

FURTHER EVIDENCE FROM DONOR WATCH

Burrell (Lending and Borrowing) (Scotland) Bill Committee meeting - 9 September 2013

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=8477&mode=pdf>

Ben Thomson for the National Galleries of Scotland on the subject of wills typifies those who want to have their cake and eat it. They profess fidelity to them to encourage future donors, but in practice think that they need not (sometimes/always) be followed. This contradiction is squared by arguing that the donor, if alive, would (*mirabile dictu!*) be someone of entirely the same opinions as the curator and would not only agree to the changes, but heartily advocate them! (So here Sir Angus Grossart on Burrell, 19; Hon. Christopher McLaren on Lord Lee of Fareham, 60-1).

Thomson's equivocations are hard to understand, as he says that the NG of S adheres to conditions which they think are either absurd (their former Director, Sir Tim Clifford, derisively listed some in a radio programme in which I took part) or outdated - the latter in the case of the Vaughan Bequest of Turner watercolours, an example which must be awkward for advocates of the Burrell Bill.

The Hon. Christopher McLaren for the Samuel Courtauld Trust / Courtauld Gallery is much more gung-ho about lending and about overturning wills, admitting that they have done this in the case of the Seilern Bequest with the consent of the Charity Commission(47,60) . He claims that no one has objected, but I did and I remember that Prof. Michael Hirst did.

In fact hard evidence is not given for many of the assertions and aims of those supporting the Bill. The financial benefits of tours are dubious. Whether they attract more visitors to the lending city is also unclear. The benefits to research are also debatable. The supporters say that loans promote it, whereas Jeremy Warren says that they take up curatorial time. When I first arrived at Manchester City Art Gallery, the committee chairman complained to me that the latter was the case.

Grossart says that the fact that Burrell lent to the 1901 Glasgow International exhibition shows that he was internationally minded (Grossart, 17). But that exhibition attracted visitors from abroad to Glasgow, just the opposite of what Grossart is advocating. The Chairperson of Glasgow Life (Cllr Archie Graham) states that Burrell was determined that his collection "should benefit the people of Glasgow" (14). Whereas Grossart says that "from a museums point of view, collections are left for the benefit of humanity" (17). No evidence is produced that this was Burrell's aim or that it trumped his wish to benefit Glasgow. Of course supporters of the Bill argue that reciprocal inward loans benefit Glasgow, but again no evidence is produced that that was what Burrell. The promoters have conducted polls which show a majority is not opposed to the proposed change. But how was the question framed and how far did the respondents appreciate all the factors?

The Convener says that in the past Neil MacGregor opposed changing the will (33). But he has supported just the opposite. True, David Lister reported in *The Independent* (13.10.1997) that MacGregor, while maintaining “the need to respect the wishes of benefactors once they have been agreed by trustees”, was going to tell the Burrell Commission next day that the Museums & Galleries Act 1992 allowed some national Museums to ignore those wishes after 50 years. In fact he had stated that in the evidence submitted to the Commission on 1.8.1997. I can only imagine that he felt obliged to enunciate a general (and in practice meaningless) support for donors’ wishes as Director of the National Gallery, while in his heart having little sympathy with that. I remember attending a lecture at the Courtauld Institute years earlier in which he derided donors. Then in 1997-8 it was while he was Director that the National Gallery tried to persuade the Wallace to lend a Rubens contrary to the terms of the Wallace bequest. If he is now reluctant to give oral evidence to the committee, that would not be surprising. When I tried to tackle him in person on the subject of donors’ wills (at the AGM of the Artists’ General Benevolent Institution), he made a quick exit.

As for the 1992 Act, it was a reiteration of those of 1883 and 1954. In 1883 The NG was acutely short of space and had an unbalanced and partly unwelcome collection. It was at a high tide of extreme Liberalism. The responsible Minister, George Shaw Lefevre, was “on the radical wing of the Liberal party” and was following the policy of a predecessor, Acton Smee Ayrton, “a former Treasury apparatchik recklessly determined on cost cutting” (Simon Thurley, *Men from the Ministry*, 2013, pp.31, 40). Financial Secretary to the Treasury 1882-4, Leonard Courtney, was another radical, who in 1916 supported the abortive Bill allowing the National Gallery to sell pictures. (In that debate he explained the variation in 25 and 50 year terms after which wills could be breached, something which puzzles people to-day; House of Lords, 21.11.1916). Both the 1883 Act (passed after virtually no debate and uncritically copied since) and the 1916 Bill had the same aim – of ridding the National Gallery of part of the Turner Bequest. As such they have no relevance to the Burrell question.

Numbers of works in collections are adduced as an argument for lending, on the grounds that there is not space to show most. Thus the Burrell can only display 2,000 out of 9,000 items (25). The National Galleries of Scotland have 100,000 items (44). These figures are meaningless unless broken down into those for works (a) which cannot usually be shown for conservation reasons (b) which are of little interest (c) which are the key ones. It is of course the last that foreigners want to borrow, and which (if not on loan) attract visitors to the home museum. For 150 years the figure of 30,000 or so works has been used by those wanting to argue for splitting up and loaning the Turner Bequest, a wholly misleading and nonsensical figure when one comes to exhibiting it and realises that there are only 20-40 key works that can be shown constantly.

Jeremy Warren admirably puts the case against undoing Burrell's lending conditions (48-52). On the Wallace's own record, he refers to the refusal to lend its Rubens landscape to the National Gallery in 1998 despite the pressure to do so from the latter. Warren's evidence should be accorded great weight also because the Wallace Collection is the museum among those cited most analogous to the Burrell Collection.

The Hon. Christopher McLaren says that he and Warren, contrary to appearances, don't really disagree, as he has recruited Dame Rosalind Savill to the Samuel Courtauld Trust (56). That begs the question of how far Warren and Savill agree (her somewhat nuanced views were briefly reported by David Lister in *The Independent*, 16.4.1997). It was under Savill that the Wallace held the Freud and Hirst exhibitions. Was she overpowered by Freud's charm and forcefulness or did she really believe in her heart that showing his work in the midst of Wallace's was compatible with the spirit of Lady Wallace's stipulation that the collection be kept unmixed?

McLaren argues that what matters is the spirit and not the detail (47). Of course disregarding the letter for the spirit conveniently allows the woolly subjectivism which is so often employed to overturn donors' stipulations. In the case of the Lane Bequest, the National Gallery stuck like a limpet to the letter of the law in disregard of what a House of Commons committee judged was Lane's actual intention. Ironically it was said that under Scottish rather than English law Lane's unwitnessed codicil giving his collection to Dublin rather than to London would have been legally valid. MacGregor naturally favoured the National Gallery view, supported by a false understanding of the history, which I had to correct in the columns of the *Museums Journal*.

McLaren's view of Lord Lee (60-61) is hard to reconcile with Lee's opposition in the House of Lords and *The Times* in 1930 to the British Museum & National Gallery (Overseas Loans) Bill. Lee's opposition nearly provoked a physical attack on him in the Lords by the proponent of the Bill, Lord d'Abernon! His statement of the risks of travel was reported at length in *The Times* (16-17.12.1930) and would surely have influenced the views of Burrell. The Bill was opposed by the BM, for which Lord Hanworth, Master of the Rolls, spoke. The Archbishop of Canterbury, Cosmo Gordon Lang, another BM trustee, gave three reasons for opposition: 1. Disturbance of study. 2. Danger of damage. 3. Difficulty of resisting pressure to lend. The BM was dropped from inclusion when the National Gallery (Overseas Loans) Bill was introduced in 1935. This and the exclusion of the BM from subsequent Bills constitutes an awkward fact for Neil MacGregor. The 27th Earl of Crawford found fault with the 1935 as with the 1930 Bill. He argued that, if the object was to promote Britain abroad, that should be done by British art, leaving the restrictions on lending foreign art, which was what was agreed. Mention has been made of art as a tool of diplomacy. Of course art has been used for that from time immemorial, but as gifts. No doubt international relations have a part to play today, but only when other considerations do not militate against lending.

Attempts having failed in 1930 and 1935 to allow the loan abroad of foreign art, in 1953 the 28th Earl of Crawford told the House of Lords that the Treasury was "asking you for the third time to change your minds" (24 November 1953, 466), though again only for the National Gallery and Tate. Again examples of damage done to works when on loan were cited – this time by MPs as well. The debates stretched into a whole year and raised questions about various wills such as Sir Hugh Lane's. Like other donors Lane changed his provisions over time, as did Burrell, who according to his secretary, Mrs Shiel in 1997, once thought of locating his museum in London. This has been used as an argument for not regarding donors' final wishes as binding

for ever on the reasoning that if they had lived longer they might have changed again. However donors such as Lane, Turner and Burrell had laid their plans over many years and settled on their final one after much thought, perhaps sometimes more thought than that given to the matter by those who wish to change their provisions. The advocates of changing wills might come to change their minds too.

Today's wish to "liberate" collections (Grossart, 16), the belief that what matters is "getting the works out and about" (McLaren, 56) may in the future seem to be just a fashion, the consequences of which come to be regretted, in some cases too late. McLaren says that the modification of Seilern's conditions did not remove his one against lending paintings on panel, which the Courtauld would have adhered to anyway (McLaren, 48). This is tantamount to saying that a donor's wishes should only hold when they concur with those of the curators and trustees for the time being. It should be clear that the main advocates of this Bill in fact do not believe that donors should control their collections from beyond the grave except perhaps for a short time after their deaths, whether or not the collection had been accepted on that basis. Is retrospective legislation desirable?

McLaren says that no one has objected to the changes made by the Courtauld. But the general public will not be aware of such changes. I cannot think of any recent museum catalogue or guide which states the donor's conditions, much less any changes made to them by the museum. The old catalogues of the Wallace Collection, reprinted in successive editions over many decades, did, but that was unique. The V&A went further in setting up boards giving the conditions of gifts such as that of Sheepshanks, but it is hard now to discover the terms under which many of its main bequests were given. When I suggested some time ago that it would be easy to give these on the museum's website, I was told that that would be too much trouble. That trouble would arise from the public knowing too much was clearly the unstated thought. The art world in general is shrouded in secrecy. Moves to greater transparency such as the Tate's publishing the minutes of its board meetings online end in farce when one sees how much is deleted first. Dr Penny has asked for his submission to this committee to be removed from the website and has said that he will reveal details of damage to works of which he knows only under the cloak of the greatest secrecy. In such a state of affairs one cannot have much faith in museum assertions about damage or anything else unless these are closely challenged. Meanwhile curators commenting on a report on the Burrell hearings in the *Museums Journal* find it advisable to do so anonymously.

Statistics are also sometimes dubious. Thus Ben Thomson states that the Burrell exhibition at the Piers Art Centre at Stromness was visited by 80% of local residents (54). How local? Did they pay or get in free and in the latter case how were they counted? Is he talking about the total number of visitors or of visits?

Reference is made to maintaining or increasing the reputation of museums. In the case of Warren reputation among potential donors seems to be what is meant (49). In the case of the others the reputation of the curators among their colleagues round the world. It is doubtful if the wider public is much influenced by these considerations. A museum's reputation may be damaged more directly when visitors go to it and are disappointed in their expectation of seeing key works which turn out to be out on loan. Again this may affect only a minority. Mention is made of the

Cluny Museum in Paris, which has started lending abroad (Grossart, 22-3). That has lent its famed Unicorn tapestries to Japan. When I checked the first 50 (out of 800) visitors' comments on the museum on TripAdvisor's website many mention their absence, but only three thought their visit ruined thereby. Even so, is that an acceptable percentage?

Though I think the Bill makes an unnecessary and undesirable change, I am not wholly out of sympathy with its promoters. Julian Spalding, who initiated the move when he was Director of Glasgow museums, in May gave us a very stimulating talk, most of which I strongly agreed with and which consisted of suggestions probably too radical for many of the Bill's supporters! When I was a curator at Manchester, I was frustrated by the "squirrelists" (Grossart, 22) and took the conservation concerns too lightly. Long thought about the issues has, I hope, made me wiser. Truly liberal views will take into account the dead and unborn as well as the living and current fashions. J.S. Mill recognised that opinions differ, which is why the peculiarities of donors' provisions are to be cherished rather than dismissed. Otherwise museums will lose their individuality. Of the Burrell it is said that "the asset and unique selling point ... is the imagination and vision of the man who created this incredible collection – that in itself is an amazing story" (McConnell 29) and that it constitutes a union of collection and building (McConnell 20).

I also have sympathy with Sir William Burrell's Trustees. They opposed change in 1997 but now back it under the pressure of those who urge the dire necessity of raising money for the building (as their Chairman stated in the first session). The same much contested argument was used to overturn the wishes of Dr Barnes, resulting in an even more fundamental departure from the donor's ideas. The Trustees argue that they will have the final say in what should be lent abroad and some say in what should be lent in the UK. However they will be under the pressure to lend which Lords Crawford and others thought could be intolerable. Parts of the lending code are flabby (39-40). An object, it says, should not be lent for 5 years after it has returned from exhibition unless there are "exceptional circumstances". Any circumstance can be exceptional for those bent on circumventing restrictions. Objects, it adds, shall not be on loan for longer than 3 years except for a tour longer than 3 years. That is no real restriction at all.

If the Committee is minded to back the Bill, the Code should be tightened up and the Trustees given final say in all cases. If a long tour is contemplated, the Bill should limit that to a one-off and thereafter strictly definite restrictions on time, repetition, material etc. should apply.

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