the message-form, the topic, and the codes are of greatest significance and are examined in detail.

Burke has proposed that a dramatistic approach - seeing language as action - should seek first to chart the transformations within a given work itself, as follows:

1. First, there is the perfect certainty that ranges from sheer word-counting to a comparison of all the contexts in which a given word appears.
2. We can begin to build up equations whereby terms are treated as overlapping in their jurisdiction, and maybe even sometimes identical.
3. By providing a subtitle for each portion of the literature, we mark off a succession of essences. From these we could sum up the overall trend, or spirit informing the range of details - a "god-term."

4. An analysis of the relation between the verbal and nonverbal situations in which words are used.

(Burke, 1966: 369,370)

In my research there is a large quantity of textual material which is processed here according to the methods derived from Burke, and detailed by Kirby and McKenna (1989). A close analysis of the material reveals certain themes, and within those themes a number of categories have been established. The text of the discussions in Parliament revealed four major areas of interest: the need for legislation, the perception of cultural property as national heritage, the importance of the role of collectors and commerce in cultural property, and the definition of cultural property. The system of control and its application were also discussed in detail but the technical details of this are not included in this analysis since they do not directly contribute to an understanding of the construction of meaning of cultural objects. However, to the extent that the philosophy behind the system was invoked, it is included in this research.

"Bibbits," or sections of data, have been coded and sorted allowing for intersubjectivity. That is, a paragraph which refers, for example, to both the need for legislation and a perception of national heritage has been coded and copied for consideration under both topics. In addition, each topic has sub-categories, such as the need for funding within the topic of the need for legislation. The original text page numbers have been noted on each extract, as have code letters to indicate the names of the speakers. Individual

speakers are referred to by the use of letters (a, cc, etc.) and a particular text reference is given by the page number of the transcription text (Appendix B). Because of the large number of persons engaged in the discussions (38) it was felt that the use of names would unnecessarily complicate the reading of the analysis, and would not contribute greatly to an understanding of the material. Nevertheless, the reader can refer to Appendix C to discover the names of individual speakers. Each section of data therefore has noted on it the primary theme code, the primary category code, the letter code of the speaker and the page number of the text. It also has noted on it the codes of additional themes and categories to which it has reference. In this way each "bibbit" can be cross-referenced with others in a theme, and within a category. Individual items of textual material are presented in the analysis in association with the appropriate primary category and theme, and in the context of similarly categorized items.

This summary of themes allows for an analysis of the way in which cultural values are naturalized and reproduced. For example, this analysis of the discussions in Parliament will permit an assessment of those ideologies which are legitimated and those which are not. Concepts such as "national heritage" and "cultural property" can be identified as being understood in relation to European classification systems, and in relation to the extent that alternate perspectives are legitimated. It will also make apparent the extent to which taste cultures are expressed, and reproduced in the context of the

legislation.

3. Personal Interviews

Interviews have been conducted with two people who were responsible for the research, development, creation, and to some extent the passage of the Act into law. In addition interviews have been conducted with two people who are, or have been intimately involved with the administration of the Act. Each of these interviews was recorded onto audio tape, and later transcribed.

This data, like that of the transcripts of the parliamentary debates, has been processed according to the methods proposed by Kirby and McKenna (1989). It provides not only an "etic" grid (discovering the attitudes of individuals) but also an "emic" view of the process by which their conceptions of the objects are incorporated into policy and impact upon the implementation of policy.

The four major themes which became evident from the analysis of these transcripts were: the distinctive spirit of the international environment in relation to the trade in cultural goods during the late 1960s and early 1970s; the particular language used to describe cultural objects and their relationship to society; perceptions of the national heritage; and the relationship of the people interviewed to the trade in cultural objects. The presence or absence of certain issues, and the relative significance of each provides material for an

analysis of their significance in relation to native material culture both during the preparation for the Act, and today.

4. Limitations

The policy under consideration, having been produced in a different cultural context from that of the research, will be read with the influence of historical perspective. Some misinterpretations and/or biases in observation have been anticipated, and I have tried to avoid the possibility that these biases would influence the findings by engaging in a process of self-reflection in a journal, and by inviting others to read and comment upon my findings. Nevertheless, the writer understands that in attempting to understand meanings inherent in the statements emanating from institutions, she may fail to articulate essential assumptions inherent in her own words. Every attempt has been made to negate these inexactitudes in discovering what the texts say about institutional contexts. Similarly, every effort has been made to accept the statements of those interviewed as definitive perceptions of historical events without imposing the researcher's understanding.

An additional limitation is that it is not possible to generalise from a study of this policy surrounding these particular cultural products to other policy statements or other cultural products. Analysis of this particular Act might have been pursued, for example, from an examination of a number of policies associated with cultural products. In that case, this particular Act

might have been viewed from the perspective of the progressive sensitivity of legislators to native material culture. This research, however, coming as it does from a study of collections and exports, views the legislation as a controlling element in that process. As such, it views this Act in isolation from all other acts which deal with cultural products.

At the same time, the extent to which the meanings expressed in relation to this cultural policy are shared by all legislators of all policy, is neither researched directly nor assessed as a general concept. Those types or social categories of people who do share the given meanings are indicated but cannot be categorically determined from the research.

A further limitation, and perhaps the most significant, is that native groups have not been consulted nor have their expressed views been included. A decision was made early in the research to confine the study to the views and understandings of the legislators, and to evaluate those statements with reference to the literature on the social construction of meaning. The principle reason for this limitation is the scope of this research, and the need to confine the material to the parameters of the project. The extent to which the understandings expressed in this thesis differ from those of native people with an interest in the Act, has not been evaluated.

Chapter IV

THE HISTORY AND MEANINGS OF COLLECTIONS

This chapter will provide an historical overview of the acquisition of native material culture by Europeans and Americans, and incorporates an analysis of the values and meanings associated with those objects. The extent of the collection of cultural objects in Canada is perceived as an indication of the European presence in Canada. It is also seen, however, as a measure of the rise in nationalist sentiments in relation to cultural heritage. The extent of the export of cultural objects, therefore, may be viewed in contrast with the extent of Canadian collections and the concomitant rise in the concern for national heritage.

This overview also provides a baseline or background from which to assess the discussions in Parliament and the interviews with individuals associated with the enactment of the Cultural Property Import and Export Act. Thus, by bringing together the available data on historical events, some context is provided for the decisions and discussions which were made in the 1970s, as well as drawing a more complete picture of the circumstances leading up to the enactment of legislation. By listing some significant 'landmarks' in the history of the export of native cultural property it is possible to bring some perspective to the data which is provided by the Parliamentary transcripts and the recent interviews.

This chapter, accordingly, looks first at the ways in which the

meanings ascribed to these objects have changed over time. Following this is a section which addresses the role of museums in collecting cultural objects, and the relationship between these collections and national identity. The link between the objects and the science of anthropology is then examined, and contrasted to the link with the art world and the surrealists. Finally in this chapter, is a consideration of the way in which the interests of these different individuals and institutions ultimately led to the expressions of concern about the traffic in antiquities which began to be expressed in the 1960s.

The work of Douglas Cole has provided a basis for this chapter, and gives evidence of a series of changing perceptions in relation to native cultural objects.

Yes, But is it Art?

The items under discussion have, at various times and in various circumstances, been defined as relics, curiosities, scientific specimens, artifacts, crafts and art. Initially these products, being man-made, were perceived as 'artificial curiosities' and joined other rarities in collections of the marvellous and exotic. No restrictions were placed upon their export from North America, and by the eighteenth century these items were being sold by dealers in natural history as incidental to their collections. In these instances their value was in their presumed historical interest and items such as "Powhatan's mantle" were often valued because of quite fictitious

attributions (Wade, 1986:10).

During the late nineteenth century ethnographic collections developed which valued the native artifacts as specimens which illustrated the forms, functions and techniques used by aboriginal Americans. It was considered that the artistic qualities of the items did not indicate an individual creativity such as was (and is) valued in European art. Rather, it was recognized that "in tribal societies there was no art divorced from function" (Wade, 1986:11). With the acculturation of native peoples, the functions that the items had formerly served in native society began to disappear. In consequence the artifacts lost their original meaning and their meaningfulness to native communities, and most of them found their way into European and North American museums.

At about the same time, however, native people began to recognize the value of the production of crafts for visitors and tourists. For the producers the crafts were a source of income, and for the purchasers they were curios and mementoes.

In the early 20th century, emigre Max Ernst (the European Surrealist) recognized an artistic value in the work of native North American artists. Ernst was not alone in this recognition and a new understanding of native art and artifacts began to develop in the 1920s.

In more recent history changes in perception continue to take place. We now see that these cultural objects have value as investments through

the international art and museum trades, and more recently still as a site for political action.

What the organizing mechanisms of collectors and museums have done is to provide a blueprint for the perception, understanding, judgement, and manipulation of the otherwise unfamiliar world of native cultural objects. As Stuart Hall has said, "the power involved here is an ideological power: the power to signify events in a particular way" (Hall, 1982:69). According to Hall, the power to define the rules of the game determines both social and political power. "They (ideologies) depend upon the balance of forces in a particular historical conjuncture: the 'politics of signification'" (1982:70).

The following provides a more detailed evaluation of the relationship between ideologies and the balance of forces at particular historical conjunctures.

The History of Collecting

Cole's narrative begins with a description of the establishment of the Smithsonian Institution in 1846. The Smithsonian's goal was to extend and complete its collection of facts and materials on the "races of mankind inhabiting the continent of America" (1985:11), but this quickly expanded to include the possibility of living exhibits. The individuals were to be "picked specimens of their humanity" (Cole, 1985:30). Cole does not fail to note the language of the laboratory in this ambition. The ways in which the museums

were interested in the Indians were not markedly different from the visitor to the freak show. The notion of European racial and cultural superiority is clearly expressed in each, and most significantly in the museum's desire for a full series of items, including American skulls. These artifacts were seen not as participating in a living culture and contributing to social and community life, but as specimens necessary to the work of the scientist. That the need of the scientist was superior to the need of the aboriginal community or individual, was rarely questioned.

During the 1880s a large part of the museums' collections came from donations. Travellers, adventurers, and amateur scientists of various kinds contributed their curiosities and collections for the good of their nations, and the advancement of learning. However, as demand for these objects increased Northwest Coast objects of ethnographic interest became increasingly scarce, and competition for them became fierce. The pieces that were available assumed a much higher market value and with the rise in value, voluntary contributions ceased. Adolf Bastian compared the potential loss of this material culture with that of the people of Troy or Nineveh whose lives could never be reconstructed.

Ethnology dealt with unlettered people and if their objective traces were lost a great lacunae would forever exist in the scientific view of the earth. Collections were ethnology's documents. ... Ethnological items were the building blocks for a comparative ethnology that would be able to supply significant elements to the knowledge of mankind (Cole, 1985:57).

The assumption here is clearly that the aboriginal peoples were being assimilated at such a rate that their traditional lifestyles and traditions would be lost with the decay of these ethnographic objects.

Bastian's purpose, in accordance with the inductive method of science, was to build up an extensive collection through which he hoped to build a science of the psychology of man. Collecting for Berlin was J. Adrian Jacobsen who was responsible for a turning point in the history of such collections when he acquired a Haida pole. In his own notes he recognized that "a Haida would sooner sell his wife or child than part with his forefather's pole" (ibid, p64), but this reluctance to sell only made his accomplishment for the museum that much more praiseworthy.

All of these art and museum-world transactions depended upon the identification of the objects by art historians. As such the phrases "genuine antiques" and "really good pictures," as used in the art/museum world can be read as "art-historically identifiable," and objects depend for their value upon the classifications of rarity, authenticity and beauty provided by the institutions.

The collector of native material culture, then, is an individual who refers the cultural objects collected to European art history and to the international art market, rather than to the original cultural context of the object. That is to say, a Haida pole which is hard to acquire is valued for its rarity and as representative of a class of objects. The object may also be valued for its

intrinsic aesthetic appeal or its role as an emblem of the kinship between human beings and animals, but these values would not necessarily be paramount. Similarly, argillite carvings from the Northwest coast, which were produced as items for the tourist trade, might be collected when the items were not valued while at the same time anticipating that these same objects might have value in the art market at some time in the future. Both the Haida pole and the argillite carvings would have been collected with a sense of their value in relation to the Eurocentric art-museum world.

A Rising Canadian Nationalism

The notion of racial and national superiority took a new turn when French and German collectors sought to acquire native artifacts for their European collections. Baird responded to their efforts by saying that "nowhere so well as in Washington will these things come under the notice of our law-givers and the best portion of the American population" and serve as resources for "extended treatises" (Cole, p35). But chiefly, the collectors battled against the 'prejudices' of the Indians who did not want their gravehouses emptied, or their ceremonial objects sold. Collectors were, however, sufficiently stubborn to counteract such difficulties.

While European and American museums competed for ethnological objects, Canada's institutions showed little ability to participate in the process even though a need for a collection was clearly perceived as early as 1862.

Alfred A.C. Selwyn, Director of the Canadian Geological Survey, recognized that "the time when it will no longer be possible to accomplish this is at hand" (Cole, 1985:79). The Canadian Geological Survey's museum was Canada's only federal museum of any kind, and its concern was not with ethnology but with geology, as befits a young country rich in resources. The Survey, however, had employed an anthropologist named George Dawson who very much resented the export of Canadian Indian material, and he did his best to make purchases on behalf of the Survey. Prompt action was, he felt, necessary or Canada would be "forever dependent upon the museums of the United States for information relating to the life history of her own aboriginal races" (Cole, 79).

In the mean time Israel W. Powell, the federal Indian Superintendent for coastal British Columbia, was also collecting for the Geological Survey. Unfortunately the boxes he sent were put in the cellars of the offices for the deputy minister and the pieces were not used either for display or research. As a result he found it more useful to collect for the American Museum in New York but he commented:

I should not like to undertake another work of the kind, and when looking at them this morning I rather felt guilty of want of patriotism in sending the collection out of the country (Cole, 1985:84).

In 1886 the British Columbia Provincial Museum was founded and the impetus for its inception was the depletion of indigenous artifacts by foreign collectors. That year residents of Victoria expressed their collective concern

in a petition which stated:

It is a source of general regret that objects connected with the ethnology of the country are being yearly taken away in great numbers to the enrichment of other museums and private collections, while no adequate means are provided for their retention in the Province... Their loss is frequently irreparable, and when once removed from the locality of their production, their scientific value and utility to the country are greatly lessened (Cole, 1985:92).

In 1887 similar motives were behind the creation of an Alaska museum at Sitka. The meanings of the objects were clearly in relation to their value as scientific specimens, but these had by now been enhanced by a perception of them as 'belonging' to the country within whose boundaries they were found. This sense of national possession is clearly associated with the young Canada, and not the much older aboriginal nations. There is little to indicate an awareness of this contradiction, and where native nationhood is recognized it is only to the extent to which that identity is seen as diminishing. Many ethnographers felt that they were rescuing material culture on behalf of the Indians who were not in a position to preserve it. One of those was Sheldon Jackson who founded the museum in Sitka because "in a few years there would be nothing left to show the coming generation of natives how their fathers lived" (Cole, 1985:93). Most, however, thought that there would be no future generations of natives, and that this material was therefore 'Canadian,' or 'Alaskan.' The objects, were seen as requiring preservation because they were the material evidence of a dying culture.

In addition Boas had suggested that if, as cultural relativism suggested,

all human races were equally advanced and equally expressive, then it was important to collect evidence of the diversity of these races in order to compare them. This process in turn, served to manifest the ideologies of the collectors, as Virginia Dominguez describes in her review of Captured

Heritage:

Each act of selecting items, selecting peoples from whom to collect, electing or not electing to elicit information on the detailed history of each item, their producers, users, and owners, choosing items for public display in exhibitions, and organizing those displays was an act of creation. ... The idea that tradition or heritage was manifest in material objects was of Euro-American origin ... an invention itself invented by societies intent on finding legitimacy through history (Dominguez, 1986:550).

For the next 50 years Boas's frenzied collecting activity drew him into activities the ethics of which continue to be questioned. Douglas Preston, formerly of the American Museum of Natural History, has railed about Boas' collection methods, saying:

The people whose ancestors were being "collected" were never seriously consulted: no one worried much about their beliefs, values, feelings... The values of science, Boas would say again and again, were supreme: it was a matter of cultural history, not Kwakiutl mores (Preston, 1989: 70).

According to Cole, however, when Boas saw the Washington collection he was horrified that objects could be torn from their meaningful context which, for the museologist meant an academic understanding and physical association with items from the same culture. He felt that Washington had placed objects into artificial categories imposed upon them by the curator.

The artificial context of the museum itself was not questioned. Boas was incensed because, as he said, "classification is not explanation" (Cole, p 115).

The museum created "classifications that are not founded on the phenomenon, but in the mind of the student" (Cole, p115).

Also collecting in the Northwest at that time was an enthusiastic amateur field naturalist named C.F. Newcombe. He had intended to provide items for the New York museum and Boas, but was persuaded by George Dawson that if he did so the items would be lost to Canada. In consequence, he never did supply objects for New York, but he was subsequently persuaded to do so for the Field museum. In part this seems to be a consequence of the fact that there was no active collecting, or funding, for a Canadian museum. Even if there had been, it seems that Newcombe's first loyalty was to Britain, and he lamented that "As a patriotic Britisher I must own that I often sigh when I think how lightly these things are regarded by mine own countrymen" (Cole, 1985:193). But since the British were not in the field, and the Canadian collection was still largely unrecognized and unsupported, Newcombe preferred to see a representative collection in the Field museum rather than have the items dispersed indiscriminately.

Newcombe's career was especially notable for his collection of native technology and the ethnological information that made it meaningful. Thus an item used, for example, as a fishing tool ceased to be considered purely as a

practical and utilitarian object, but came to be viewed as an object giving insight into the culture and 'authenticated' as craft. But regardless of his success in this area, Newcombe's personal passion was for the collection of houseposts, frontal poles, and memorial columns. Perhaps his enthusiasm stemmed from the difficulty which he encountered in acquiring these objects since there was always a complex negotiation associated with the question of title to the poles. Ultimately it transpired that possession within the native community was clearly more significant to the Indians than legal ownership by one of their members, and possession was significantly more valuable than money. This determination, paradoxically, made the poles even more clearly "authentic" as a part of aboriginal history and folklore and thus of paramount interest to the ethnographic museum.

Scientific Trends and Devaluation

By 1910 the work of anthropology had changed. The collection of items for museums had peaked and waned, and ethnological research now meant field work.

Scientists of Boas' type were being superceded by people with a new vision. The rising star in this constellation was Henry Fairfield Osborn, described by Cole as "a vertebrate paleontologist with a flair for exhibition and a winning manner with donors and trustees" (Cole, 1985:215). Osborn dismissed anthropology as "mere opinion, or the gossip of the natives" and

felt that it was far from being a science (Cole, 1985:215). Paradoxically, anthropology also came under attack from those who felt that it had become 'too scientific'. One of these was Lt. George Thornton Emmons, a former collector for both Washington and New York, who in 1915 regretted that:

Today, they [anthropologists] do not seem to be willing to go out and study the life of the natives but sit in their offices and discuss theories and psychology and there then seems to be in the New York Museum men who love to praise each other. ... Out of the simplest act of primitive man they want to find some distant motive (Cole, 1985:222).

During this down-turn in scientific enthusiasm for collections, Newcombe sold his to Ottawa in 1906. Frederick Landsberg, a dealer in Victoria, did his best to stir up public support there for a provincial museum which would, Cole points out, have furthered his own business.

It was also at this time that the first suggestion was made that the government should provide some legal means of preventing the export of the best material. This idea also came from Landsberg who was trying to whip up a local market, but the vehemence of his language also indicates a more patriotic intent. He said:

Why, oh why have not our leading men taken an interest in this deeply important subject and done something to save for future generations something like a coherent and continuous record of the clans who people this Island and the neighboring coasts (Cole, 1985:228)?

E.O.S. Scholefield was the B.C. provincial librarian and archivist at that time, and he rejected the idea of export controls. Recognizing the difficulty of such

a regulation, he suggested instead that the government should proceed immediately to acquire what was left of native material culture. This was the first government effort to protect native cultural property, and it had taken the loss of "the very choicest specimens of native ingenuity" (Cole, 1985:227) before it was attempted.

A number of changes in the native lifestyle had conspired to promote their assimilation into the Euro-American culture, but in the first years of the 1900s there still remained a few people who could produce items in the traditional manner. Some ceremonial items which had become devalued by museums were hidden away until such time as they might recover the honor and value of earlier times. Other items were deliberately destroyed or otherwise disposed of when Pentecostal religions were successful in evangelizing the nominally Anglican natives. Another contributory factor in the loss of ethnographic objects was the government's determination to eradicate the potlatch ceremonies. These large-scale gift-giving and feasting ceremonies, it was felt, were socially undesirable and resulted in hardship. The ceremonies were made illegal, and the ceremonial objects were confiscated, resulting in the loss to the Southern Kwakiutl of all their four hundred year old objects. This made other natives prepared to sell what they had rather than have objects taken by authorities who gave no recompense. With respect to other items, however, there was not always a high regard for an object's traditional value by the natives, but there was often a clamor for a

'piece of the action' by Indians wanting to sell items which had become increasingly meaningless.

Compounding this tendency to sell was the employment of literate native people as collectors since it was felt that they were in a position to subvert much of the resistance to selling significant items. One such collector, Louis Shotridge, confessed:

The modernized part of me rejoiced over my success in obtaining this important ethnological specimen for the Museum, but, as one who had been trained to be a true Kaguanton, in my heart I cannot help but have the feeling of a traitor who has betrayed confidence (Cole, 1985:265).

Another blow to the attempt to preserve cultural objects within the communities came with the failure of the 1927 fishery. This created a need for money which made the job of collectors that much easier.

Even so, it was in the 1920s that the first general outcry came from Canadians about Americans stealing 'their' heritage. Harlan Smith of the National Museum urged that regulations be passed to forbid exports or at least to require the reporting of exports. This perception of an endangered heritage inspired the preservation of the totems of the Skeena, but this was actually only made possible by the increased value of tourism. Their value continued to be unrelated to the Indians who still possessed them. In fact, the Kitsegukla chiefs signed a petition arguing that no-one should touch any of their poles because each was valuable to a family and were "the only honerable [sic] property that remain in our Hands" (Cole, 1985:275).

However, despite the loss of much of their material culture, and despite the rapid assimilation of Indians into white society, many aboriginal people continued to practise the old ways, and to remember the old ceremonies. Perhaps most telling in this regard is the observation which Franz Boas made in 1930, during his first visit to the region in thirty years.

It is marvellous how the old life continues under the surface ... Remarkable how the people cling to the form though the content is gone (Cole, 1985:279).

At a feast he listened to the chief distribute the food with the traditional speech:

‘This bowl in the shape of bear is for you,’ and you, and so on; for each group a bowl, ... but the bowls are no longer here. They are in the museums in New York and Berlin! (Cole, 1985:279).

Which makes one wonder if, in fact, it was the content which had remained while the form had been appropriated by the museums. But, what a sad realization this episode must have been for Boas who had spent his life in preserving the artifacts which he had assumed were doomed to abandonment.

Surrealist Appropriation

In New York in 1941 a number of European emigres and refugees found themselves together in unfamiliar surroundings. Among them was Claude Levi-Strauss the anthropologist, who wrote:

I felt myself going back in time no less when I went to work every morning in the American room of the New York Public Library. There, under its neo-classical arcades and between walls panelled with old oak, I sat near an Indian in a feather headdress and a beaded buckskin jacket - who was taking notes with a Parker pen (quoted in Clifford, 1988:237).

This remarkable juxtaposition of contrasting cultures is indicative of the new awareness which developed during that period. New York became a repository not only for art objects and cultural goods from all over the world, but also a gathering place for artists and their friends from all over Europe. It is hardly surprising, therefore, that the refugee surrealists became avid collectors. Among Levi-Strauss's friends were Andre Breton, Max Ernst, Andre Masson, Georges Duthuit and Yves Tanguy, who became very interested in the objects collected by art dealers from the Northwest Coast, Melanesia, and Eskimo peoples. They also added to their collections from the American Museum of Natural History, and the warehouse of the Museum of the American Indian. What attracted them to these materials were the visual puns evident in such items as Eskimo masks, and which were perceived as "jokes" by the director of the Museum of the American Indian, George Heye. He was happy to sell off these items very cheaply, and thus the surrealists acquired a number of native cultural objects.

In 1946 they mounted an exhibition of these items at the Betty Parsons Gallery across town, and in the process declassified them as scientific specimens and reclassified them as art. Their collections became part of a

struggle for the redefinition of primitive cultural objects and an effort to gain for them aesthetic status. James Clifford sees a tremendous conceit in this association of the surrealists and the primitive, and this conceit is expressed in the work of Levi-Strauss. Not only was a correspondence assumed between the primitive and the modern artist, but this relationship was taken to have a deeper significance. It was as though whole human cultures were perceived as being comparable to the creative artist, and Levi-Strauss found that tribal works were as inventive as Picasso - the modern model for inventiveness.

At the same time, as Clifford points out, although the twentieth-century categories of art and culture presupposed each other, they continued to be separated institutionally. Even so, both surrealist art and structural anthropology were concerned with the essential human spirit at the root of creativity, and both aimed to transcend particularized local cultures and histories.

But, in as much as both the art world and the museum world appropriated native material culture for their own purposes, the concepts of art and culture were in conflict. Even the notion of art itself was in question, and observers soon realised a considerable difference here:

None of the native languages of North America seem to contain a word that can be regarded as synonymous with the Western concept of art, which is usually seen as something separable from the rest of daily life (Wade, 1986b:9).

Indeed, in evaluating works of native art most Western observers did so, and continue to do so, by concentrating on those elements in the art which appear to coincide with elements in white society. For example, the surrealists saw elements in native material culture which excited them and which satisfied certain criteria for abstract art. They concentrated on those elements which confirmed the principles of surrealism to such an extent that they failed to concentrate upon other aesthetic and cultural qualities of the art (Maquet, 1971). James Clifford found the same process at work in the 1980s. What he saw was

a history not of redemption or of discovery but of reclassification. ... The "discovery" of tribal art reproduces hegemonic Western assumptions rooted in the colonial and neocolonial epoch. ... At MoMA (Museum of Modern Art) treating tribal objects as art means excluding the original cultural context (Clifford, 1990:412, 414).

Levi-Strauss acquired the first volumes of the Annual Reports of the Bureau of American Ethnology, and through them enjoyed a new perception of American Indian cultures in a form that made them "come alive" for him. At the same time he was aware that by focussing upon a tribal past he was to a large extent blinded to the emergent present. He feared that anthropologists were in danger of perceiving distant societies as amazing and bewildering, and recalled the Kwakiutl whom Boas brought to New York.

The stranger stood for hours spellbound in the Times Square freak shows with their giants and dwarfs, bearded ladies and fox-tailed girls, or in the Automats where drinks and sandwiches appear miraculously and where he felt

transferred into the universe of Kwakiutl fairy-tales (Clifford, 1988:239).

For both the Kwakiutl in New York and the anthropologist in native communities, the fascination with the extraordinary clearly outweighed the perceptions of the ordinary. Levi-Strauss wondered whether anthropology might not be in danger of precisely the same imbalance in awareness; of bizarre perceptions of distant societies.

Trafficking in Antiquities

After 1950 in Europe, collections of all types recommenced with gusto. So much so, in fact, that many Third World peasants have looted burial sites and destroyed ancient remains in order to cash in on the market (Meyer, 1973). With the illegal export and import of artifacts, and the wholesale destruction of many archaeological sites, the roles of both the collector and curator have become troubled. Whereas previously they had worn essentially only one hat, by the 1960s they were balancing two. One of their hats was interested in these archaeological problems, while the other was interested in the acquisition and display of beautiful objects. By 1969 curators realised that they were no longer innocents abroad. In the tradition described by Frank Herrmann many collectors had viewed antiquities as " 'buried treasure,' fair game for any hunter" (Wiseman, 1974:219). But in doing so both the collectors and the curators had themselves played parts in the destruction of the past which they treasured. They provided the money

which bribed the officials, paid the traders, and fed the destructive peasants. And, they were using public money with which to do it (Muscarella, 1974:221).

The endangerment of antiquities began to be discussed as an ethical issue demanding international consideration in the 1960s. By 1970 the problems associated with the illicit traffic in antiquities had been the subject of debate at UNESCO. Not surprisingly, any suggestion that objects should be returned to the cultures from which they originated was greeted with alarm by many collectors, curators, and affiliated institutions.

UNESCO had, in 1970, established their report on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (see Appendix D), and went on to produce a series of handbooks on museum security, and to give technical guidance on the care and treatment of collections. Since then UNESCO has made no further pronouncements about the illicit trade of antiquities, or on questions of ownership. Their 1970 report, however, became the foundation upon which Canada and other nations have established national policies concerning the import and export of cultural properties.

Karl Meyer, in 1973, described the problem in his book The Plundered Past and proposed that international agreements be set up to protect the national heritage of poorer countries. Meyer also recommended an international clearing house to provide an information source on stolen

artifacts and on the extent of looting and destruction, in much the same way that endangered animal and bird species are recorded and tracked. For Meyer this is an issue beyond apathy and ignorance. It is an issue of moral responsibility. As he has said, "we have only a generation in which effective action can still be taken" (Meyer, 1974:224).

Chapter V

TALKING CULTURE, TALKING NATIONALISM

It was in the context of this concern about the traffic in antiquities that Bill C-33, which introduced the Cultural Property Export and Import Act, was first presented to the House of Commons on October 30th 1974. This chapter will give evidence of the discussions which took place in parliament in relation to this Bill, and draw from those an understanding of the attitudes of legislators towards cultural property. In doing so the research shows the meanings which individuals attribute to cultural objects, and the process by which particular meanings are sanctioned, reinforced, and translated into legislation.

The extracts from the transcripts of these speeches and debates draw out the relationship between the government of Canada and cultural products, as well as the relationship between cultural products and nationalism. The extracts are organized according to four major themes which became apparent during analysis of the texts: the need for legislation; the perception of cultural property as national heritage; the importance of the role of collectors and commerce in cultural property; and the definition of cultural property for the purposes of legislation. In addition, a great deal of time was spent in discussing the system of control and its application. This aspect will be included in this research only to the extent that the philosophy behind the system of control was invoked as argument or explanation.

The passage of the Bill through Parliament was as follows. On February 7th 1975, it received the debate on second reading, and the Hon. James Hugh Faulkner, then Secretary of State, moved that it be read the second time and referred to the Standing Committee on Broadcasting, Films, and Assistance to the Arts. His speech at that time encapsulated the position of the Secretary of State and his department. Subsequently, the said committee discussed the Bill from February 25th 1975 to March 11th 1975. The House of Commons received the report of the Committee on March 21st. The Bill received its second reading in the Senate on April 8th 1975, and debate was concluded there on April 23rd. The Senate Standing Committee on Health, Welfare and Science discussed the bill on April 30th and their report was presented to the Senate on May 1st. It was agreed at this time that the Bill go forward to third reading at the next sitting, and the Act was assented to on June 19th 1975.

Prior to these discussions taking place, consultations had been carried out by the Secretary of State and his department, among various interested parties. These included custodial institutions, notably national museums and organizations representing collectors and dealers. In addition they conducted an analysis of the process of cultural legislation in England and France. Artists and aboriginal Canadians were not consulted.

This chapter will analyse the transcripts of the following speeches and debates:

1. The debate at second reading in the House of Commons.
2. The debate of the Standing Committee on Broadcasting, Films, and Assistance to the Arts.
3. The report of the Standing Committee to the House of Commons.
4. The debates of the Senate.
5. The debates of the Senate Standing Committee on Health, Welfare and Science.
6. The report of the Senate Standing Committee.

All of these discussions were held in government buildings in Ottawa, but specific locations of committee hearings are not named in the transcripts. It is usual for discussions in these places to be formal, following prescribed rules for debate, and to incorporate forensic rhetorical style. However, within that framework there is some leeway for certain, quite carefully controlled, repartee and banter. Asides and arguments are never permitted to be quarrelsome or insulting, and this limitation may be controlled by the Speaker of the House of Commons, by the Committee chairperson, or by the Speaker of the Senate. These limitations are understood by all members of parliament. The transcripts of the discussions are nominally verbatim, but some editing and grammatical correction of the material has taken place prior to publication (Clark, 1992).

All of those persons whose words are recorded in these particular texts were men, although the Speaker of the House of Commons at second reading was a woman. Thirty-eight people in total contributed to these discussions, and all but three of those spoke in English. The three exceptions (two members of parliament and one witness) spoke in French as their first

language, but reverted to English in conversations subsequent to their initial statements.

All of those participating in these discussions were Members of Parliament with the exception of the four witnesses who were the Under Secretary of State, a Special Advisor to the Arts and Culture Branch, a representative of the Treasury Branch, and a lawyer representing a group of collectors of cultural products. Also, each of these witnesses were men.

Members of Parliament addressed one another by their title (e.g. Mr. Chairman), by their constituency (the honorable Member for Battle River), or more frequently as "mister" (Mr. Joyal, Mr. Fairweather, etc.). First names were not used, although some members were clearly well acquainted with one another and made reference to their personal lives and collections of cultural goods. With the exceptions of the debate at second reading in the House of Commons (at which time the Secretary of State presented a lengthy explanation of the bill and arguments in favor of it), and the presentation of the bill at second reading in the Senate, speakers were given a limited and timed period in which to present points for discussion or to pose questions. Answers from witnesses were permitted to be as lengthy as necessary in order to respond adequately.

As explained in the methods chapter, individuals are referred to by use of letters (a, cc, etc.) and the particular text reference is given by the page number of the text (3:4, 4382, etc). These coding systems are provided in

appendices B and C for easy reference. For ease of reading, individual speakers are referred to by name only occasionally since the large numbers of participants would make the reading of the analysis unnecessarily complex if names were included. However, the reader can identify individuals by reference to Appendix C.

1) The Need for Legislation

This Bill was introduced subsequent to the 1970 UNESCO convention which called for international co-operation in limiting the illegal trade in cultural products, and which was attended by Hugh Faulkner. However, this was not presented by him as being a primary motivating force behind the Bill. Instead he cites the "department's continuing and expanding role in developing policies in the cultural field," and UNESCO is referred to as a confirmation of the global trend in the same direction. From the outset it is clear that the legislation should in no way inhibit a free market and great pains were taken to begin the debate on that foot.

The need for the legislation, it seems was threefold. First, collectors in the past had suffered from inadequate remuneration for keeping cultural products in Canada and a lack of incentive to do so. Second, UNESCO had requested legislation which would protect the cultural property of (largely third-world) nations whose heritage was being sold away. And, thirdly, Canadian cultural products had been and were being sold abroad with little or no restriction on their export. Each of these needs were seen by those

present as being, unarguably, causes to which they could assent, and the Bill was referred to twice as a "motherhood" bill, and once as "apple pie legislation." The lack of argument about the nature and philosophy of the Bill indicates shared assumptions about what cultural property was, what it implied for nationhood, and the moral worth of preserving certain items within Canada. However, as this analysis will show, there was not in fact a clear, shared, conception of what cultural property was, what types of property should be retained in Canada, what was a national treasure, or what was "good" or "bad" in terms of art, aesthetics, and the value of cultural products. In terms of the "motherhood" aspect of the Bill, then, it may be fair to say only that it would have been politically unwise to argue against it in as much as it was so widely perceived as a "good thing."

Thus, as these statements show, the overall perception of the need for the legislation varied:

(to) control the export of masterpieces and objects d'art being part of our national heritage (3034d).

In Britain, now, many of the ancient churches are selling some of the important church decorations, the altar silver, and so on. So the board ... will have a very formidable job if our heritage is to be kept for us (3031b).

It is tremendously important for us to acquire an international outlook (3036e).

We must maintain a basically free market but (that) it is the duty of the state to preserve and maintain in Canada collections of the best objects of national cultural significance (3028a).

In addition, many members wanted to expand the bill to include aspects of cultural property which went far beyond its original scope:

We must know what is there to be protected before effective protection can be provided. Stock must be taken. The heritage property, buildings, areas, parks and natural landscape must be listed. ... Fortunately the minister is helped by a very large and increasingly well informed public opinion which feels it wants very much to save these treasures for future generations. (3031b).

(There is a) complete absence of any archaeological ground rules, regulations or framework for archaeological digs in Canada (8:24i).

Ultimately it was agreed to limit the scope of the Bill to items which would be designated on a Control List as being national treasures. (The way in which this was to be ascertained will be shown in the analysis of the text which refers to cultural property as national heritage.)

1a) UNESCO and the Need for Legislation

As Mr. Faulkner pointed out, these provisions were necessary for Canada to ratify the UNESCO 1970 convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. He said:

I led the Canadian delegation last October to the eighteenth session of the UNESCO general conference and I declared that it was the government's intention, once this enabling legislation became law and the appropriate

consultation with the provinces had been completed, to become a party to this convention (3029a).

However, it is not at all clear from the subsequent discussions that other members of parliament were as conversant with the problem of illegal traffic in cultural property as was Mr. Faulkner. One member opined that UNESCO had become "highly politicized" and thus the convention which this legislation would ratify had overtones of unsavory influence (3031b). Another wanted to prevent the "invasion" of cultural property which would not "enrich our heritage" (3038h). A third member, neatly dividing the world into the rich and the poor, protested that he thought it was:

really somewhat arrogant of the rich part of the world, without acceding to the UNESCO treaty, to be busy digging up other people's heritages. I think, for instance, of what happens at present in Turkey (5:9b).

It is not clear, from this whether he perceives Canada to be included in the rich part of the world or not. Neither is it clear whether he recognizes the loss of aboriginal Canadian heritage in the same way as that of the people of Turkey but by the absence of those associations it would appear that he perceives Canada to be outside of the scope of these problems. In addition, there was no indication from the discussions that members of parliament considered that Canadians might be among those who illegally import the cultural properties of other states.

Bill C33, however, set out procedures which would enable a foreign

state "to apply to the Secretary of State for the recovery and return of cultural property that has been illegally exported from that state to Canada," and, through multilateral cultural property agreements, Canada might be able to recover from other states illegally imported Canadian cultural property (3029a). The former aspect of these agreements was brought forward in the discussions, but the latter was not. This indicates a perception that the need of other states to recover property was much greater than Canada's need. It might also be interpreted as a complete failure to acknowledge the export of native material culture. Mr. Faulkner stated:

Contraband of substantial proportion is going on ...
to the lasting detriment of a number of countries.
.... (This bill) is totally consistent with international
morality on this question - international law (3:15a).

His failure to point out that Canada was one of those countries suggests to me that he had failed to recognize the need for the protection and repatriation of aboriginal artifacts. The countries being pillaged for their archaeological remains and objects of anthropological significance, were perceived to be third-world nations with no money to buy them for their own museums and no clout with which to enforce export laws.

One member pointed out that, since the United States was unwilling to ratify the UNESCO convention through legislation, the main thrust of its purpose was hindered to the point of futility. This was especially so since Canada and the United States together were considered one primary art market (S5:22jj). Another member discussed the difficulty of obtaining

provincial agreement (3031b). These contrary indications were not discussed at any length.

In relation to the UNESCO convention and the illegal traffic in cultural objects, however, very little was said. The vast majority of the discussion surrounding Bill C33 concerned the retention within Canada of Canadian cultural heritage. This was perceived to be, by and large, items of art and cultural property of various origins which had become a part of Canadian collections.

1b) Exports and the Need for Legislation

More significant than UNESCO in the minds of the members of parliament, and taking up more time in discussion was the fact that national treasures were being threatened by export. One member observed:

Hopefully, the bill will prevent what many of us who live in the Atlantic provinces - or, I might say, the older, settled parts of Canada - have observed to our sorrow through the years. That is the movement of treasures - I use that word in the widest sense of our history - virtually by the truckload to the United States (3031b).

Another was fearful:

It astounds me to think that until this bill is passed it might, under law, be possible to take Papineau's "revolutionary flag" and export it somewhere where current revolutionaries might find a use for it (3031b).

One member, again expanding the concept of cultural heritage beyond the

scope of the Bill, bemoaned:

I am never content that the residence of our first prime minister is in the possession of another government, or that the long-time residence of our great and first internationalist, Sir Robert Borden, has passed into destruction (4383aa).

Fortunately, the concept as it related to exports was clarified. It was to "protect us against unwarranted export of treasures deemed to be of national historic value" (4382e). It was pointed out that in order to be protected an item would necessarily have had to be classified as being of national interest, but potential problems that this might create were considered to be adequately dealt with in the process of applying the legislation (4382e).

One person feared that "there are loopholes so that in the end there is no way in which there can be an absolute prohibition to export national treasures," and it was agreed that while this was potentially true, the legislation would encourage the retention within Canada of a majority of national treasures, and that an absolute prohibition would be counter-productive in the attempt to work co-operatively with collectors (4384c).

In discussing the control of exports, one member asked:

This law and these restrictions have existed in France and I believe, in Great Britain for years. What prompts our present administration or government now, at this late date, to emulate these countries and to enact such legislation? (765cc)

The reply was that "it is time for us to follow other nations and try to protect in this way our national heritage" (765cc). Although this response seems

somewhat unsatisfactory, the implication here is that Canada has been somewhat slow in recognizing the need and, rather than mindlessly mimicking other nations, Canada was now capitalizing upon their foresight and experience. Unstated was the impetus given by UNESCO. No mention is made of the recognition of the historic and ongoing export of native cultural artifacts as had been described in the writings of scholars and collectors. It seems that there was a considerable lack of awareness about this on the part of the members of parliament.

Nevertheless, this Bill proposed, quite simply, to install a delay period upon the export of a national treasure. This would give a public institution the time and opportunity to purchase it if it would be a significant addition to its collection (3:12a).

1c) Funding and the Need for Legislation

An important provision of this Bill was that it not only set up a delay period during which an object might be purchased, but it also established tax concessions and a fund which would make the process of purchasing an object considerably more attractive to Canadian institutions and collectors.

This was necessary because:

On occasion institutions may not have funds to take advantage of this kind of first refusal and an object may be lost to the institution and even the country (3028a).

One member suggested that this need might be met through the International

Assistance Account which was adopted "as a kind of covenant with the international community," but this suggestion was not taken up (8.16d).

There was much discussion over whether or not the fund should be a lapsing or a non-lapsing account, and there seemed to be some thought that the national museums emergency purchase account served the same purpose in any case. These questions were resolved when a representative of the Treasury Board was invited to clarify the issues. The emergency purchase fund would be transferred to the Cultural Property Import and Export Act, because that would be where its purpose would be served. Subsequent to this it would change from being a non-lapsing to a lapsing account.

The need for funding, therefore, is somewhat muted by the knowledge that emergency funds were already accessible for Canadian museums to acquire "works of art that were abroad and became available for repatriation" (8:18z). Under Bill C33, however, the funds would also be available to retain objects of cultural value which were already in Canada in order to prevent their export.

2. National Heritage

Fundamental to the Bill is the concept that national heritage is essentially bound up with cultural objects. The national identity is perceived to be embodied within, among other things, art objects and the products of our hands. The members of parliament who discussed Bill C33 all seemed to

share in this idea at some level, but no clear expression was made of what national heritage was, what it meant in terms of national identity and nationalism, or how cultural objects might be assessed for their contribution to that heritage. Rather, the discussion is sprinkled with expressions such as "an object which forms part of the national heritage" which were received without question (3028a). The 'national heritage' then, appears to be a very imprecise concept, such that any and all personal interpretations may be subsumed within it. However, it would include those arts and crafts which derive from, or might otherwise be perceived to 'belong in' the nation.

A nation was perceived by one person to be "a group of people who have done great things together in the past and hope to do great things together in the future," and the patriotism inspired by these ideas prompted one person to evidence his literary prowess (3033c). From the American poet Emerson we got:

The ear loves names of foreign and classic
topography. But here we are, and if we tarry a
little, we may come to learn that here it is best
(3032b).

and from Margaret Atwood:

It's all very well to say that art transcends time and
place. But good writers don't cut themselves off
from their roots, from the ground they stand on.
They may transcend their nation, their time, their
class, by being good, but they don't transcend it in
the texture of their work (3032b).

One member referred to Joseph Howe who said:

A wise nation preserves its records, gathers up its muniments, decorates the tombs of its illustrious dead, repairs its great public structures, and fosters national pride and love of country, by perpetual reference to the sacrifices and glories of the past (4384aa).

However, some members were cautious about the implications of this association, fearing an excess of patriotic fervour.

We should not use this bill as a means of creating what some call a Canadian identity, because it already exists. Canadians already ought feel that our country is unique. They already have an identity, one for which they need not apologize (3037e).

We must be careful not to implant in our children the notion that their culture is the only one which matters, for fear of developing super nationalistic attitudes. If we imprint such notions too strongly attached to Canada that [sic] they will ignore the big perspective, ignore the big world outside (3036e).

But only one person noted the multicultural nature of Canadian society which makes the notion of nationhood a complex one. Even so, he failed to include aboriginal Canadians within this mosaic when he said:

We, as Canadians, have the privilege to live in a country with many cultures. I think that is an asset. Each of us brought in his culture from his original country. We put them together and the result was fantastic. Indeed, it is interesting to build a society with a number of cultures (3039h).

Nevertheless, there was a general consensus that, whatever national heritage was it was certainly evidenced by cultural property.

2b) National Heritage - The Problem

Essentially, the problem which was being addressed by Bill C33 was the export of national treasures.

Over the years Canada's heritage has been diminished by the departure of cultural treasures. Champlain's astrolabe and the Paul Kane diaries are only two examples of objects which left Canada instead of being preserved here in our own country for the benefit of future generations (3024a).

Notice, here, that the previous 150 years of export of native cultural products are not alluded to as a problem. Nevertheless, it was perceived that it was necessary to put a stop to this loss, and that the responsibility for preserving the heritage should be shared between federal and provincial governments as well as between public and private sectors.

Additionally, there was a perception among some that Canada, being a young country, had very little history which warranted preservation. One member expressed this when he said:

Many people hardly think of Canada as a nation with a historical reference. There are many people in this nation who can almost remember back to the time when this country was started, and on that basis Canadian(s) often conclude that we do not have a historical past, when in fact history is simply human beings in progress (4382e).

Again, this refers to Canada as a nation founded by Europeans and having no relationship to its aboriginal peoples. Bill C33, is perceived as serving a couple of important conceptual functions. The first was to draw attention to the need to protect certain cultural products and the other was to present a

mechanism whereby this might be accomplished.

One person suggested that "Canada's first objective should be to build up its store of cultural property from other countries," but this suggestion met with no support (798dd). Although this person thought that it was altogether too insular to "Canadianize" our culture, most members were in agreement that it was necessary and indeed desirable to do so. One went so far as to predict that "from a strong nation which understands its identity will come a strong internationalism" (3032d).

At least one person saw the issue of national identity as one which impacted upon the quality of life of Canadian people, and as such was necessary to preserve our energy and vitality (761cc). Another saw the problem as the equivalent of Northrop Frye's search for the genuine America "buried beneath the bustling capitalism" in In Search for America (3032b).

Only one suggested that the problem of retaining cultural goods within Canada was nonsense (770ee). While acceding to the proposal that it was necessary to preserve important objects, he felt that to enact a law binding Canadians to that was an infringement upon their freedoms. This thought was taken up in various forms, with one person suggesting that it was not the government's job to control culture, and another pointed out that because Canada is populated by many peoples it should not be the government's job to tell us what nature of culture we should have. On the other hand, another suggested that because the law allowed the export of some national treasures

it was not effective enough. Obviously there was no fixed opinion about the role that the government should play in this endeavour.

Part of the problem associated with protecting the national heritage was to find a way in which this could be accomplished without infringing upon the rights of the collectors, dealers, and custodians of heritage objects. Ultimately, it was felt that the Bill succeeded in this to a commendable degree.

By and large it was felt that cultural property served to bind the people of Canada together, and one person felt that it had the power to "relate the younger generation to the older, which can only help to keep our country united, whatever our origin, our culture, our language" (3039h). It is difficult to imagine how some of the European paintings and sculptures, which were given as examples of cultural products, would succeed in achieving this lofty goal among native Canadians. Indeed, it might be more appropriate to attribute Canadian native material cultural objects with that potential. Nevertheless, the sentiment as it was expressed was well received and seemed to represent to the members of parliament an overriding truth which could be applied to all cultural objects of significance.

The problem, it was generally agreed, was to find a way to prevent the export from Canada of items which could be considered a part of the national heritage.

2b) Defining National Heritage

For the purposes of this Bill, National Heritage was perceived to be "limited categories of objects of high importance" (3025a). An object would have to be, in addition, over 50 years old to be subject to control. One might assume that these objects would necessarily be produced in Canada and/or by Canadians. However, this was expanded to include objects "which had become a national treasure 'by association'" (3026a). This, it transpired, was any object which had been a part of a Canadian collection, from anywhere in the world, for at least 35 years. This was because "our cultural traditions, except for those of our native peoples, have developed over a relatively short period of time" (3026a). In addition, the object must have been made by a person who is no longer living in order that living artists might not be restricted in the sale of their work.

Many members had difficulties with the concept of Heritage, and suggested that it could not easily be determined.

Heritage is something like citizenship. It is something we all share; however, many have a hard time articulating it. We can find it in a painting, an object of archaeological importance, an antique piece of furniture, and so on. Heritage is the sum of many things (3030b).

And many felt that it was important to be clear on this issue in order to "help keep our country united" and to "forge very strong ties between the present and the past generations" (3039h). One person wanted to include under the heading of Heritage:

literature, our music, our theatre, and crafts. The heritage which is immediately threatened includes those visible and concrete things which our ancestors gave us. To some, of course, the heritage is in the very geography of the country and the fact of our national parks. ... There has to be some of the very things I have mentioned - houses, churches and other things used by our forefathers such as the furniture which was produced for their homes, their decorations, and so on (3031b).

And others expressed their perception of cultural heritage in a similarly all-encompassing vein. All of which, of course, goes far beyond the scope of the Bill. However, the above quotation does serve to emphasize the essentially Euro-centric attitude which most members of parliament seemed to have towards objects of art and culture.

Mr. Faulkner recognized that "there would be wide divergencies of view as to what constitutes a national treasure" and so the Bill specifies that decisions in that regard would be made by local expert examiners and a review board (3027a). He said also, as a clarification:

It is important for me to stress once again, Madam Speaker, that our system of control not attempt to set up too fine a screen which, in addition to creating high administrative costs, would catch objects of minor importance. This would simply create unnecessary delays in the trade, to the detriment of normal business. Our interest lies in objects of particular quality, significance or rarity (3028a).

Some of those present went to some lengths to try to express their personal preferences in national treasures and the way in which national identity is expressed in them, as this example shows:

All nations have (such) a buried and uncreated ideal, the lost world of the lamb and the child, and no nation has been more preoccupied with it than Canada. The paintings of Tom Thomson and Emily Carr, and later of Riopelle and Borduas, is [sic] an exploring, probing painting, tearing apart the physical world to see what lies beyond or through it. Canadian literature, even at its most articulate, seems constantly to be trying to understand something that eludes it (3032b).

Ultimately, however, it was established that the Review Board and the Control List would define "national treasures" according to the knowledge and experience of experts. These experts would be members of cultural institutions (museums, libraries and so on) and would be recognized among collectors as having authoritative knowledge of the cultural objects in question. The Review Board had first to determine whether or not the object was included on the control list, then whether it was of outstanding significance. There might be three reasons for this:

- i. its close association with Canadian history or national life.
- ii. its aesthetic qualities, or
- iii. its value in the study of the arts or sciences.

Then they would have to decide whether or not the object "is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage" (Clause 8 [3] [b]).

This prompted discussions about, for example, whether a Picasso, having been in Canada for less than 35 years, might be a significant object of national heritage. Similarly, how important would a single Paul Kane painting

be? Mr. Faulkner emphasized that the examiners would:

be demanding the highest standards for all objects, particularly those which are not of Canadian origin. Unless they are really outstanding, having some association with Canada, no institution will be interested in purchasing them (S5:8a)."

This definition was considered quite unsatisfactory to a number of members who persisted in demanding a further definition of the criteria to be applied.

At one point the witness who was the Special Advisor to the Arts and Culture Branch proposed this explanation:

Well, the national heritage, in terms of this bill, is the control list, upon which the first selection is made, so the object is on the control list. It is a subjective judgement. We recognize that these are subjective tools, but with the expert examiner coming from the kind of institution which has the responsibility of curating our national heritage in moveable property - whether it is an archives or a library of a museum or an art gallery, that is the kind of institution which will be sending its curator to make that judgment and that is their responsibility, to curate our national heritage (S5:26k).

And, in terms of "significance" he said:

We say that we are doing this at a top level of material. We are coming into this at the level of object which really will be significantly obvious, that the loss of it will deprive the Canadian people of a chance to have it in their institutions (S5:26k).

Thus, national heritage objects would be listed on a control list. This control list was not discussed, and the means by which something would appear on this control list was not evaluated during these debates. However, the fact that an inventory of cultural objects was being undertaken at that time was

noted. There seemed to be some assumption that there was a connection between the inventory and the control list, but this was not stated and was, in fact, incorrect.

Objects which were on the control list would be deemed to be "national heritage," and would be evaluated for their significance by experts taken from the art/museum world. Thus, all objects are assumed to be a part of collections and to be evaluated as such. The evaluations were to be carried out by representatives of elite institutions. There was no suggestion at all that some cultural objects might have an additional role as part of an ongoing cultural practice or religious ceremony. Since the objects were perceived as elements in collections, curators were perceived to be the most appropriate people to evaluate their worth. If it had been considered that certain cultural groups might have some other purpose in mind for these objects then it would have been necessary to find other ways of evaluating significance than the use of curators, but clearly there was no such consideration at that time.

Another way in which the significance of objects was to be evaluated, aside from their age and their being a part of the 'national patrimony,' was their value. The act set forth value limits on cultural objects:

The act excludes decorative art between \$500 and \$2,000 in value, drawings and water colours under \$1,000, and other objects under \$3,000 (799dd). These values, some might argue, are maybe even too low. That is specifically designed to try to err in the beginning on the side of not losing things of value. If you take a look at those value figures they are in terms of the market today. furniture,

\$2,000 - gosh, you cannot even get a reasonable sofa for that price today (4:6a).

These are minimal threshold figures. The actual control list, which will be determined by regulation, can be substantially higher. What the control list cannot be is lower than that. ... The control list obviously will vary according to inflation and a variety of other factors that will have to be taken into consideration (3:10a).

The fact that the Bill placed dollar values upon the objects to be controlled caused some consternation. Some pointed out that there may be objects whose value was less than the minimum set, but which constituted a part of a larger, more valuable collection. Indeed, the collection might well be worth far more than the sum of its parts. All were assured that it would be possible to purchase complete collections, and indeed that this had happened in the past with the Speyer collection which was repatriated from West Germany, and the Manoir Richelieu collection which was "a mixed bag" (4:9a).

Occasionally a member would comment upon the value which he personally would place upon a given art or cultural object, pointing out the subjective nature of placing value upon these things. In this and other discussions relating to cultural objects the examples used were of items of European or Euro-Canadian origin, or were items in collections which had been derived from colonial conquests. Thus they tended to refer to items such as Titian's Death of Actaeon, Van Gogh's paintings, Champlain's astrolabe, The Elgin Marbles, The Archer by Henry Moore, and Ming vases. Native material cultural objects were not among those cited. However, one

person did point out that "what might be of importance for one social group or cultural group in Canada might not be of the same importance in another part of Canada," which made the issue of a national heritage somewhat problematic (7:10d).

Some feared that the process would entail a determination of what was right and wrong, good and bad in respect to culture, but these ideas were not debated. Neither was the suggestion that the process would entail an imposition from "the top" of elite culture. A great deal of time was spent in discussing whether or not an object of regional interest was of national significance, and it was determined that the bill did not preclude this possibility. All in all, the discussions on national heritage converged at only a few points, but nevertheless there seemed to be a sense that they were more-or-less in agreement over the need to preserve it, whatever it was, in Canada.

3. Collectors and the Trade

The need to enlist the co-operation of collectors and dealers was perceived from the very beginning as being "critical" to the success of the legislation. Indeed, it could not be effective without their co-operation. It was considered that private collectors had in the past conserved and highlighted our national heritage, and that we owed a great debt to private collectors and institutions for their efforts (3035d).

One way in which national treasures were to be preserved in Canada was to encourage their sale to national cultural institutions by private collectors. Obviously, this necessitated the offer of a fair market price for the objects, and the assurance that the period of delay in determining the sale would be kept to a minimum. In addition, tax incentives would encourage the donation of objects to Canadian national institutions by collectors.

Dealers would have the opportunity to apply for a bulk license, or a permit to deal in large numbers of objects without having to undergo scrutiny of individual objects. In this there was to be some level of honor attached to the issuance of a license, which could be suspended or withdrawn if attempts were made to deliberately subvert the legislation.

These measures seemed, by and large, to be very acceptable to collectors and in fact while the bill was under debate in parliament, according to Mr. Faulkner, collectors had already made enquiries into the possibility of making contributions to institutions, and thereby taking advantage of the tax incentives (S5:7a).

Thus, the mechanism for controlling the national heritage was contained within the triumvirate of government, the collector-dealer fraternity, and experts from the academic and museum worlds. The review board was to have "parity between the trade and the collector on one side and the museum or the custodial community on the other," with no provision made for community or lay intervention in the process (6:11k).

The desire to co-operate with collectors and dealers was referred to several times in the language of sport, e.g.:

I am sure that they will decide to play the game in the spirit of legislation which is fair and designed to protect the legitimate interests of all concerned (3029a).

If you look at the balance between these various vested interests, they all admit that they are all given a fair shake (3:14k).

As long as they play ball ... If they do not play ball you can cancel the permit (6:8r).

And, to some extent the relationship between the government and the collector-dealer fraternity had the air of a gentleman's agreement, of the type which carried so much weight in 18th century Europe. However, that relationship included "a delicate balance between constraints and incentives" which put the control clearly in the hands of the government (4381a).

One person, representing collectors, felt that not enough consultation had taken place and he requested the opportunity to speak before the Bill was passed into legislation. This became possible for him during the debate in the Senate, where he complained that, while consultation had taken place with organizations of collectors and professional art dealers, individual collectors had had no opportunity to evaluate the bill. He would have liked forums to have been held across the country and expressed a concern that:

I am respectfully suggesting to you that collectors have not been consulted ... The collectors feel that the bill is being brought forward with undue and unseemly haste (S5:19jj).

Many of his complaints about the difficulty in reviewing the bill and having his voice heard were considered unsubstantiated. It was felt that he had had sufficient time to prepare a presentation and to be heard if he had acted earlier. In terms of the Bill itself, his main concern was that it would limit trade in non-indigenous art and would, "prevent the acquisition of African art, for example" (S5:17jj). He was allowed to present this objection, but it was not answered since most of the discussion surrounded the length of time allowed him to prepare a submission.

Reading the transcript of this presentation it does appear that there was considerable irritation on the part of the members of parliament and the Senate to any suggestion that the bill had not been presented appropriately to the collectors. They were defensive of the process which had taken place, and the witness was responded to as though he were a nuisance. Similarly, they rejected the suggestion that the process had gone through too quickly for an adequate response by collectors. Instead the witness was given to understand that it was he who had failed to respond at the appropriate time.

3a. Fair Deals and Finances

In every case in which export is prevented, the owner must be assured of an offer to purchase at a fair price ... Offers to purchase should be related to the market price wherever the conditions admit of a general and reasonable market price being arrived at (3025a).

Great pains were taken to ensure that the system of control would be "fair"

to collectors and dealers, and that it would not interfere with normal trade or infringe upon personal rights (3027a). These factors were espoused, in more or less these terms, numerous times throughout the debates.

Occasionally elements of this fairness required clarification, but essentially it was understood that any object which was deemed to be a national treasure would be bought from the collector at the market price. The collector could not be permitted to feel that, by selling to a Canadian institution, he or she had thereby lost money. It was suggested that the word "international" be included in the phrase "fair market price" in order that the item be evaluated on the world market, not solely the Canadian market (812ff).

Also within the Bill was the provision for a person who did not want to export the work of art, but who wanted to donate it to a public authority or institution. If the object was determined to be of national heritage value, then the Review Board would give a tax exemption either in the way of capital gains or a donation.

The Income Tax Act is to be amended in order to give Canadian institutions a competitive edge in negotiating for important works. One amendment will exempt from capital gains tax, national treasures disposed of to designated institutions and public authorities which will be deductible from taxable income on the same percentage basis as if they were gifts to the Crown; that is, on a 100 per cent basis. I wish to personally thank my colleague the Minister of Finance (Mr. Turner) for his sympathetic understanding in agreeing to these tax exemptions which in my judgment are central to the

operation of the whole scheme (3027a).

One person objected to this proposal on the grounds that speculators in art would seem to have been given a special status over those who speculate in other commodities (3034c). The response was to point to a Canadian collection which had been given to the city of Washington because, at the time, tax exemptions were not available to the collector in Canada (3035d).

There seemed to be wide general support for the idea that art collectors should be encouraged through tax incentives despite the acknowledgement that such collecting was generally a very expensive business engaged in by wealthy people. One member justified this by saying:

The Canadian government should encourage even more those who own some cultural property by giving them some financial help ... It may happen that some cultural property of great significance for our national heritage is owned by persons whose financial means do not allow them to give proper care to that property (3039h).

By far the greatest amount of time spent on finances concerned the lapsing or non-lapsing fund. There was some concern that:

If you have \$200,000 left over at the end of 1976, for God's sake do not go out and spend it in a great splurge of spending for something you may not need (7:26o).

This was resolved when it was agreed that it would be a non-lapsing fund, but the members enjoyed sharing anecdotes about departments which bought typewriters just to use up their budgets.

3b) Collectors and Public Institutions

Throughout the debates many references were made to the relationship between institutions and collectors, and these examples were cited among many others:

The collection assembled by Lord Beaverbrook of which the Atlantic provinces are justly proud, the Adeline Van Horne Bequest to the Montreal Museum of Fine Arts, the Vincent Massey gift and bequest to the National Gallery, the Sigmund Samuels bequest to the Royal Ontario Museum, and the Zacks bequest to the Art Gallery of Ontario (3028a).

This was done to promote the Bill by persuading the members that "all levels of government must actively facilitate this movement from the private to the public sector by taking the reasonable but necessary steps that will encourage future benefactors and philanthropy" (3028a). One member grumbled that Canadians didn't know how to give, and that the Bill might serve a valuable purpose in teaching "generous people how to give wisely" (3030b).

One person praised the patriotism of collectors who preferred to sell their works at a loss rather than sell them on the international market (3035d), and he referred to "those involved in the preservation of our cultural heritage" as "the most enlightened people within our society" (3036d). Apparently, the tax incentives were warmly welcomed by those enlightened people, and it was firmly believed that they would now be greatly encouraged to dispose of their cultural property to appropriate Canadian custodial institutions (763cc). Mr. Faulkner, acknowledging that the art market

involved considerable speculation, however, made an interesting value judgement when - referring to the trade - he said:

This bill is not trying to correct the moral imperfection in Canadian society. What it is trying to do is to ensure that in fact the national treasures end up in Canadian public institutions (3:13a).

3c) Members of Parliament and Collectors

Before leaving this section on the collectors and dealers in cultural objects, it is significant to note that, simply judging by the references in these transcripts, a number of the members of parliament and the Senate who participated in the debates over Bill C33 were themselves involved in the collection, trade, and custodianship of cultural objects. As had already been noted, Mr. Faulkner had participated in the UNESCO conference which had put forward their concerns about the illegal traffic in cultural products, and Senator Belisle indicated that Mr. Faulkner was quite knowledgeable in matters of evaluating cultural objects (S5:14gg). But, more immediately involved in the business was Mr. Serge Joyal who was the chairman, and formerly president, of the Quebec Museum Society (3035d). Mr. Joyal retold an incident whereby he had been bringing some items to Canada from Asia, and was obliged to put them in storage in Italy in order to avoid the Italian law for exporting works of art when he left that country.

Mr. Ian Watson had two private members' bills on the order paper, both of which dealt with areas of the same general concern as Bill C33 (3039i).

Mr. John Roberts declared that he occasionally exported and imported works of art (5:5m), and Mr. Young admitted having "some small interest" in the area of the sale of collected art objects (4:7q).

In addition to the active involvement of legislators in the world of art and cultural objects, it seems that the premises in which they work benefit from the addition of many Canadian works. Mr. Stollery indicated that government offices are generously decorated with works of art when he pointed out that he owned "more art in my office in Ottawa than they have in the entire huge operation that is run at the Consulate General in New York" (3:20p).

It would seem, therefore, that the interest in Bill C33 and the efficiency with which it was passed was more than an academic interest or an objective appraisal on the part of the legislators. For some, at least, there was a personal involvement in the policy which would provide not only a learned response to its proposals, but also a vested interest in its outcomes.

4) Cultural Property

Broadly speaking, cultural property for the purposes of this legislation was to be defined in terms of age and value. The reasoning behind this was as follows:

Age, for example, is a factor that helps to establish rarity; value, on the other hand, helps to establish quality (3025a).

In addition, as has already been stated, control was to be confined to "limited categories of objects of high importance" (3025a). Despite the efforts of some members of parliament, the definition was not to include land, parks, buildings, archaeological sites, literature, dance, drama or a host of other cultural products. It did, however, include "historical relics, art work and other memorabilia" (3033c). One member had a problem with this and pointed out that:

One of the first things we must agree on is that culture is not a fixed concept. Culture is fluid, always changing, and therefore there is a real danger that the government, in making its judgments, will look on culture as something rigid, as something fixed, as something around which one can put parameters, or try to establish something which is termed as Canadian culture (3036e).

This thought might have had more influence if he had not expanded upon it by discussing the relative cultural value of clean and dirty water, and the differing cultural perceptions of beauty. What he had hoped to achieve was an awareness that it was not the government's role to "fix" culture, but simply to record it for the sake of history. As it was, his ideas were not taken up and in fact the perception seemed to be that the language of the Bill was sufficiently non-specific as to have precluded that possibility in any case. Nonetheless, it does seem that the Bill had the potential for allowing a few selected experts to determine what objects were of national significance on behalf of all of the peoples of Canada.

A fear was expressed that excessive government involvement in

cultural policy was indicative of a totalitarian society, and this was to be guarded against (6:24d). The same person felt that "cultural life is not a public activity" and that government's role should be to support private activity.

One person argued that Canadian cultural products could not be used as a means of determining Canadian identity, but most of those present agreed that they constituted "the core of our national heritage" (764cc). The test for such objects was a process:

(a) in which we divide it into three kinds, the historical dimension, the aesthetic dimension or its value in the study of arts and sciences ... and what kind of importance or outstanding significance the object has. Then you stand back - that is if you have said yes to one of these - and you see, looking at (b) whether the object is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage (S5:25k).

The phrase "objects of any value" was questioned as being a qualitative assessment of value and not a quantitative one. It was questioned whether an object of "pioneer value or some artistic value" could properly be evaluated (4:8s). However, value in this sense was clearly to be ascertained by the market price of the object. One man pointed out that the value of an object depended upon its being in demand, and that - this being the case - it would have entered into the art marketplace. He neatly described the interweaving of interest groups, and the circularity of the process, when he added:

It has to be seen by the people of this country or of another country. It is as a result of that speculation, of that desire on behalf of people to purchase the kind of treasure that an art object becomes a treasure because it becomes something which is valued and sought after by people (4:5q).

Another described the process of art collecting as being comparable to "women buying a hat" (5:4m), in as much as any period of delay between decision to buy and actually possessing the object might have an adverse effect on the desire to purchase. It is not clear from this whether he was minimizing the practise of art purchase, women's millinery, or commenting upon the whimsical nature of consumption in general.

On the whole, it was agreed that the objects in question were art works and objects of anthropological significance, which had found their way into the art market or into collections. They had to be "significant" and not simply unexceptional items of historic or artistic interest. They had to be at least 50 years old if they were Canadian in origin, and 35 years old if they had been imported. The 35 year rule was something of a compromise and was arrived at by a calculation based on the 50 year rule which exists in most European countries. Canada was perceived to be at a much earlier stage of development and had had less time in which to acquire cultural objects. 1940 was therefore considered to be the date prior to which an object had to have been acquired in order to become a part of the Canadian heritage.

Clarification of the definition of cultural property seemed to be of particular interest, and one person suggested that the Bill concerned not

national treasures but rather "works of significant aesthetic, historical or cultural interest to public institutions" (3:18m). This would seem to put the objects in a different category from those which would be of interest to individuals and communities, and would make it problematic for native groups to claim a cultural interest in objects which were also of interest to public institutions. It would also preclude objects which were not of interest to public institutions.

One Senator, fearing the imposition of culture "from the top" proposed the following definition of the concept:

Culture can exist in this country only if we give our people education of the right kind, if we educate them to love truth and beauty for their own sakes. If we do that, if we give our people that kind of education, culture will take care of itself. ... I believe that the Canadian people probably have as good an idea of what is good for cultural education as any people in the world (769ee).

He went on to protest that if he had a Krieghoff to sell, that he would have to get a bureaucrat's permission to do so, and to this he objected most strongly. Unfortunately, none of this discussion contributed much to the dearth of understanding about the definition of a cultural product.

The living producers of cultural products, however, were determined to be "natural persons" and not corporations. This, clearly, puts certain manufactured goods outside of the realm of cultural products and precludes the possibility of incorporating any mass-produced tools, furniture, utensils and so on under the definition. But in any case, the works of living artists

were to be excluded from the Bill.

4a) Cultural Property - Institutions and Experts

The Review Board, which was to be established under the Bill, was to be "equally representative of Canadian custodial institutions and dealers in, and collectors of, art and antiques" (3026a). Further:

Custodial institutions in the location of the Customs office which deals with export permits would be responsible for providing expert examiners. I am talking about local museums, galleries, provincial archives, university libraries and so on. The Customs office will have a list of these institutions and in some cases the names of individual expert examiners not connected to them. From the description of the object on the application form, the Customs officer will be guided as to which institution or individual he should approach to get professional advice (3027a).

Thus, custodial institutions and their personnel would be responsible for drawing up the control list, and for providing the experts to assist the Customs officers. Customs officers would have to approach these experts according to the description of the object provided by the applicant. Its relationship to the national heritage was to be decided by experts in cultural objects, guided by the control list.

The Review Board would have seven members including an independent chairman. This chairman would be "a person of standing, experienced in administration and having a recognized interest in the Canadian heritage" (3027a). Given the success rate of native Canadians within the

established education system, the chances that this person would be native were remote in the extreme. Mr. Faulkner anticipated that the board would be:

a body of professionals with access to people employed in custodial institutions at the federal level who have the technical and special knowledge to assist it in any matter in an advisory capacity (3027a).

It was established that an institution might be a private institution, but only "museums, art galleries, libraries and archives that will benefit from the bill and related amendments to the Income Tax Act are public institutions, publicly owned and opened to the public" (S5:10a).

One person submitted the thought that "all those who are involved in the preservation of our cultural heritage are indeed the most enlightened people within our society" (3036d), but another thought that their judgment might not always be sound and he posited the suggestion that the experts should have the advice of members of the public (3031b). This latter consideration was taken up by one Senator who suggested that the review board was "loaded in favour of professionals" (910ff), but the idea that the board would incorporate others was perceived as being too problematic to administer.

Only one person foresaw the possibility that a citizen of Canada may have an interest in a collector's application to export, and that person may wish to make representations to the review board. It was explained,

however, that it would be "strictly at the discretion of the Board as to whom it is going to hear and as to whom it is not" (6:14t). In the event that a native community or individual wished to claim a ceremonial object as indigenous property, their representations would be admitted only at the discretion of the group of experts to whom the collector had applied.

4b) Native and Non-Native Cultural Property

It has already been noted that, in reference to cultural property, most members of parliament brought to mind objects of European or colonial origin. Otherwise, discussions tended to be of the works of Euro-Canadians rather than aboriginal Canadians. When, however, native works were mentioned it was frequently as a means of comparison with the relatively short period of time during which Euro-Canadians had been establishing cultural traditions.

For example:

Canada is a young country. Our cultural traditions, except for those of our native peoples, have developed over a relatively short period of time (3026a).

Thus, native culture is mentioned, as it were, in parentheses.

The successful venture to repatriate the Speyer collection of Amerindian cultural material from West Germany was mentioned twice as an example of the need for repatriation. On one of those occasions this example was used together with that of the eighteenth century portrait by Greuze, which was also repatriated (3025a).

Surprisingly, there seemed to be little awareness of the extent to which Canadian native cultural products had been exported, and one person stated quite frankly "there is not a hoard of Canadian material which the world museums are hungry for" (3031b). Another said that "our indigenous cultural property is not in heavy demand in the rest of the world" (798dd), without observing that perhaps the world had already acquired the largest proportion of such objects.

On close reading, however, it seems that the first of these two men must have meant that statement to refer to Euro-Canadian material since he subsequently stated:

The Canadian problem is to protect the fragile and meagre evidence of our prehistoric past and to save the evidence of the cultures of our native peoples and to preserve in Canada the works of art and art materials which have accumulated during our short history (3032b).

"Our short history," it seems, does not include our native people, and "our prehistory" refers to events prior to European contact.

One person felt that it would be difficult for the British to accede to the demand that a foreign state should be allowed to recover their cultural property, since the British had in their possession a large number of historical treasures from other countries. Canada, by contrast, did not have those problems because, he said "we have not throughout our history plundered nations of their historical treasures" (3033c). No doubt it would be hard for many aboriginal nations to agree with that statement, and it serves to show

the cultural bias with which many of these legislators approached Bill C33. Some were either ignorant of, or blind to, the way in which native material culture had been expropriated and exported over the years. In their perception, the plunder of other nations took place in other lands by European colonizers. They failed to see that their ancestors had done just that in Canada.

The witness who represented collectors suggested to the Senate that there should be some provision in the Bill to protect the work of living Canadian artists, especially Eskimo artists, since much of their work was being sold abroad and many valuable pieces had been lost to Canada. It was agreed, however, that there should be no infringement upon a living artist's ability to trade freely.

One person went to great lengths to try to incorporate within the Bill the protection of archaeological artifacts which, at that time, went largely unprotected and were often being "pillaged" and removed in unscientific ways. It was agreed that these could not be incorporated within this Bill, but it is interesting that in rejecting the notion one person reflected:

There is a general feeling here that it is important that it be considered, but still Bill C-33 is an Act respecting the export from Canada of cultural property and the import etc. How we get into protection of Canadian artifacts in the middle of that I think is a little obscure (8:25x).

It seems that he had separated "cultural property" from "Canadian artifacts" in his thinking. Ultimately, it was established that provincial governments had

legislation to preserve the cultural heritage in the ground - archaeology, preservation of a site and so on - but once it came out of the ground, then it came under the jurisdiction of the federal legislation.

Another, considering the clauses which dealt with objects of "archeological, prehistorical, historical, artistic or scientific interest" and those "that were made by ... the aboriginal peoples of Canada" suggested that:

It is quite important for us Canadians to have souvenirs, works from all areas of this country. Just last week I visited an exhibition of Canadian Inuit and Indian natives works. They are marvelous works (4384bb).

Clearly, his perception of native material culture was of something somewhat less than High Art.

Given the relative absence of discussion surrounding native material culture, it seems that the impact which the Bill was to have on the repatriation of native cultural objects was neither anticipated nor understood. When such objects were discussed it was in a somewhat dismissive fashion, as though this were the least of their concerns. Aboriginal Canadians, at that time, had not impressed their political clout upon the rest of the nation and the value of their cultural products was understood by only a few. It is not surprising, then, that Bill C33 was passed with no concern at all for the question of ownership of cultural properties, or the status of those objects within a living native culture.

More significant, perhaps, is the observation that these discussions

represent an understanding of culture according to elite European classification systems. Within such a framework alternate points of view are not legitimated, and the occasional suggestions of alternate taste cultures were not taken up in discussion. As such, the conversations represent a hegemonic, ethnocentric taste system which accommodates art and cultural objects as educational capital (from Bourdieu), and related to privilege. The easy acquiescence of the legislators to the Control List, which was allowed to represent the national heritage, is therefore an affirmation of power.

The easiest, and so the most frequent and most spectacular way to 'épater le bourgeois' (is) by proving the extent of one's power to confer aesthetic status (Bourdieu, 1980:247).

Chapter VI

THEN AND NOW:

THE ACT, ITS PREPARATION AND ITS APPLICATIONS

This thesis, in describing the meanings of native material culture, and using government policy as an index of the legitimization of specific meanings through regulation, has assessed three different types of evidence. The first was a historical overview of values and meanings as found in the reports of anthropologists. The second source of evidence was a presentation of the debates in parliament over the Cultural Properties Export and Import Act, and an analysis of those discussions. The third source of material is the spoken words of people who have professional involvement with the Act.

This chapter presents this third source of evidence through the thoughts of four people as expressed in recent in-depth interviews. Two of these people were directly engaged in the development of the Act, and were involved in the discussions in Parliament. They are Ian Clark, formerly Special Advisor to the Arts and Culture Branch of the Secretary of State and subsequently Chairman of the Review Board, and Lewis Levy, Q.C., formerly legal advisor to the Department of the Secretary of State. Their thoughts are retrospective and reflect their individual contributions to the process. The two other people are, or have been, more directly involved in the day-to-day administration of the law. They are David Walden, Secretary of the Cultural Property Export Review Board, and Carol Sheehan, formerly a curator for the

Glenbow Museum. All of these people were asked to direct their attention to native material culture. This focus was necessary in order to establish the relationship between the perceptions of the legislators in 1975 and the perceptions of those associated with the Act today. The questions sought to establish the extent to which greater awareness of native political issues in recent years had impacted upon the administration of the Cultural Property Export and Import Act, and changing perceptions of culture.

The interviews sought to discover the insider's view of the process of policy-making and administration, as well as their perceptions of the meanings of cultural objects. The text of our conversations is presented here, although editing has been done for ease of reading and occasionally to more accurately portray the sense of the statement as clarified in subsequent correspondence. The insertion of words or phrases in order to more accurately represent the speaker's intentions, is indicated by the use of square brackets []. The language is informal and may not be presumed to be representative of the style which the interviewees would adopt for formal literature. Each of these people, being intimately involved with the working of the Act, was asked to explain different aspects of the process in their own words. This summary seeks to present the subjects' perceptions, and to accept them as such in accordance with the principles of ethnography described by Hymes and Burke. The statements made by the interviewees are personal perspectives which include the backgrounds of the individuals, their professional

associations and consultations, their success stories and their frustrations.

The analysis of the interview transcripts has been carried out through a process of establishing the main themes under discussion. Within those themes certain categories arose, and were applied to the transcripts of each of the subjects. Principally, this chapter will give evidence of five major themes. Four of these are: the spirit, or ethos, of the time in which the interview subject was involved with the Act; the ways in which cultural property is described and understood; the way in which the national heritage is perceived; and the relationship of these individuals to what is described as "the trade." In addition, mention is made of some problems associated with the system of control of cultural objects, within which the Review Board was seen as being particularly worthy of mention. These comments shed some light upon the way in which this process may be expected to develop in the future, and are also included as an indication of the continuing change in the meaning of material culture.

The Ethos of the Time

What had initiated the Canadian attempt to protect cultural property? Was it the UNESCO convention, the export of cultural objects, the need for repatriation, or an economic imperative? According to the two people most involved in the research for Bill C33 the need was - initially at least - to inhibit uncontrolled exports.

What were we going to do about the danger? Because we live beside the United States, anything we have of value could fritter away. [The question was,] how could we come to grips with protection of the heritage in movable cultural property (Clark, 4)?

These words of Ian Clark reflect those of Lewis Levy. Both men felt, during the early 1970s, that the greatest threat to movable, Canadian, cultural property came from the United States. As Levy recalled it:

In the very early 70s .. the then Secretary of State, Jean Pelletier, was concerned with the amount of material that was flowing from Quebec to the United States (Levy 1).

The impetus to enact protective legislation came from, in particular, the loss of silver objects and antique furniture from Quebec. However, Clark was also aware of losses of ethnological, archeological and paleontological material:

[for example] Commerce in [effigy] pipes that were funnelled into Buffalo. I knew about sites in the arctic ... and universities in England which had [amassed collections which] had been obtained in a clandestine, certainly not in a correct way. Most common courtesies had not been entered into... In the case of fossils ... the naughties in this case happened to be professors from distinguished American universities who didn't give a damn about any [curatorial] significance of this material provided they got what they wanted and got it back [to their laboratories] and made their claims for interpreting the material (Clark, 16).

The losses from Quebec, however, were of particular concern to Pelletier and he set in motion a process of research into export control mechanisms which ultimately developed into the Cultural Property Export and Import Act.

Although Clark does not refer to Pelletier in his recollections of this initial research, he confirms the need to prevent the export of objects to the

United States. The research into export legislation involved both Levy and Clark in consultations with authorities in Europe; Levy examining existing regulations and legislation, and Clark more concerned with policy and the relationships between collectors, museums and dealers. One of the exhibitions which Clark visited, during his time in Europe, included a display of Nigerian bronze sculptures and it made a significant impact upon his understanding of the issues.

How would I have felt if I had been Nigerian and gone in there and seen this incredible exhibition of delicately sculpted masks and visages from Africa. I would have said, if I had been Nigerian, "this is ours. This is our heritage. This is where our soul resides. .. What is it doing here?" (Clark, 5).

This incident was recalled three times in the course of the interview and stands out as a significant milestone which influenced the subsequent research. Clark has pointed out, in correspondence subsequent to this interview, that he was also influenced to a great extent by Marcel Evrard who was a close friend. Evrard, and through him Claude Levi-Strauss, were his 'spiritual guides' and opened his eyes to the relationship between ethnography and art. This new perception of cultural goods was applied to Canadian aboriginal cultural objects, and a new concern developed: not the prevention of exports but repatriation.

It was pretty easy to see that the haemorrhage of the Northwest coast material, the Dorset, pre-Dorset sites of material in the High Arctic ... one had to face as you went further east in Canada that there were 18th century, 19th century or 20th century losses. You had to have the

realisation that this was not a problem of preventing what was going out, it was how to get it back (Clark, 5).

But these new understandings had not come about in isolation. Much of Clark's vision had developed from an awareness of the art world, and of the art world's interest in ethnographic art.

Henry Moore was a great English sculptor who in 1941 drew attention to African and pre-Columbian art and how it affected his own work. ... What did Picasso have, what did Matisse have [in their studios]? It was extraordinary to see. They all had bits and pieces from Africa, from South America, and some from the NorthWest coast (Clark, 11).

From this appreciation, individual ethnographic objects were now being viewed as art rather than specimens. At the exhibition Arts Primitifs dans les ateliers d'Artistes in Paris, Clark found these objects:

in a static universe suddenly suspended in a case in an exhibition, beautifully lighted with a little descriptive tag and an [learned] entry in the catalogue (Clark, 11)

and in Clark's perception it was not difficult to begin to ask questions about origins and peoples.

Who lost it? Was it just sort of found on the jungle floor?... You couldn't escape the linkage that someone had been deprived somewhere along the line for the benefit of a living room or museum. So that, sure, [was part of the] ethos. And it was certainly being expressed well before 1970 when the [UNESCO] convention was signed (Clark, 12).

This sensitivity, however, did not extend to consultations with native people:

The thought of consulting [native people] didn't occur to me at all as it would now ... it was almost as if you were the grandfather saying: we've got to do this for them," rather than answering a voice from the native people

saying "please get our [material culture] back" (Clark, 16).

Nor even did it extend to consultations with the government department that was concerned with native issues. As Levy prosaically reflects:

We might have talked with Indian and Northern Affairs. ... I remember being in John Munroe's office, but that might have been for something else. ... The Indian and Northern Affairs would deal with basically status Indians, while Secretary of State dealt with non-status and Metis. I was involved in a certain amount of negotiations for a lot of this stuff (Levy, 4).

It was certainly felt that in the early 1970s, very few public servants had a sense of moral or ethical concern about the cultural property of Canada's aboriginal people and indeed, in "that political climate they wouldn't have understood what the hell we were talking about" (Clark, 17). The time at which this legislation was passed was seen, in fact, as a window of opportunity to protect and repatriate cultural property in a way which would not have been possible before or since.

The window was open. To get legislation on the agenda, to get it in the fallout from the 60s and 70s enthusiasm, Expo and all that, all played a role. The naivety at the time was to say you're doing this on behalf of all Canada, all Canadians, of which [native peoples] are a part. ... If you are properly educated and normally sensitive, you're going to have all those sort of warm feelings about these people ... You had a sort of Rousseauesque view about how they were integrating (Clark, 18,19).

There is little evidence of these "warm feelings" in the text of the debates, and it may be that when Clark talks in the second person he is actually referring to himself. However, it is clear that a sensitivity was beginning to

develop among certain people at that time. And, according to Clark, the sensitive people at that time were "the curators, ...the anthropologists ... the archaeologists" (Clark, 16).

Carol Sheehan, as an anthropologist, reflected upon the way in which she understood the Bill to have developed, and suggests that the motivation was most likely to have been economic:

At the end of the day I suspect you will find out that they had a group of experts saying to them this stuff is important and it is worth a lot of money. If we lose it to the art market we have placed in jeopardy our native cultures ... and if they want it back, we are going to have to pay top dollar for it, so better it isn't sold down the road. ... Legislators are thinking things, dollars, pathways for those dollars in marketing (Sheehan, 1).

It is clear, however, that whether the motivation was primarily to prevent exports, to repatriate, or to save money, the motivation to protect the national heritage evolved in concert with similar international efforts which were an influence upon governments during the 1970s. However, Clark insists that the goal to preserve the Canadian national heritage preceded the need to ratify the UNESCO convention, and this would indicate a willingness and sensitivity which was not reflected around the world. Levy points out that he spent a couple of days at UNESCO in Paris reviewing the existing laws of various nations and he confirms that Canada's legislation went far beyond the UNESCO goals. In correspondence subsequent to these interviews Clark also points out that Canada, unlike other nations, saw the need to have legislation in place prior to the ratification of the UNESCO

convention. Some, apparently, ratified it with no systems in place or in mind.

Perceptions of Cultural Property

In the course of the interview conversations for this study, each of the individuals interviewed considered cultural property from a number of perspectives. There was some consideration of the broad definition of cultural objects by some of the countries which were signatories to the UNESCO convention. In these interviews, in reference to the definition of cultural property, the relationship between ethnographic art and fine art was the subject principally at issue. It was raised by David Walden and it became a topic of discussion related to the questions of value which were being asked. Also under examination were the kinds of native cultural objects which the Review Board assesses.

a) The UNESCO Convention on the Protection of Cultural Property.

In Clark's recollection both he and Levy, as researchers for Bill C33, were "very keen on Canada becoming a signatory to the convention" (Clark, 10).

It was so easy for the rapacious collectors of the West who would stop at nothing to get what they wanted... In that sense we were like any Western country, but the peculiar thing was that we were also a country that was exporting some of its treasures... We have been exploited by other nationals (Clark, 10).

A problem arose, however, when different countries chose to define their cultural property in different ways. Mexico, for example "wants to define every 'pebble on the beach' [every stone on a site], under their law, as subject to a permit" (Clark, 11).

UNESCO had recommended that each signatory to the convention should enact legislation which would enable any country to have access to another country's courts in order to claim back their cultural property. Even though this was not to be retroactive, many Western countries found it difficult to accede to that since it would mean that any country could claim back items from their collections which they would be unwilling or reluctant to return.

The problem with the American legislation is that it requires that you conclude separate bilateral agreements or multi-lateral agreements, to have the terms of their legislation come into force. So while they say they protect cultural property, unless an individual country has a separate agreement specifying the types of property for which import controls are imposed, you have no protection (Walden, 5).

Within the Canadian legislation, however, is a statement which accepts the definition of cultural property as stated by the country of origin.

It might be a little difficult for the British and the French and the Americans to [take this approach], but it was a little easier for us to do it (Clark, 11).

Subsequently, the Canadian legislation was viewed as:

a workable example that was different from all these excessively exaggerated acts [in developing countries] that were being put into effect. There was no way [South

American or African and Arab states] were going to be able to do what their act said they were supposed to do. It was pie in the sky, it was such idealism. Unworkable. Unimplementable (Clark, 13).

The success of the Canadian law was due, in large part, to the fact that it did not try to "catch" all the objects being exported, but only the most significant. The metaphor of the fishing net was used several times in conversation with Clark, Levy, and Walden, to the effect that the Canadian net is not cast too wide, nor is it too tight. All were very proud of this fact, and of the successful implementation of the law.

When the debate arose over The Spirit Sings and the false-face mask in 1988, Clark was Ambassador and Permanent Delegate at UNESCO in Paris. It is interesting to note that at that time, the reaction among member states was concern, not chiefly for the danger of seizure for repatriation of native material culture, but fears for the safety of cultural objects which were on loan from their museums. This view at UNESCO was also reflected by Walden who, at that time, was concerned with the insurance for the exhibition and the various objects in it.

So cultural property, from national perspectives, is defended as national property. Walden views the Cultural Property law as a response to the 1970 convention, and that "the concern of the UNESCO convention was for transfer of ownership" (Walden, 1). As such, cultural property is seen in terms of personal property rights. If the government is going to inhibit the free disposal of personal property, then there has to be something in the

legislation to offset that infringement upon personal rights. Thus we have the tax concessions, and the delay period during which museums might bid at the fair market value.

Although the UNESCO Convention goes a long way towards the protection and repatriation of cultural properties, as it stands, it fails to account for objects which were exported from countries of origin prior to their law taking effect. Thus, the cultural properties being protected are limited to those which can be shown to have been exported during the period since restrictions have been put in place.

Thus, for the purposes of the international agreement, what falls under the definition of 'cultural property' is circumscribed by differing national laws.

b) Native Material Culture as Ethnographic Art and as Fine Art.

For Clark, the period leading up to the Act was one of enlightenment not only for artists:

a whole series of exhibitions which le Musee de l'Homme had organised in Paris .. which was in the European tradition of seeing the work of primitive peoples ... as "primitive art" (Clark 3).

but also for anthropologists and archaeologists.

Potsherds come out of the ground and its a complete pot and [the archeologist] appreciates it for what it is historically and scientifically, but you can't escape - although many anthropologists and archaeologists might - the concept of this being art. This was the garbage tip of a culture. ... And the traditional Victorian box of curiosities was what you saw in a Canadian museum as

far as the [creations of] native peoples were concerned (Clark, 1).

Clearly, then, the sensitivity of Canadians towards the artistic quality of native cultural objects was derived from Europe.

One couldn't help but be suddenly sensitized when someone from another continent is looking at the material culture of your native people and pulling out a significance that is different from the significance in scientific terms (Clark, 3).

Unfortunately, Clark and Levy experienced great difficulty in convincing archaeologists of this significance and the resultant need for protection.

They couldn't see it. And they were against the [archaeological provisions of the] bill. And they didn't want to be expert examiners, and they didn't want to ... accept that archaeological material could have a monetary value ... (Clark, 16).

As a consequence, and to protect archaeological materials, the bill allowed that any object that comes out of the ground, if it is more than 50 years old, is protected whether it is valued at "a million dollars or two cents" (Clark, 17).

The market value of objects played a key role in the drafting of the bill. Museums were limited in the numbers and values of objects they could acquire, and there were instances when museums could not afford to pay the prices which the international market had set for particular items. Thus the museums could not afford to become custodians of the heritage. The Bill, however, created a delay period during which a museum could have the opportunity to raise the money for an object. With reference to

archaeological finds, however, and contrary to the view of some archeologists at the time, both Clark and Levy believed that as soon as an object came out of the ground it automatically had a dollar value and that the spiritual or community value of an object would only serve to increase its monetary value.

Some of this stuff is not particularly good to look at. People collect it because the value is a spiritual value to certain people, so one could assume I think that if an object has a religious or cultural value to a certain people, a collector will always be willing to buy that - which will give it a value (Levy, 6).

There was that whole tradition of Indian souvenir art, too. Some of that was pretty horrible in the sense that it was their concept of what people wanted (Walden, 15).

However, Clark did concede that some objects might not be of monetary value at all when he added:

And the stuff that doesn't have a dollar value [if the collecting institution doesn't want it or need it], who cares? (Clark, 17)

On the opposite end of the continuum from valueless to value-laden, the Control List calls for a differentiation between Ethnographic Art and Fine Art (which were classifications derived from the UNESCO convention), and it was suggested by David Walden that changing perceptions of native material culture might make those definitions problematic.

There is that concept of Ethnographic Art which I don't think is the same now as it was at the time when it [the Control List] was drafted (Walden, 14).

In addition, as time goes by and contemporary native artists move out of the

"living artists" category, their work would not fall neatly into any of the categorizations in the List. For Clark, the issue concerned the ways in which the native artist wished to be perceived:

Where does the native person want to be seen, in an art gallery or in a Museum? (Clark, 26).

But Levy, while emphasizing that his role was not one of a curator or anthropologist, expressed the feeling that it was more an issue of art appreciation by cultured elites:

When does something become me slapping some paint on some boards ... what is the transformation from that to a Riopelle? His are works of art and mine are paint on boards. So I think this is a natural development of native artists, but I think that this has all happened within the last 35 years (Levy, 5).

For Levy, whether an object was ethnographic art or fine art revolved around the value it acquired in the marketplace:

If you are asking when does a Kurulek cease to become an ethnographic piece, and it's now fine art - it may have always been fine art but it's now definitely fine art since Kurulek is worth a lot of money (Levy, 5).

However, since an ethnographic object or an art object would be protected in either case, this would not be a problem for legislators or collectors. It would not matter whether a totem pole was perceived as an ethnographic cultural object or a sculpture since either way it would be worth more than \$2000 and protected under the Act.

Both Walden and Sheehan, however, had an understanding of native artists as individuals, as "individual thinkers" (Sheehan, 3), and were capable

of naming individual artists in their conversations. This understanding seems to have come about through an awareness of contemporary native artists but extends, for Sheehan especially, to a growing awareness of individual artists whose work is represented in historical, ethnographic collections. This is the awareness to which Walden referred, and which he perceived as potentially indicating a need for a new system of categorization.

c) The Review Board and Native Cultural Property.

Walden indicated that in recent years the items which have come before the Review Board have been unusual pieces.

The things we tend to see now are - for want of a better word - more spectacular. We used to see a lot more - not mundane - practical things... Now we are seeing fairly spectacular expensive pieces. Quite often with a strong association with either an event or an activity or an individual. For example there is a Plains Cree tobacco pouch which had belonged to Paul Kane (Walden, 6).

In reviewing such material, the Review Board, apparently, is not bound by the definitions in the Control List and in the Spring of 1991 chose to define an Iroquois false-face mask as neither an art object nor an ethnographic object, but as a sacred, religious artifact (Walden, 6). They went to great lengths to recommend a 100% grant to the Woodland Buffalo Band in Ontario in order that they might purchase it. They also accepted the native perception that the object should never have been photographed, and no-one should have looked at it. This incident indicates an enlightened awareness of meaning on

behalf of individuals on the Review Board which has come about since the law was enacted.

Quite a bit of that, I think, is coming out of a heightened awareness and sensitivity to nativeness. To native culture. It is also becoming aware that these are cultures worth preserving and that there is a moral obligation to this (Sheehan, 3).

It seems that the 1988 protest against The Spirit Sings exhibition - which also concerned an Iroquois false-face mask - by the Lubicon, succeeded in affecting the sensitivities of the Review Board at least as far as false-face masks are concerned. Indeed, it seems that cultural objects which have a spiritual dimension now benefit from a closer scrutiny by both legislators and collectors alike. Sheehan reflected not only the native viewpoint, but also a new Euro-Canadian awareness when she said:

[The mask] still had tobacco pouches attached to it, which means it was still a sacred object - that was a live spirit and that it should be fed. There should be appropriate songs and prayers said to it, and this should happen throughout the exhibition, even if it was on exhibition at all (Sheehan, 5).

Clearly, the ethnographic object of yesteryear is not what it once was.

Sheehan insists that "meaning is separate from validation" (Sheehan, 7), and by validation here she is referring to the market place. However, it seems that the use of a cultural object as the site of political protest also, indirectly, validates an object.

Cultural Property as a Component of National Heritage

National Heritage entered into the discussions with the four interviewees as they expressed interest in the Canadian identity, repatriation, the protection of heritage, and issues surrounding custodianship of objects.

a) Canadian Identity

Initially, Clark's role in Paris in the late sixties had been to help establish the ground rules for an exchange of cultural products with France while serving at the Canadian Embassy with External Affairs, and the role was perceived by him as participating in 'image projection' (Clark, 1992). This involved the development of cultural exchanges of students, exhibitions, performing arts groups and so on. One of the early exchanges with France was the 1965 exhibition The Masterpieces of Indian and Eskimo Art from Canada. It was this involvement that fostered his interest in native material culture. At the same time, however, the issue of the Canadian French/English duality had come upon the international stage with the pronouncement "Vive La Quebec Libre" by Charles DeGaulle in Montreal.

One of the things that resulted from this ... was a federal concern to keep putting up an umbrella which included and embraced everyone else, and everything else ... to control the situation (Clark, 2).

"L'accord cadre" was the umbrella for federal initiatives with the French and while it was not directly associated with the development of Bill C33, it nevertheless represented a concurrent concern with the national identity.

Under the legislation to control cultural property, any object which has

been in Canada for 35 years becomes Canadian. In fact, the interviewees discussed the objects anthropomorphically as if they were people becoming naturalized citizens. They referred to the 'citizenship' of cultural objects and 'Canadian born' objects, as if those were perfectly natural designations. There seemed, equally, a reluctance to describe the objects as property, and a preference instead for such nomenclatures as 'patrimony' and 'heritage.'

Simply put, the objects which are the concern of the Act are those that are "of such outstanding importance that [their] departure from the country would be a loss," and Clark acknowledges that it was necessary to accept "a certain degree of elitism in establishing some criteria for importance" (Clark, 13). The elitism is that reflected in the art market since the Act utilizes the criteria of age and value as established by collectors and dealers.

By being selective, by going for what was most important, we do manage to keep in the country the most significant material (Clark, 22).

Expert examiners, therefore, whether they represent custodial institutions or universities (and they cannot be collectors or dealers) all utilize the same criteria as 'the trade' for determining the importance of an object to Canada. In fact, as Walden points out:

The expert examiner does not have to make a ruling with respect to value. The value of an object being exported is provided to the export application by the applicant (Walden, 2).

The UNESCO Convention also impacted upon the understanding of value in as much as it was generally understood that only the most significant

objects would be sought, by parties to the Convention, for repatriation.

[Foreign states would not request Canadian courts to return] some insignificant thing. They would say: oh, we lost it, so what? So its only going to be the major items that become subject to an appeal in our courts (Clark, 23).

In addition to these age and value determinants, the Act has several 'tests' for determining the significance of an object. Paragraph 8(3) states that an expert examiner must determine:

(a) whether that object is of outstanding significance by reason of:

- (i) its close association with Canadian history or national life,
- (ii) its aesthetic qualities, or
- (iii) its value in the study of the arts or sciences; and

(b) whether the object is of such a degree of national importance that its loss to Canada would significantly diminish the national heritage (Statutes of Canada, 1975:1160).

The three clauses in part (a) are all, as Clark points out, judgment calls which together cover any item which might be considered a national treasure without actually defining it as such. The need for a definition of national heritage is thus precluded. In fact, Clark feels that paragraph (b) is thereby made redundant, and that this second paragraph in fact begs for a definition which it would be difficult to provide. His preference had been not to include part (b) because, he says it:

suggests too elitist an approach to the object. ... What does 'national' mean [when defining cultural property in a] country like ours (Clark, 20)?

He explained that it was by interpreting the regulations, including the Control List, that the Board found it possible to consider that an object could be of national importance if it was of local or regional importance. The definition of 'national heritage' is thereby, in practice, expanded to include objects which are of significance only in a particular area of Canada, but not necessarily nationwide.

The Control List was not prepared in advance of the Act, and thus it was not possible for Members of Parliament or the Senate to debate the regulations or the definition of national heritage. The Act, as is customary, established general areas and general values associated with the Control List, but did not specify the ways in which the regulations would be enforced.

What does seem clear, however, is that those individuals who were responsible for the development of the Act were given considerable latitude in establishing their understanding of those items which should be protected.

For instance, you will notice that musical instruments aren't in the Control List. And it was very important to us, from my consultations with the music community, [to exempt them because the market was international]. Canada doesn't have a tradition [of instrument-making]. Every Canadian musician has something from somewhere else. [The advice was], for god's sake don't get involved [to our detriment]. So you will look in vain for anything musical in the Control List (Clark, 21).

Similarly, foreign coins and stamps were also excluded. For the purposes of the administration of this act, then, the national heritage is what the Review Board considers it to be within the parameters of the Control List, and the

Control List governs procedure for customs purposes.

b) Repatriation

Clark has a keen awareness of the extent to which Canadian cultural objects reside in foreign custodial institutions, and their significance abroad:

In the Canadian sense, I don't think the birchbark drawings of Governor Simcoe's wife (which are lost in the reserves) are ever going to become significant to the British Museum (Clark, 29).

He also knows the extent to which those objects are not available for repatriation and has made unsuccessful attempts to repatriate Canadian collections on several occasions. Once he attempted to repatriate a birch bark canoe, and on another occasion helped in the bidding for the only item from the Cook collection, at auction in London, which was not already in the British Museum.

A number of times while I was Cultural Counsellor in London I was involved with various repatriation attempts ... So I was sensitized to the fact that Canada had, over time, been deprived of some of the things that were significant to us from a historical, cultural and aesthetic viewpoint, and in scientific terms as well (Clark, 4).

Similarly, Levy had been involved in the repatriation of the Speyer collection from Hessen, Germany prior to his work on the Act.

Clark was also aware that not only had Canadians lost objects to foreign collectors, but that they had also acquired objects from other countries.

As a Canadian one sees both ways about how this works. We have been a colony and are not that far separated

from the feelings of the native people [in terms of repatriation of the heritage]. On the other hand, as a rich country and as a developed country ... even our museums have in the past exploited [the cultural heritage of] others who are weaker in terms of collecting (Clark, 29).

Clark also expressed an understanding of the repatriation of native material culture as a two-step process. He suggested that we should allow the Act's provisions to work first, but not to expect the Act to deliver objects into the hands of native peoples. However, he said, once an object is in a Canadian museum, it is within the grasp of their hands (Clark, 28).

For Clark, repatriation to the native communities was circumscribed by his perception of the reasons for the return of objects:

There is nothing wrong with institutions that own these collections making them available either on loan or indefinite loan, or even giving back those that were religious objects (Clark, 7).

But whatever the motivation, repatriation to the native communities has become accelerated, to a degree, through the work of the Review Board.

Walden remembered that in the case of the Iroquois false-face mask:

they said because what they were doing was purchasing a religious artifact and returning it to the people, no museum was to be notified of the availability to purchase (Walden, 6).

In fact, the mandate of the Review Board in relation to repatriation has been quite explicit:

We had an annual grant budget of \$1.8 million for either repatriating Canadian material or for assisting Canadian museums to purchase material for which export has been

refused. .. We make every effort and we try and make it easy for them to buy it by giving them a grant up to 70% or 75% of the purchase price. In terms of federal funding that is very generous (Walden, 7).

He admits that the bias is in favor of the preservation of artifacts in a non-native museum, but that increasingly there have been attempts to return items such as potlatch material to native communities. This aspect of repatriation is very important to Sheehan, for whom:

The identity of objects is restored. But also what is restored is some of the ideology. (Sheehan, 2).

Sheehan has also been actively involved in the repatriation of objects and she specifically mentioned a Haida dancing shirt, and a Haida bowl. She sees her role in this as:

plugging in the evidence, as adding to the historical record, or the record that could establish that those events were indeed happening.... These are the places where they recorded ideas, and where we can recover some of those ideas. ... Not just bringing it [the object] back from the United States but bringing it out of the relative oblivion of the private collector (Sheehan, 3).

In doing this, Sheehan recognizes that there is "a very big guilt factor" which "has to do with being white in this country" (Sheehan, 3). Repatriation, she says, involves an unwitting condescension, and a patriarchal attitude which says, in effect, "I have hereby done something for native people" but without which so many objects and ideas would be lost.

Often, however, repatriation is neither ennobling nor humbling. It is simply economically expedient.

People who are looking to make tax write-offs, who actually need shelters, need places to write things off, will rely on a curator like me to phone them up and say: "I've got this blanket. I need \$30,000 to get it back. Do you know anyone who would like to do this?"... And [that individual] gets on the network of old oil friends and they find out that, 'yes, that's about what I need this year in tax write-off. Yes, its a curator at the Glenbow. Yes, all the documentation is there. Yes, I will be assured of getting that amount from the museum.' ... And museum curators don't hesitate to use that power (Sheehan, 9).

The citizen who makes repatriation financially possible has no interest in native material culture, necessarily, other than that they can get their money's worth out of it which, in turn, adds another layer of meaning to the object. Walden confirmed the importance of this aspect of repatriation:

What has happened is that the income tax side of it has totally taken over so that we are now looking at in the neighborhood of \$60 million in cultural property donated across this country on an annual basis (Walden, 2).

c) Protection of the Heritage: Custodianship

In addition to the tax incentives mentioned, Walden indicated that the Review Board has an annual grant budget of \$1.8 million for either repatriating Canadian material or for assisting Canadian museums to purchase material for which export has been refused.

To the exporter it doesn't really matter who is buying them as long as they are getting their money. In many cases they are just as happy to see it in a museum (Walden, 10).

However, when the legislation was being prepared, as has already been seen, not all experts in cultural property were cognizant of the need for the

protection of objects. Archaeologists viewed the government's efforts as intrusive, and Clark in particular as "an insensitive interfering bureaucrat" (Clark, 17). Equally, Members of Parliament and Senators sometimes saw the Act as an intrusion of the state in the rights of persons to dispose of their property (Clark, 18). Levy and Clark felt that they had to walk a careful line between the needs of collectors and dealers to participate freely in the trade, and those of the archaeologist who "thought that even the smallest little arrowhead was of cultural value which should not be exported at all" (Levy, 2). Indeed, the protection of archaeological sites, and the prevention of the illegal export of finds, is an ongoing problem (Walden, 12).

Levy's perspective on the protection of cultural property was that:

the interests of the native groups would be mirrored to a great extent by the custodial institutions because the custodians don't want to let anything go. ... The question would be then whether these things stayed in the hands of native organizations or the museums. But [for the purpose of keeping] them in the country I think the custodial institutions are just as, if not more Catholic than the Pope (Levy, 4).

Meaning, in effect, that the non-native museums would be likely to protect more objects with more zeal than the native groups, given the opportunity.

Clark indicated a similar perception when he said:

As long as curators have a mechanism that [funnels] objects into their collections they are pleased. Leave aside the Freudian dimension of them wanting to hold on to whatever it is [they have collected] (Clark, 6).

This, however, raises the question of the extent to which museums give

native groups access to their cultural objects. Clark indicated that:

More and more museums are following the Glenbow example and designing 'open storage' so that the people who are really interested can get access (Clark, 28).

He also pointed out that the McCord Museum allows native peoples special access to objects for ceremonies and religious purposes. Original ownership of cultural objects is not clear, and so it is often felt that by returning an object to a museum there is universal access. But, as Sheehan points out "there are cultural barriers that prevent native people from using museums." After all, she says, they are among our (Euro-Canadian) "temples" (Sheehan 4). In addition:

Museums try very hard to bring native people in but they are very careful. They don't want some radical hot bloods walking in there and saying "This is our stuff because its native and we want it back" (Sheehan, 4).

Open storage is certainly not equivalent to returning the objects to native communities, but when such objects are returned:

The old culture is not just preserved as an artifact itself, but it too is moving forward. So these things are brought back in as intellectual as well as cultural property, which is not the same thing. The culture carries them forward in time and space and reappropriates things, and reappropriates meanings (Sheehan, 2).

In all of this, however, Sheehan sees the biggest drawback to native custodianship of their cultural objects as being their different sense of community and ownership from that of the Euro-Canadians who have established the Act and the museums.

They [native peoples] are powerful politically, but they are also neophytes. And they have a different set of rules. A different sense of community. There are features of native culture that are so different from our own when it comes to ownership of personal property, and the most revealing arena for this, of course, is land claims (Sheehan, 6).

When one group seeks to claim ownership of an item they might find themselves in conflict with Euro-Canadian scientists and custodians over the nature of ownership.

And the archaeologists saying "but these are not your ancestors. You are Cree but this is a Blackfoot grave." But [the answer comes,] "Oh yes. These are our people." So we've got that kind of argument going on. In that sense the defenders of [the interests of] the native peoples, about whom I was consulting, would now be people who many native people would say "These are not necessarily our friends" (Clark, 19).

Clearly, this is a challenge to those Euro-Canadians who have perceived of themselves as doing what is right for, and on behalf of, native Canadians.

One of the reasons that this conflict may have developed is a growing awareness of the extent to which museum collections are held in storage, and unseen. Clark, when visiting the British Museum enquired about the Cook collection in their reserves, and about its exhibition capability.

I asked ... what percentage of your total collection would be accessible - on display? Our [Canadian] galleries might say that 15% wouldn't be bad and they would be criticized. [The keeper of the ethnography branch at the British Museum] said "At any one time, we believe its about 0.10% ! (Clark, 28).

Sheehan, while recognizing the authority inherent in this process of storage

and display, pointed out that sometimes for native people such preservation was acceptable.

Now sometimes that is OK by them because they are preserved in a place where otherwise, even in their own population, it may not be preserved. It is sometimes OK because it validates and gives value to objects that belong to these people and to this culture. In our culture we are very flattered if we have pieces from our family in a museum. It is that kind of validation of one's culture, one's family, one's sense of ownership (Sheehan, 6).

On the other hand, there are instances in which material is returned to native groups. All of the interviewees mentioned the return of the potlatch material to Indian communities in British Columbia by the Museum of Man in Ottawa in the 1970s (and credit for this is given to Dr. William Taylor who was then Director), and in subsequent correspondence returns by two museums in British Columbia were also mentioned. One of the reasons why such returns are few is that museums require environmental controls to protect the objects, and while some native communities have been able to build such facilities, others have not. In addition, David Walden pointed out that not all native pieces were meant to last "in perpetuity:"

We have to have all these wonderful environmental controls, and lighting and so on, and clearly that is not the case at all for [all] native pieces. Some of them are meant to deteriorate, and to go the way that nature intended them to go. That involves a challenge to the mindset of the museum people in that they have given them all this care and protection (Walden, 8).

Another challenge to Walden's work, and to what he sees as a good working relationship between national institutions and the native community, is the

conflict that results from institutional rivalries within Euro-Canadian circles and between native groups.

We don't want them to perceive that you're asking someone else to comment on the quality of their collection. .. You don't want to run into any vendettas, or get the wrong person. If you made a decision based on someone who was involved in politics who wasn't really commenting on the significance of the object but rather they didn't like the person who ran the other museum ... it's a balancing act. That's not exclusive to the native community. There are institutional rivalries going on for whatever reason, but we are expanding our base of people to consult with (Walden, 9).

And he indicated that since 1988 and The Spirit Sings controversy, the consciousness of curators to political issues has been raised. Since that time, also, The Canadian Museums Association has established a task force to investigate "the whole question of native artifacts in museums" (Walden, 12).

Sheehan reflected a similar observation in relation to the role of non-native museums.

Do we own it, don't we own it? I would say since the late 60s, early 70s, there has been a kind of self-consciousness about museums in their right to these things, in their right to subject these artifacts to ethnographic description and to ethnological analysis, to subject these things to anthropological theory to make sense of them. ... Can we be culturally imperialist in that way (Sheehan, 7)?

It is interesting, however, to realise that the Act is very broad in its interpretation of what constitutes a designated institution for the purposes of receiving a gift of cultural objects. Clark gives the example of one office in Parliament that had been restored to its original state as the office Sir John A.

MacDonald. A provision in the Act enables the Minister to designate Parliament as an acceptable institution for the purpose of collecting, for that particular office.

So there's no reason one couldn't designate a communal structure within a native community, an incipient museum, and say that it's designated for the purpose of accepting gifts (Clark, 27).

From Walden's account, this process of designation may be carried out in a very low-key manner provided that the place meets certain legal and curatorial requirements (Walden, 7).

On the other hand, not all cultural centres are acceptable. Of particular concern, of course, are the minimal environmental standards, but providing these are met then there seems to be a willingness to approve the site. For Walden it was important to have the object "not just defined so that a band council or someone else gets it back" (9), but to capitulate to the bias in favour of preservation in a museum. Clearly, though, the museum for this purpose need not be a Euro-Canadian institution.

Commerce, Collectors and 'The Trade'

Alongside the desire to repatriate and to retain objects in Canada has been an awareness of the significant role that collectors play in the art market.

They have every right to be as concerned about the preservation of the heritage as the museum curator, or the archivist, or the rare book librarian. And by extension, one

must respect the collector because ... public collections had been built on private collections. Private collectors have been rewarded in perpetuity [by having a gallery named after them] that might have been a condition of association, and this was the proper and educated thing to do (Clark, 6).

For Clark, it was clear very early in the proceedings that "the collector wasn't a baddie" (6), and that in order for the Act to work the co-operation of collectors was essential. They had to feel fairly treated by the law as well as being considered part of the process.

Similarly, those involved in the commerce of art and museum objects were consulted; art and antique dealers, book dealers, archival dealers and so on. Subsequent to this consultation process, certain individuals from the various disciplines became informal advisors on the drafting of the Control List and the regulations.

I had a network of people in various disciplines and I would read over what I had prepared, and they would say, "well you forgot about this" or "in terms of printmaking you must remember this state as opposed to another," and so on (Clark 21).

And, as Clark and Levy both pointed out, the whole Act and its regulations were built on the assumption that "people will play the game" (22):

So far as I know people did play the game. We had the odd case where something shows up in Seattle or Denver, Colorado, or someplace, and the art world is small enough and there are specialists ... so it turns out that it becomes public knowledge if an American or European smuggles it out (Levy, 6).

In addition, it was clearly determined that the act would do nothing to affect

the commercial value of objects. This included ensuring that the cost of administration would not be high. Of primary interest to legislators, however, was a reassurance that the law would not interfere with a person's personal property rights with respect to the export of goods.

Because of the western tradition, the British parliamentary tradition, that sort of interference in a person's personal property rights with respect to the export of goods - where you can actually say to a person that you can't dispose of your property as you wish - similarly the possibility that you could confiscate something that the person had in their possession which they claimed was their own - meant that you had to do something to offset that (Walden, 1).

Walden found that most dealers who had originally been active in the export of native material culture had, by the time of these interviews, ceased to export those objects. On the other hand many had been able to donate the objects as private individuals, to museums, with tax concessions based on the fair market value. As such, the dealers had not lost financially through the establishment of the law, even though the nature of their business may have changed.

Christies [in Canada] still have their ethnographic sales ... But the Canadian section has tended to be small. I don't know where that stuff is being sold in Canada, or whether they just can't be bothered getting an export permit, having it reviewed, having a delay, hearings, the whole thing. I mean, we can delay something for up to 12

months by the time of the initial permit application (Walden, 10).

The number of total applications for export permits, for both native and non-native objects, are about 400 a year. Of those about half are for temporary permits, for exhibition, restoration, or study. Of the remaining 200, about one third are granted export permits. Another large group are those items which have been in Canada for less than 35 years and need an export permit on that basis, but are not subject to control. Of those that are refused an export permit, only 8 or 10 appeal that decision annually. Walden indicates that "we probably have an 80% success rate in finding buyers" and for some dealers there is an advantage to having an export permit refused since this enables potential buyers to be eligible for funding (Walden, 10). Thus, the system of control also acts as a legitimating mechanism which constructs value.

This process of tax relief serves a dual purpose in not only allowing the dealer to find buyers in Canada, but also to enable institutions other than the national museums to buy objects for their collections.

I had to go all across the country and talk to the people [in all the provinces] who were in the heritage field generally ... and say "look, this isn't just a funnel into the national collection. We are trying to get the kind of tax relief you need, so that your institution will benefit from this as much as [the national collecting institutions] do" (Clark, 8).

These tax incentives have become paramount in the administration of the Act, and have far outstripped its import/export dimensions.

The Review Board

The Cultural Property Export and Import Act states, in paragraph 15, that the Review Board shall consist of a Chairman and between six and twelve members. These members shall be two members to be chosen generally from among residents of Canada, and the remainder shall be chosen in equal numbers:

- (a) from among residents of Canada who are or have been officers, members or employees of art galleries, museums, archives, libraries or other similar institutions in Canada; and
- (b) from among residents of Canada who are or have been dealers in or collectors of art, antiques or other objects that form part of the national heritage (Statutes of Canada, 1975:1162).

According to Clark, to a large extent "that's what allows the dealer community to co-operate with us. They are represented on the Board" (Clark, 13). However, since the days when Clark was Chairman (1978-1979), the representative nature of the Board has suffered some setbacks. This is a product, in large part, of patronage appointments and it makes life difficult for the administrators of the Act who must ensure that nominations for Board positions meet the criteria of qualifications and experience that are set out in the Act. Clark pointed out that within each political party there were qualified individuals, and political appointments could be made without threatening the credibility of the Review Board. However, politicians have ignored the credential requirements and proposed for the Board people to whom the party

owed a debt. This, he said, put the credibility of the Board in question (Clark, 24).

As it stands, however, the criteria determine that members will have expertise in dealing with art and cultural objects, and thereby (it is assumed) a sensitivity to the issues involved, and Clark is satisfied that this paragraph in the Act preserves the integrity of the process and, on the whole, the various Review Boards are seen to have done a fine job.

I don't think you can fault that first Review Board or any subsequent one, although I think some subsequent ones may have relented a little on the furious degree of enthusiasm which refused [at the beginning] to allow anything [worthwhile to leave the country] (Clark, 25).

This success may well be a result of the mix of individuals and interests represented on the Board. However, no native person has, to date, assumed such a position. Clark said that he didn't think "the absence of such a representative would have had any effect" (25), and pointed out that there were individuals on the Board with great sensitivity toward native interests.

When asked if native people had ever expressed an interest in serving on the Board, Walden responded that:

We have never had a native on the Board. The appointments are made through the Prime Minister's office, so we would be controlled by that process to a degree. ... We can try and make suggestions but, no, we have not had any involved in it. They have not been that interested in what we are doing (Walden, 10).

He pointed out, however, that:

It was one of the curatorial representatives on the Board who raised the flag with respect to the false-face mask. That was very much a museum perspective. The dealers on the Board were very sensitive to that, but might not have looked at it from that angle (Walden, 13).

In addition, he suggested that the "closest thing to a native person" that they had on the Board was a professor of anthropology and curator at UBC. I could not help but wonder how a native person would respond to that assessment. Once again, the assumption appears to be that museum curators, being more Catholic than the Pope, have the best interests of native persons at heart and are most likely to act, in relation to native material culture, in a way that native persons would approve.

Chapter VII

CONCLUSION

It is clear from the interviews with those associated with the Cultural Property Export and Import Act that there has been a significant change in attitudes to native cultural goods since 1975. These people seem, in addition, to be determined to appear to have a sensitive, liberal relationship with native people, their property and their claims which resonates throughout the discussions. This is, partly, a consequence of the focus of the questioning but it was also apparent in the emphases which each individual endeavoured to project. This liberalization was also evident in the post-hoc rationalization of the preparation for the Cultural Property Export and Import Act, which is presented today as having been carried on with native people in mind and, indeed, as a primary concern.

This emphasis reflects a growing awareness of the politically sensitive nature of discussions today which focus on native property claims, and in which cultural property may be viewed as a litmus test for the treatment of land claims, and aboriginal Canadians generally. That is, without seeming to give too much away, there is a need to be perceived as giving native people that which is their due and to appear generous in doing so.

In the 1980s the question of the rightful ownership of cultural properties, and especially the illicit trade in antiquities, attracted some attention. When, in 1988, the Lubicon publicly drew attention to the

relationship between these two controversial issues of ownership (cultural objects and land) they did not only achieve public awareness of the land claims issue, but they also publicized the unstated issues of control, ownership, ethnocentrism, and the power of legitimation which are fundamental to the collection and display of cultural objects. These are the same issues which are only now being acknowledged as inhibiting the resolution of land claims.

The Lubicon disputed the museum's ownership and interpretation of sacred masks, and they requested the return of certain religious cultural objects to their tribes. Collectors and curators, therefore, now find themselves in the unenviable position of trying to defend their collections, sometimes against those people for whom they are purportedly being preserved.

The traditional defenders of Native American rights and culture - the anthropologists and the museums - suddenly find themselves and their values under attack by the very people they have devoted themselves to observing, researching, caring about (Preston, 1989:69).

An example of this attack is the work of Jimmie Durham, an artist who has negatively assessed the portrayal of American Indians in museums and galleries (1990, 1991). He protests "we still cannot be trusted to portray ourselves" (1990).

Similarly, in the Spring of 1991 the journal BC Studies produced a special issue devoted to the concerns of first nations in British Columbia.

Among the articles was a first nations perspective upon policy development for museums, by E. Richard Atleo, of the Nuu Chah Nulth nation. In addition Ron Hamilton, an anthropologist and BC native, describes in the same journal his efforts to continue the traditions of his people in passing on his cultural heritage.

In 1991 the Toronto writer and critic Kass Banning wrote an article in Parallelogram which examined the video representations of Inuit peoples by themselves. In this it was pointed out that "when people represent themselves, things do look really different" (Banning, 1991).

Protests and observations such as these have prompted the Canadian Museums Association to establish a Task Force on Museums and First Peoples, in order to develop a co-operative strategy for First Peoples to represent their history and culture in concert with cultural institutions (Canadian Museums Association, 1991).

The Record Shows..

This thesis has sought to describe the changing meanings of native material culture, and the way in which policy legitimates and naturalizes particular meanings. In this, the historical record has shown an absence of policy which would prevent the export of these objects until such time as a large portion had already been sold abroad. At that time the institutions which had an interest in the objects, notably museums, clearly endowed them

with scientific value. In doing so the meanings which the objects held for communities as functional, religious, or art objects was negated. This process of negation was supported by the governments which failed to prevent their export, and which actively contributed to the demise of native ceremonies and potlatches.

Only in the early 1900s, when it seemed that there would be nothing left for Canadian institutions, did voices urge the retention of objects in Canada. At this time the urgings were supportive of the scientific endeavour, and only wished to have Canadian representation therein. No legislation came into effect at that time, but the art world took an interest in certain objects and brought them to the attention of a different audience from the scientists who had formerly appropriated them. Repatriation did not begin until much later, in the 1960s, when awareness of the loss had been heightened not only by the surrealists, but also by the political climate which actively questioned the legitimacy of established authorities.

When Franz Boas began to collect Northwest Coast objects he hoped to keep their laws and stories in a box where they would not be forgotten. The demise of the aboriginal culture, however, was not so rapid as he anticipated and the assimilation of the people was not so complete. His expectations were shared by many Euro-Canadians, and seem to have contributed to the liberty with which patriarchal institutions have dictated the control of these objects. Since the 1800s custodians have taken very good

care of these things, but in the process they have reclassified them. They are now a part of an international elite system of art, culture and trade. It is only as such, in fact, that they have become significant to national political leaders. As elite culture they can be manipulated for the national good.

By 1975, after the perplexing dissidence of the 1960s, the establishment had reasserted itself with a heightened awareness of the confrontational nature of centralized control. From the texts of the discussions in parliament it is clear, first of all, that at this time native material culture was not considered to be of great significance either culturally or politically. Cultural property in general, however, did present itself as a valuable component in the efforts to define a unified Canada. The primary interest of the parliamentarians studied was in the elite culture derived from Europe, and tangentially in ethnographic cultural objects which the art/museum world had appropriated. These objects became, for legislators, the 'national heritage,' and part of a live information system projecting a Canadian identity to the world. Thus the process in which Clark and Levy were engaged was the enactment of a cultural control which defined the dominant version of a national reality. Cultural goods were being controlled in their export and import for a number of immediate political and practical purposes, and this research suggests that the issue of national unity was the underlying premise. The ideology which enabled that control and which presumed the right to such control was in this case, to paraphrase Geertz, a

phatic expression of group solidarity and a matrix for the creation of collective conscience.

Control and Classification

The mechanisms which resulted from this need for control quite clearly involved a hierarchical organization of objects through the control list, and a logic which justified domination and status according to international market values. As Douglas has shown, this power to classify is in itself indicative of control, and serves to veil the influence of institutions.

The system of control, in addition, served to normalize and legitimize a centralized definition of what the culture was and to feed it back into the culture itself. Because of this native people are now obliged to negotiate definition and ownership of cultural objects according to the terms of curators, anthropologists and common law property rights, just as they are obliged to negotiate land claims according to the definitions of Euro-Canadian real estate laws. But, as Whisnant has pointed out, what the curators and anthropologists have defined is a selection, an arrangement, and an accommodation of native material culture to preconceptions. Native people today, therefore, are defining their own culture in terms of a reading by those using European classification systems. The symbolic framework through which native Canadians experience reality has been transformed by non-natives who have taken the cultural forms out of their particular contexts.

Also fundamental to the export control legislation and to the resultant processes of storage, display, and repatriation, is the common law related to property and individual rights. This represents precisely the conceptual framework which Warren has described as being oppressive because it is individualistic, hierarchical and based on a rights/rules ethic of ownership. At the same time, however, those engaged in the implementation of the Act perceive themselves as fulfilling the role of steward, custodian, guardian, conservator or trustee of the objects. These, Warren, says should be the preferred associations because they emphasize conceptual frameworks which would contribute to a compromise on ownership, and an emphasis on the preservation of objects.

As such there appears to be an interesting duality within the boundaries of the Act. It seems that the ideologies of the parliamentarians who initiated the controls are not necessarily shared, and perhaps have never been shared, by those who enact the legislation. The expert examiners and those associated with curatorship seem, from this evidence, more likely to perceive the Act as an opportunity to identify ownership of an object by a particular native group, than for the appropriation of cultural objects in a national cause.

Indeed, it seems that even those initially responsible for the drafting of the Bill have now shifted their focus of concern to accommodate a changed significance for native objects. That is why the membership of the Review Board is given close attention. If the debate over ownership is to be

rethought in terms of compromise, then it would appear that this ideology is more likely to be represented by custodians than by politicians. As it is, however, the Review Board does not have the representation of curators and collectors that were originally intended for it. Instead, politicians without appropriate experience or expertise are making decisions about cultural property, repatriation, and ownership.

National Heritage

These research findings suggest that the original agenda for control was to secure a sense of national identity, and the Act continues to provide that potential and in some ways to fulfill that role. Politicians are likely to continue to perceive such cultural control as they did in 1975: a "motherhood" issue. To argue against it would contradict their individual perception that this is a "good thing," and it would, in addition, be political suicide since the voting public may be expected to anticipate and appreciate support for such cultural endeavours. Moreover, because the native cultural objects have been taken out of their particular contexts, they have, as Geertz indicates, become expanded into general allegiances. They have become politicized. Their political association for the federal government, though, is not with native ownership claims but Canadian nationalism. These objects have been used in education, display, and exchanges as a part of a Canadian profile to the extent that Canadian people of every origin now have a sense

that native-Canadian objects are a part of their own Canadian identity. To suggest to Canadians that these objects should be returned to a particular ethnic group, rather than belonging to the "mosaic," presents an uncommonly difficult conceptual and political problem. These cultural things have become the signs of the words which describe Canadian unity, and they have been very persuasive in bringing the people of Canada closer together.

It seems, though, that the meaning of native cultural objects will change through the process of taking objects away from national institutions and placing them in specific native communities. The objects, while retaining their ethnological meanings, will tend to lose their identification with the national umbrella of culture. They will become localized, and of particular rather than general interest. Thus their relationship to the national cultural identity will become blurred. It may be anticipated therefore, that for those people who perceive of these objects as a part of the national heritage, there would be a reluctance to allow native material culture to leave that association for fear that the strength of the Canadian identity would in some way be diminished.

Today, curators seem willing to supervise the return of some of the objects to native communities and this, of course, is welcomed by aboriginal peoples who are endeavouring to reclaim their traditions. In all of this, though, the control, the authority, and the expertise are still firmly in non-native hands. Clark's observation that he perceived his role to be that of a

grandfather to native people seems to reflect a general consensus among both curators and administrators of the Act.

Signification and Meanings

So long as non-natives create the labels, and provide the signification for native cultural objects, the objects themselves, even if they are housed in native cultural centres, will remain a component of the international art/museum world. And, so long as the objects remain in that international world, they will be limited in their potential to provide alternative meanings for the cultures from which they have originated. They will continue to have meaning as museological items, even if they are now more accessible to the people for whom they hold the most interest. To the extent that the objects are accessible to native people, it is possible for these objects to provide the inspiration for new cultural objects and as such native cultural objects may have meanings derived from native contexts. But, the potential for meaning for native people continues to be severely limited by the custodianship in non-native institutions.

The organizational contexts of public institutions have invested meaning in native cultural objects, have provided the conceptual framework within which they are viewed, have created the conditions for economic activity associated with the objects, have legitimized their classifications, and have politicized the cultural forms themselves. Now that native communities

are creating institutions of their own to accommodate these objects, we may expect that they will contribute to new meanings by creating new classifications, new conceptual frameworks, and a new legitimacy for them. The aesthetic qualities of the objects, though, will continue to be located in the European-based standards of high culture so long as the forms contribute to the art/museum world on which that culture is based.

This research has shown that high culture depends for authentication and for determinants of value upon the collector-dealer fraternity. Social context, therefore, is essential to not only value systems, but also to taste since the two come together in the cultural capital of the object. Since the cultural capital is quite clearly determined by economic capital, the social complex of the trade in cultural goods forms a structure within which taste is determined. This structure, its resultant classification systems and the creation of 'experts,' are adopted wholesale by legislators as appropriate mechanisms for the determination of value of cultural goods. This, in turn, is used to classify objects which are determined to be items important to the national heritage. In this way, then, national heritage is the same as elite cultural property, and our national heritage is representative of 'good taste' because only the most expensive, the oldest, and the rarest are included in the legislation, and because our elite classification systems have agreed that this is so.

Clearly, the implementation of policy in this particular instance has

drawn directly from the curatorial institutions as well as from the institutions which represent the trade in cultural goods. Their interpretations of the meanings and values of objects have, generally speaking, been accepted as definitive while the most significant dissenting voice, that of the archaeologists who resisted the assigning of monetary values, was not legitimated but accommodated through specific wording in the Act.

Similarly, voices which raised alternate views of culture and cultural property in the parliamentary discussions were given short shrift. They were not given a great deal of time in which to expand on their view, and the questions they raised were not taken up. The representative of a small group of individual collectors was similarly, and summarily dismissed. There was a clear sense that culture was to be understood as those objects dealt with through museums and through dealers in art and antiquities. Equally, the assessment of value by those institutions was not to be questioned. These organizations had played a key role in determining the structure, the wording, the interpretation and the implementation of the policy, and efforts were made not to contradict them.

Social Contexts and Communications

The choices for the consumer of cultural objects are circumscribed by the social context of the classifying institutions. Similarly, the choices for the selection of representations of the national heritage are circumscribed by

those same classifying institutions since theirs is the signification system adopted for the interpretation of the Cultural Property Import and Export Act. Clearly, this is a hegemonic process which allows a particular social group or groups to dominate, and which in fact minimizes the possibility of alternative classifications. Native people, however, have shown quite clearly that alternative classifications are not only possible, but that they exist as social and political constructs which demand legitimation. In the appropriation of native cultural objects by high culture, however, the unresolved social and political issues have been masked, the culture abstracted, and native people treated symbolically through the classification of their objects.

When policy is analysed as communication, it makes clear the extent to which the 'transmission' concept is inadequate. Senders and receivers of messages are not isolated from one another, just as culture does not exist apart from people who create and use it. What we perceive as the signs of cultural value, the cultural objects in the art gallery or the museum, serve not only as the signs of value but as determinants of it. The Cultural Property Export and Import Act is an example of the way in which a text beyond the art world, and classifications outside of the trade, reproduce and legitimate the meanings and values of a particular context of elite culture. These meanings are intertextual, and serve to reinforce one another.

The implication, therefore, is that the study of communications must incorporate the social context. The relationship between mutually reinforcing

institutions must be evaluated in order to determine those aspects of culture which are overtly, and those which are tacitly reinforced. The mechanisms whereby legitimacy is determined, must be described in order that values may not be presumed to be 'natural' when in fact they are 'naturalized.' Finally, for a democracy of taste cultures to exist as Gans suggests, the processes of the determination of the national heritage in cultural objects must be open to critique if it is not to remain the exclusive domain of elite cultures.

Bibliography

Alsop, Joseph. "Art history and art collecting," Times Literary Supplement. July 28, 1978, pp 851-853.

Atleo, E. Richard. "Policy Development for Museums: A First Nations Perspective," BC Studies, No. 89, Spring 1991.

Babbie, Earl. The Practise of Social Research, Belmont: Wadsworth Publishing, 1989.

Bauman, Richard. Let Your Words Be Few, Cambridge University Press: Cambridge, England, 1983.

Becker, Howard S. Art Worlds. University of California Press, Berkeley, 1982.

Berger, Peter and Luckmann, Thomas. The Social Construction of Reality, Penguin Books, 1966.

Berland, Jody, and Will Straw. "Getting Down to Business: Cultural Politics and Policies in Canada," Communications in Canadian Society, Benjamin D. Singer, ed. Nelson Canada, 1991.

Bourdieu, P. Distinction: A social critique of the judgement of taste. R. Nice, Trans. Cambridge: Harvard University Press, 1984.

Bourdieu, P. "The Aristocracy of Culture" in Media, Culture and Society, 1980,2: 225-60.

Brantlinger, Patrick. Crusoe's Footprints: Cultural Studies in Britain and America, New York: Routledge, 1990.

Burke, Kenneth. A Rhetoric of Motives, New York: Prentice-Hall, 1950.

Burke, Kenneth. Language as Symbolic Action: Essays on Life, Literature and Method. Berkeley, University of California Press, 1966.

Canadian Museums Association, invitation to the Task Force On Museums and First Peoples National Conference, December 1991.

Cannizzo, Jeanne. "Exhibiting Cultures: 'Into the Heart of Africa'" in Visual Anthropology Review. Spring 1991, Vol. 7, No. 1.

Carey, James W. Communication as Culture: Essays on Media and Society. Boston: Unwin Hyman, 1989.

Carey, James. "A Cultural Approach to Communication," Communication, 1975, Vol 2, pp 1-22.

Carey, James. "Mass Communication Research and Cultural Studies: An American View," Mass Communication and Society, James Curran et al eds., London: Sage, 1977.

Clark, Ian. President, Nova Scotia College of Art and Design. Personal Interview, Halifax, Nova Scotia. 30th October 1991.

Clark, Ian. President, Nova Scotia College of ARt and Design. Personal correspondence. January 10, 1992.

Clifford, James. "Histories of the Tribal and Modern" in Discourses: Conversations in Postmodern Art and Culture, Russell Ferguson et al (Eds). Cambridge: MIT Press, 1990.

Clifford, James. The Predicament of Culture. Cambridge: Harvard University Press, 1988.

Cole, Douglas. Captured Heritage. Seattle: University of Washington Press, 1985.

Commons Debates. House of Commons Canada. 1st Session, 30th Parliament, Vol III. December 11 - February 14, 1974-1975 pp.3024 - 3040

Commons Debates. House of Commons Canada. 1st Session, 30th Parliament, Vol. V. March 21 - May 2, 1975. pp.4381 - 4386.

Communications Canada. Annual Report 1988-1989: Cultural Property Export and Import Act, Minister of Supply and Services Canada 1990.

Connoisseur. "Whose Heritage?" Vol 192, 1976: p 178.

Corrigan, Philip and Paul Willis. "Cultural forms and class mediations" in Media, Culture and Society, 1980; 2, 297-312.

Debates of the Senate, Canada. Session 1974-75-76. Vol. I. April 8, 1975 - April 23, 1975 pp. 761 - 813.

Department of Communications, Canadian Cultural Property Export Control List. Ottawa, March 1986.

Department of Communications, Canada's Cultural Agencies: In rhythm with our cultural pulse. Ministry of Supply and Services. 1985.

DiMaggio, Paul and Michael Useem. "Cultural Property and Public Policy: Emerging Tensions in Government Support for the Arts," Social Research, Vol. 45; 1978: 2, 356-389.

Dominguez, Virginia R. "the marketing of heritage" in American Ethnologist. Vol. 13:3, August 1986.

Douglas, Mary. How Institutions Think. Syracuse University Press: 1986.

Douglas, Mary and Baron C. Isherwood. The World of Goods. New York: Basic Books, 1979.

Durham, Jimmie. "Troubleshooters: Jimmie Durham on Collecting" in Art Forum International, New York: May 1991.

Durham, Jimmie. "Cowboys and ..." in Third Text 12, Autumn 1990.

Feest, Christian F. Native Arts of North America, New York: Oxford University Press, 1980.

Fenster, Mark. "The Problem of Taste Within the Problematic of Culture" in Communication Theory. International Communication Association, Austin, Texas. Vol. 1. No. 2. May 1991.

Forester, John. Critical Theory and Public Life. Cambridge: MIT Press, 1973.

Frye, Northrop. Divisions on a Ground. Anansi: Toronto, 1982.

Fulford, Robert. "Into the Heart of the Matter," Rotunda, Royal Ontario Museum, Vol 24, Number 1, Summer 1991.

Gans, Herbert J. Popular and High Culture. New York: Basic Books, 1974.

Geertz, Clifford. "Deep Play: Notes on the Balinese Cockfight," Interpretive Social Science. Paul Rabinow and William M. Sullivan, eds. Berkeley: University of California Press, 1979a.

Geertz, Clifford. "From the Native's Point of View," Interpretive Social Science. Paul Rabinow and William M. Sullivan, eds. Berkeley: University of California Press, 1979b.

Geertz, Clifford. The Interpretation of Cultures. New York: Basic Books, 1973.

Gellner, Ernest. Culture, Identity, and Politics. Cambridge: Cambridge University Press, 1987.

Gellner, Ernest. "The Savage and the Modern Mind" in Modes of Thought: Essays on Thinking in Western and Non-Western Societies, Robin Horton and Ruth Finnegan, Eds. London: Faber and Faber, 1973.

Gellner, Ernest. Nations and Nationalism. Oxford: Basil Blackwell, 1983.

Giddens, Anthony. New Rules of Sociological Method: A Positive Critique of Interpretive Sociologies. London: Hutchinson, 1976.

Giddens, Anthony. "Action, Subjectivity, and the Constitution of Meaning" in Social Research, Vol 53, No. 3 (Autumn 1986).

Gilligan, Carol. In a Different Voice, Cambridge, Mass.: Harvard University Press, 1982.

Globerman, Steven. Cultural Regulation in Canada. The Institute for Research on Public Policy, Montreal, 1983.

Golden, James L., Goodwin F. Berquist, and William E. Coleman. The Rhetoric of Western Thought, Third Edition. Dubuque, Iowa: Kendall Hunt, 1983 (1976).

Griffin, Gillett G. "Collecting Pre-Columbia Art" in The Ethics of Collecting Cultural Property: Whose Culture? Whose Property?, Phyllis Mauch Messenger (Ed). University of New Mexico Press, Albuquerque.

Haberland, Wolfgang. "Aesthetics in Native American Art" in The Arts of the North American Indian: Native Traditions in Evolution, New York: Hudson Hills Press, 1986.

Hall, Edward T. Beyond Culture. New York: Anchor Press/Doubleday, 1976.

Hall, Stuart. "Culture, The Media and the 'Ideological Effect'" in Mass Communications and Society (James Curran et al, eds), London: Sage, 1977.

Hall, Stuart. "The rediscovery of 'ideology': return of the repressed in media studies" in Culture, Society and the Media (Gurevitch, M. et al. eds), London: Methuen, 1982.

Hamilton, Ron. "I Invite Honest Criticism: An Introduction," BC Studies, No. 89, Spring 1991.

Hardt, Hanno. "The Return of the Critical and the Challenge of Radical Dissent: Critical Theory, Cultural Studies, and American Mass Communication Research." Communication Yearbook, 12, 1987, 558-600.

Hebdidge, Dick. Hiding in the Light, London: Routledge, 1988.

Heclo, H. Hugh. "Review Article: Policy Analysis," British Journal of Political Science, vol. 2, January 1972.

Herrmann, Frank. The English As Collectors. London: Chatto & Windus, 1972.

Herrnstein Smith, Barbara. Contingencies of Value. Cambridge: Harvard University Press, 1988.

Holzner, Burkart. "The Construction of Social Actors: An Essay on Social Identities" in Luckmann, Thomas, Phenomenology and Sociology, Penguin Books: Harmondsworth, 1978.

House of Commons. First Session, Thirtieth Parliament, 1974-75. Proceedings and Evidence of the Standing Committee on Broadcasting, Films, and Assistance to the Arts. February 25 - March 3, 1975 pp. 3:4 -8:28.

Hymes, Dell. Foundations in Sociolinguistics: An Ethnographic Approach, Philadelphia: University of Philadelphia Press, 1974.

Hymes, Dell (ed). Reinventing Anthropology, New York: Pantheon, 1972 (1969).

Hymes, Dell H. Essays in the History of Linguistic Anthropology. Amsterdam studies in the Theory and History of Linguistic Science. Series III. Studies in the History of Linguistics, Vol 25. Amsterdam/Philadelphia: John Benjamins, 1983.

Jonaitis, Aldona. "Creations of Mystics and Philosophers: The White Man's Perceptions of Northwest Coast Indian Art from the 1930s to the Present" in American Indian Culture and Research Journal, 5:1 (1981) 1-45.

Jones, Charles O. An Introduction to the Study of Public Policy, N. Scituate, Mass.: Duxbury Press, 1977.

Kirby, Sandra and Kate McKenna. Experience, Research, Social Change. Toronto: Garamond Press, 1989.

Kroeber, A.L. and C. Kluckhohn. Culture: A Critical Review of Concepts and Definitions, 1952.

Levy, Lewis. Q.C. Senior Counsel, Constitutional and International Law. Personal Interview. Ottawa, Ontario. 29th October, 1991.

Maquet, Jacques. Introduction to Aesthetic Anthropology. An Addison-Wesley Module. Philippines: Addison-Wesley, 1971.

Marshall, Catherine and Gretchen B. Rossman. Designing Qualitative Research. Sage: Newbury Park, 1989.

McCracken, Grant. Culture and Consumption. Indiana University Press, Bloomington and Indianapolis, 1990.

McLoughlin, Moira. "But I Saw It In A Museum, It Must Be True!" Paper delivered to the Twelfth Annual Conference of the Canadian Communication Association, 1991.

McNulty, Jean. "The Political Economy of Canadian Satellite Broadcasting" in Canadian Journal of Communication, Vol. 13, No.2, 1-15.

Mejer-Drees, Laurie. Seeing Ourselves: The Marketing of Plains Indian Art. Unpublished paper. University of Calgary, Department of Canadian Studies student paper. April 1989.

Meyer, Karl. "The Antiquities Market: A Colloquim," Journal of Field Archaeology, Vol 1974: 222-224.

Meyer, Karl E. The Plundered Past. New York: Atheneum, 1973.

Mitchell, David. "Culture as Political Discourse in Canada," Communication Canada, Lorimer, R.M. and Wilson, D.C. (eds). Kagan and Woo: Toronto, 1988.

Muscarella, Oscar White. "The Antiquities Market: A Colloquim," Journal of Field Archaeology, Vol 1, 221-222.

Nichols, Marie. "Kenneth Burke and the "New Rhetoric"," Quarterly Journal of Speech, XXXVIII, April 1952.

Pauly, John J. A Beginner's Guide to Doing Qualitative Research in Mass Communication, Journalism Monographs, July 1990.

Peterson, Richard A. The Production of Culture. Sage: Beverly Hills, 1976.

Peterson, Richard A. "Art and Government" in Society, 14:58-59, Nov/Dec. 1976 (b).

Preston, Douglas J. "Skeletons in our Museum's Closets" Harper's Magazine, Vol 278, No 1665, February 1989:66-74.

Rabinow, Paul and Sullivan, William M. Interpretive Social Science: A Reader, Berkeley: University of California Press, 1979.

Rapport, Nigel. Talking Violence, Social and Economic Studies No. 34. Institute of Social and Economic Research, Memorial University of Newfoundland, 1987.

Schlesinger, Philip. "On national identity: some conceptions and misconceptions criticized." Social Science Information, London: Sage, 26, 2, 1987, pp 219-64.

Senate Debates. Session 1974-75-67. Vol II. Report of the Standing Senate Committee on Health, Welfare and Science. May 1, 1975 pp. 848 - 911.

Sheehan, Carol. Pipes that won't Smoke; Coal that won't Burn, Calgary: Glenbow Museum, 1981.

Sheehan, Carol. Professor, Canadian Studies, University of Calgary. Personal Interview. Calgary, Alberta. 21st February, 1991.

Smith, Barbara Herrnstein. Contingencies of Value. Cambridge, Massachusetts: Harvard University Press, 1988.

Spradley, James P. The Ethnographic Interview. Holt, Rinehart and Winston, 1979.

Statutes of Canada. Chapters 1-60, 1974-75-76, 23-24-25, Elizabeth II. Vol. 1, pp 1155 - 1178.

Sturtevant, William C. "The Meanings of Native American Art" in The Arts of the North American Indian: Native Traditions in Evolution, New York: Hudson Hills Press, 1986.

The Senate of Canada. Senate Standing Committee on Health, Welfare, and Science. First Session, Thirtieth Parliament, 1974-1975. April 30, 1975 pp. 5:6-5:35

Tippett, Maria. Making Culture: English-Canadian Institutions and the Arts before the Massey Commission. Toronto: University of Toronto, 1990.

Useem, Michael. "Government Patronage of Science and Art in America" in The Production of Culture, Richard A. Peterson (Ed.), Sage: Beverly Hills, 1976.

Wade, Edwin L. (ed.) "From 'artificial curiosities' to art" in The Arts of the Northern American Indian: Native Traditions in Evolution. New York: Hudson Hills Press, 1986.

Wade, Edwin L. (ed.) The Arts of the North American Indian: Native Traditions in Evolution, New York: Hudson Hills Press, 1986.

Walden, David. Secretary, Canadian Cultural Property Export Review Board. Personal Interview. Ottawa, Ontario. 28th October 1991.

Warren, Karen J. "A Philosophical Perspective on the Ethics and Resolution of Cultural Properties Issues" and "Commentary, Part III" in The Ethics of Collecting Cultural Property: Whose Culture? Whose Property?, Phyllis Mauch Messenger (Ed). University of New Mexico Press, Albuquerque, 1989.

Whisnant, David E. All that is Native and Fine: The Politics of Culture in an American Region. The University of North Carolina Press: Chapel Hill and London, 1983.

Williams, Sharon A. "Protection of Cultural Property: The Canadian Approach," Arizona Law Review, Vol. 22., 1980, 737-751.

Williams, Raymond. Culture. London: Fontana: 1981.

Williams, Raymond. Resources of Hope. London: Verson, 1989.

Williams, Raymond. Marxism and Literature. Oxford: Oxford University Press, 1977.

Williams, Raymond. Television: Technology and Cultural Form. London: Fontana, 1974.

Williams, Raymond. "Communications as Cultural Studies," Journal of Communication, Vol 24:3, Summer 1974.

Williams, Raymond. Culture and Society. London: Chatton and Windus, 1958.

Wiseman, James R. "The Antiquities Market: A Colloquim," Journal of Field Archaeology, Vol 1, 1974: 219-221.

Yin, Robert K. Case Study Research: Design and Methods, Beverly Hills: Sage Publications, 1984.

APPENDIX A

(The following extracts are taken from the Canadian Cultural Property Export Control List, Government of Canada, Department of Communications, Ottawa, March 1986. They indicate the section headings, but do not include the definitions which are provided in the Control List.)

CANADIAN CULTURAL PROPERTY EXPORT CONTROL LIST

In this Control List "object" means an object that

- (a) is not less than fifty years old; and
- (b) was made by a natural person who is no longer living.

Group 1: OBJECTS RECOVERED FROM THE SOIL OR WATERS OF CANADA

Mineral specimens and palaeontological specimens, of interest for scientific, educational or display purposes.

An archaeological object of any value recovered from the soil of Canada, the territorial sea of Canada or the inland or other internal waters of Canada not less than seventy-five years after its burial, concealment or abandonment if the object is an artifact or organic remains associated with or representative of historic or prehistoric cultures.

Without restricting the generality of sub-item (1) [the preceding paragraph,] archaeological objects described in that sub-item include

- (a) artifacts that relate to the aboriginal peoples of Canada
- (b) artifacts that relate to the progressive exploration, occupation, defence and development of the territory that is now Canada by non-indigenous people
- (c) organic remains associated with or representative of historic or prehistoric cultures.

Group II: OBJECTS OF ETHNOGRAPHIC ART OR ETHNOGRAPHY

An object of ethnographic art or ethnography that has a full market value in Canada of more than two thousand dollars and was made, reworked or adapted for use by an aboriginal person.

Group III: MILITARY OBJECTS

Military objects made within or out of the territory that is now Canada if they relate to military activities that took place in the territory or if they relate to a person who at any time was normally resident in the territory and who

participated in military activities that took place out of the territory.

Group IV: OBJECTS OF DECORATIVE ART

Objects of decorative art that are more than one hundred years old made in the territory that is now Canada.

An object of decorative art that was made by a person who at any time normally resided in the territory and that has a fair market value in Canada of more than six thousand dollars.

An object of decorative art made out of the territory that is now Canada, that has a fair market value in Canada of more than three thousand dollars (namely, coins and medals.)

An object of decorative art, made outside Canada that has a fair market value in Canada of more than eight thousand dollars, and that (a) was commissioned by a Canadian resident, (b) incorporates a Canadian theme, or (c) is identified with a prominent Canadian person, institution, or event.

Any object of decorative art, made outside Canada, that has a fair market value in Canada of more than fifteen thousand dollars.

Group V: OBJECTS OF FINE ART

An object of fine art made within or outside Canada by a person who at any time ordinarily resided in Canada. A drawing or print having a fair market value of more than two thousand five hundred dollars, a painting or sculpture having a fair market value of more than seven thousand dollars.

Objects made outside of Canada according to value, their being commissioned by a Canadian, having a Canadian theme, or having a Canadian association.

Other headings, with similar qualifications are:

Group VI: SCIENTIFIC OR TECHNOLOGICAL OBJECTS

Group VII: BOOKS, RECORDS, DOCUMENTS, PHOTOGRAPHIC POSITIVES AND NEGATIVES AND SOUND RECORDINGS.

- Textual Material
- Graphic Material

APPENDIX BText References

1. Debate at Second Reading, House of Commons,
December 11 - February 14, 1974-1975
pp.3024 - 3040
2. Standing Committee on Broadcasting, Films,
and Assistance to the Arts. February 25 -
March 3, 1975
pp. 3:4 - 8:28
3. Report of the Standing Committee to the
House of Commons. March 21 - May 2, 1975.
pp.4381 - 4386
4. Senate Debates. April 8, 1975 - April 23,
1975.
pp. 761 - 813
5. Senate Standing Committee on Health, Welfare,
and Science. April 30, 1975.
pp. S5:6-S5:35
6. Senate Debates. Report of the Standing
Committee. May 1, 1975.
pp. 848 - 911

APPENDIX C

Contributors to the parliamentary debates

- a. Faulkner, Hon. James A. (Secretary of State)
- b. Fairweather, Mr. R. Gordon L. (Fundy-Royal)
- c. Symes, Mr. Cyril (Sault Ste Marie)
- d. Joyal, Mr. Serge (Maisonneve-Rosemont)
- e. Malone, Mr. Arnold (Battle River)
- f. Friesen, Mr. Benno (Surrey - White Rock)
- g. Lambert, Hon. Marcel (Edmonton West)
- h. Lambert, Mr. Adrien (Bellechasse)
- i. Watson, Mr. Ian (Laprairie)
- j. Boucher, Mr. Jean (Under Secretary of State)
- k. Clark, Mr. Ian (Special Advisor, Arts and Culture Branch)
- l. Guilbault, Mr. (Chairman, Standing Committee, B.F. & A.A.)
- m. Roberts, Mr. John.
- n. Raines, Mr.
- o. Doulgas, Mr. (Bruce)
- p. Stollery, Mr.
- q. Young, Mr.
- r. Levy, Mr. Lewis (Legal Advisor, Office of the Sec. of State)
- s. Fleming, Mr.
- t. Beatty, Mr.
- u. Jarvis, Mr.
- v. Nowlan, Mr.
- w. Stewart, Mr. (Cochrane)
- x. Fleming, Mr.
- y. Macdonald, Mr. Bruce (Deputy Secretary, Treasury Board)
- z. Prefontaine, Mr. J. Rene (Defence External and Cultural Affairs Division, Treasury Board)
- aa. MacQuarrie, Mr. Heath (Hillborough)
- bb. Gauthier, Mr. C.A. (Roberval)
- cc. Lamontagne, Hon. Maurice.
- dd. Everett, Hon. Douglas D.
- ee. O'Leary, Hon. M. Grattan.
- ff. Grosart, Hon. Allister
- gg. Belisle, Senator
- hh. Bourget, Senator
- ii. McGrand, Senator
- jj. Malcolmson, M. H.A.
- kk. Bonnell, Senator
- ll. Smith, Senator

APPENDIX D

(The following are extracts from "The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property," UNESCO, Paris, 1970.)

"The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session."

"Considering that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,"

"Considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,"

"Considering that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,"

"Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,"

"Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation."