

# THE ARM'S LENGTH PRINCIPLE AND THE ARTS: AN INTERNATIONAL PERSPECTIVE - PAST, PRESENT AND FUTURE

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"God help the minister that meddles with art!"  
Lord Melbourne [1]

## Introduction

What is the status of the "arm's length" principle as applied to public support of the fine arts? In the popular press, the debate has involved issues such as the level of support to national "flagship" institutions; the increasing role of "ministries of culture" in direct support to fine arts organizations; and the proposed disbandment of arm's length councils. But these matters form only the surface of a debate involving the maturation of the arts as a significant political and economic force in contemporary Western societies.

The growing importance of the arts and their audience reflects basic demographic and economic trends: the rapid growth of the highly educated population; the increasing role of women in political and economic life; the aging of the general population; [2] the evolution of the "narrowcast" marketplace; the "deindustrialization" of First World economies; [3] and the growing importance of design and qualitative factors in the export performance of national economies. [4] These trends serve to reinforce the importance of the arts in political and economic life, and underlie ongoing international debate concerning appropriate mechanisms of public support.

## THE ARM'S LENGTH PRINCIPLE

### *In Constitutional Affairs*

"Arm's length" is a public policy principle applied in law, politics and economics in most Western societies. The principle is implicit in the constitutional separation of powers between the judiciary, executive and legislative branches of government. The principle is also represented in the division of powers among agencies of government in federal states. In Canada, for example, the provinces rather than the federal government have constitutional responsibility for education. International representation of Canada's national education interests, however, has been achieved through an arm's length National Commission for the United Nations Educational, Scientific and Cultural Organization (UNESCO), which is administered by the Canada Council. [5] A similar institutional solution has been reached by other federal states such as the Federal Republic of Germany, Switzerland and Yugoslavia.

The arm's length principle is also applied in the relationship between government and the press in most Western countries. For example, government is constitutionally restrained from subordinating the press to its own purposes - in the United States by the First Amendment, and in Canada by the recently enacted Charter of Rights and Freedoms. Such constitutional restrictions are intended to ensure freedom of thought and expression subject to specific limitations, such as the Official Secrets Act, and libel laws. [6] In Great Britain, with its unwritten constitution, freedom of the press is made explicit through the arm's length status of the British Broadcasting Corporation (BBC). The recent furor concerning political interference with the independence of the BBC demonstrates the importance of the arm's length principle to the people of the United Kingdom. [7]

### *In Public Affairs*

There are several areas of public affairs where the arm's length principle is applied. Conflict of interest guidelines in many countries govern the conduct of elected officials and represent an application of the arm's length principle. Cabinet ministers and other senior officials generally are required to place their financial assets in a "blind trust" to avoid conflict of interest. A trustee manages the assets and informs the official of the value of the account, but keeps other information confidential. [8] Treasurers, auditors and evaluators in major corporations and government departments are also at arm's length from the activities they scrutinize. They generally report to boards of directors and are free from control by senior management. In a similar fashion, ombudspersons appointed to ensure access to information, personal privacy or human rights must work at arm's length from the government that appointed them. The arm's length principle is also embodied in tax legislation and regulations. In this regard in Canada, a transaction is defined as being at arm's length if it is "conducted between parties that have no corporate or other direct connections with each other, and thus act each in its own self-interest." [9]

The arm's length principle is also applied to public funding of the arts in some countries. Before considering application of the principle to arts funding, it is appropriate to consider the nature of the contemporary arts as well as alternative modes of public support.

## THE ARTS

In Western society the arts include the literary, media, performing and visual arts. Together they form a distinct and recognizable sphere of human behavior. In turn, the arts are part of a larger cultural sector including architecture, crafts, fashion, heritage, multiculturalism and official languages. As part of this larger sector, the arts pervade and permeate the lives of every citizen at work, at home, in the marketplace and at leisure. [10]

### *The Arts Industry*

There are three distinct segments of contemporary art: the fine arts, the commercial arts, and the amateur arts. In each, the source of all art is the individual artist. The fine arts are a professional activity that serves "art for art's sake" just as "knowledge for knowledge's sake" is the rationale for "pure research" in the sciences. [11] In each fine arts discipline there are generally recognized standards of professional excellence. The dominant organizational form of production combines the professional artist and the nonprofit corporation.

The commercial arts, on the other hand, are a profit-making activity placing profit before excellence. The two motives need not, however, be mutually exclusive. In fact, the fine arts often use commercial arts channels to distribute fine arts products including recorded music, books, and films. When the fine arts are distributed through commercial channels they do not cease to be "fine art." The dominant organizational form of production in the commercial arts is the for-profit corporation.

The amateur arts are a "recreational" activity that serves to recreate the ability of a worker to do his or her job, or a "leisure" activity that serves to "self-actualize" a citizen's creative potential, thereby permitting a fuller appreciation of life. The dominant organizational form of production is the unpaid individual and the voluntary association.

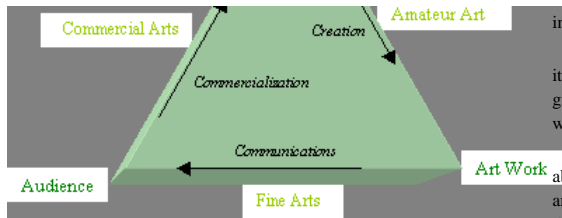
### *The Linkages*

The three segments of contemporary art are intimately interrelated in two ways. First, they are related through the source of all art work, the individual creative artist (Figure 1). The individual artist, as the source of all artistic products, is linked to an art work through creation. An art work is linked to an audience through communication. An audience is linked to an artist through commercialization.



Consider first the relationship between an artist and an art work excluding the audience. In this case the artist actualizes his or her creative potential, but no one sees or hears the result. This constitutes therapy, or amateur art. Second, consider the relationship between an art work and an audience, but exclude the artist. In this case a work of art "speaks" to an audience in a numinous or archetypal way. One then has fine art.

Finally, consider the relationship between an audience and an artist, but exclude the art work. In this case an audience "buys" the name of the artist even if the actual work does not "speak." One arrives at "the aesthetics of snobbery" [12] or commercial art. The case of 35,500 blank sheets of paper all signed by Salvador Dali is a case



in point:

With the artist's signature as authentication, whatever is on the sheet theoretically becomes an "original," even if it is printed or added to afterwards and the "author" never knows what it is . . . . It is possible that Mr. Dali does not give a fig for what is put on paper over his signature and would consider it all an excellent joke on a naive public willing to pay vast sums to keep him in the style to which he has become accustomed. [13]

The three segments of art are also linked by economic function. The amateur arts, in actualizing the talents and abilities of the individual citizen, provide an educated audience and initial training for the fine and the commercial arts. The fine arts, in the pursuit of artistic excellence as an end in and of themselves, provide research and development for the commercial arts. That the fine arts provide research and development for the commercial arts

industry is clear, even though of 16 major industries only the commercial entertainment industry has no reported research and development expenditure. [14] The commercial arts, in the pursuit of profit, provide the means to market and distribute the best of the amateur and the fine arts to an audience large enough and in a form suited to earn a profit, for example, recordings. Figure 2 provides a schematic overview of the economic relationship between the three segments of contemporary arts.

**Figure 2**  
**The Economic Relationship between the Fine, The Commercial & the Amateur Arts**

| TYPE            | RATIONALE             | STATUS OF ARTIST | STATUS OF ORGANIZATION | ECONOMIC ROLE                                       |
|-----------------|-----------------------|------------------|------------------------|---|
| Fine Arts       | art for art's sake    | professional     | nonprofit              | research & development for the commercial arts      |
| Commercial Arts | art for profit        | professional     | profit                 | distribution for the fine & amateur arts            |
| Amateur Arts    | art for actualization | amateur          | voluntary              | audience development for the fine & commercial arts |

Collectively these three segments constitute the "arts industry." The industry, for statistical purposes, includes advertising, broadcasting, motion pictures, performing and visual arts, publishing, sound and video recording. Compared to the 20 Canadian manufacturing groups identified by Statistics Canada, the arts industry in 1982 was the ninth largest with respect to total revenue- \$85 billion or 2.5 percent of Gross National Product; the fourth largest with respect to full-time employment -134,275; and the sixth largest with respect to total salaries and wages - \$2.8 billion. Arts industry revenues grew 80 percent between 1977 and 1982, compared to 73 percent for all manufacturing groups. Moreover, arts industry revenues even increased during the recession of 1981 and 1982 while manufacturing revenues were falling. [15]

#### ALTERNATIVE MODES OF PUBLIC SUPPORT

As a public policy principle, the arm's length principle is generally applied to support of the fine arts. The arm's length principle, however, is not the only possible mode of public support to the fine arts. There are four alternative roles for the State: Facilitator, Patron, Architect and Engineer. Furthermore, the State can have two different objectives-to support the process of creativity [16] or to support production of specific types of art such as socialist realism.[17] Roles and objectives are not mutually exclusive, that is, a single government may play more than one role and may seek to achieve more than one objective (Figure 3).

**Figure 3**  
**Alternative Modes & Objectives of Public Support to the Fine Arts**

| ROLE        | OBJECTIVE      |                |
|-------------|----------------|----------------|
|             | <i>Process</i> | <i>Product</i> |
| Facilitator | xxxx           | x              |
| Patron      | xxx            | xx             |
| Architect   | xx             | xxx            |
| Engineer    | x              | xxxx           |

For purposes of demonstration, we will examine the four roles as pure types with respect to the mechanism of funding, policy objectives, standards and dynamics as well as the economic status of artists and artistic enterprise. For each role a short national case study will be presented.

#### *The Facilitator*

The Facilitator State funds the fine arts through foregone taxes - so-called tax expenditures-provided according to the wishes of individual and corporate donors; that is, donations are tax deductible. The policy objective of the Facilitator is to promote diversity of activity in the nonprofit amateur and fine arts. The Facilitator supports the process of creativity, rather than specific types or styles of art. Furthermore, no specific standards of art are supported by the Facilitator, which relies on the preferences and tastes of the corporate, foundation and individual donors. The policy dynamics of the Facilitator State are random in that changes in support to the fine arts reflect the changing tastes of private donors. In the Facilitator State the economic status of the fine artist and the artistic enterprise depends on box office appeal and the tastes and financial condition of private patrons.

The strength of the Facilitator lies in the diversity of funding sources it creates. Individuals, corporations and foundations choose which art, artists and arts organizations to support. The Facilitator role also has weaknesses.

First, standards of excellence are not necessarily supported, and the State has no ability to target activities of national importance. Second, difficulties occur with respect to the valuation of private donations in kind, for example, paintings donated to a museum or art gallery. Third, public support of some arts activities may be of questionable benefit to the particular State and its people: the reconstruction of Versailles was funded in large part through tax-exempt contributions made by American taxpayers to the Versailles Foundation in New York City. [18] Fourth, as demonstrated in Canada by the elimination of the scientific research tax credit, it is very difficult to calculate the cost of tax credits and expenditures to government. [19]

In the United States, government plays the role of Facilitator, promoting the fine arts through tax expenditures channeled by donors. The Facilitator role has its origins in three American traditions: the separation of church and state, the competitive market economy, and private philanthropy, which both before and after the imposition of the income tax has represented the most important source of support for the arts. In 1965 the National Endowment for the Arts (NEA) was established and shortly thereafter came state arts councils. The development of these national and state arts councils represented a shift toward the role of Patron for government in the United States. However tax expenditures still provide two-thirds of public support to the fine arts. [20] The first Reagan Administration attempted to disband the NEA and return the U.S. government to a strict Facilitator role, but the effort failed. [21]

#### *The Patron*

The Patron State funds the fine arts through arm's length arts councils. The government determines how much aggregate support to provide, but not which organizations or artists should receive support. The council is composed of a board of trustees appointed by the government. Having been appointed by the government of the day, trustees are expected to fulfill their grant-giving duties independent of the day-to-day interests of the party in power, much like the trustee of a blind trust. Granting decisions are generally made by the council on the advice of professional artists working through a system of peer evaluation. The arts council supports the process of creativity, but with the objective of promoting standards of professional artistic excellence. The policy dynamic of the Patron State tends to be evolutionary, responding to changing forms and styles of art as expressed by the artistic community. The economic status of the artist and the artistic enterprise depends on a combination of box office appeal, the taste and preferences of private donors, and grants received from arm's length arts councils.

The very strength of the arm's length arts council is often perceived as its principle weakness. Fostering artistic excellence is often seen as promoting elitism, with respect to both type of art work produced and audience served. Support of artistic excellence may thus result in art that is not accessible to, or appreciated by, the general public, or by its democratically elected representatives. In most Patron States there are recurring controversies in which politicians, reflecting popular opinion, express anger and outrage at support for activities that are, for example, perceived as politically unacceptable, pornographic or appealing only to a wealthy minority.

With an arm's length council, however, politicians can claim neither credit for artistic success nor responsibility for failure. Great Britain is the best known example of the Patron State. Government adopted the role of Patron during World War II by creating the Committee for Education, Music and Art for raising morale during the Blitz. [22] After the war it created the Arts Council of Great Britain and its sister agencies in Scotland, Wales and Northern Ireland. The role of Patron evolved out of traditional arts patronage by the English aristocracy. The government continues the Patron role, even though various task forces and committees of Parliament have recommended incentives to enhance charitable giving. [23]

The Arts Council of Great Britain has experienced controversy concerning art not acceptable to the general public. Such was the case in 1983 when an irate citizen set fire to the "South Bank submarine" created from used tires by sculptor David Mach. The Arts Council had funded the work to the tune of £50,000. [24]

*The Architect*

The Architect State funds the fine arts through a Ministry or Department of Culture: Granting decisions concerning artists and arts organizations are generally made by bureaucrats. The Architect tends to support the arts as part of its social welfare objectives. It also tends to support art that meets community rather than professional standards of artistic excellence. The policy dynamic of the Architect tends to be revolutionary. Inertia can result in the entrenchment of community standards developed at a particular point in time, leading to stagnation of contemporary creativity, as recently observed in France. [25] The economic status of artists in the Architect State tends to be determined by membership in official artists' unions. Once an artist gains membership in such a union, he or she becomes, in effect, a civil servant and enjoys some form of income security. The economic status of artistic enterprise is determined almost exclusively by direct government funding. The box office and private donations play a negligible role in determining their financial status. However, with respect to artistic choice, artistic enterprise generally remains autonomous of government.

The strength of the Architect role lies in the fact that artists and arts organizations are relieved from depending on popular success at the box office, resulting in what has been called an "affluence gap." [26] Moreover the status of the artist is explicitly recognized in social assistance policies. [27] The weakness of the Architect is that long-term, guaranteed direct funding can result in creative stagnation.

Since before World War II the government of the Netherlands has played the role of Architect. The government funds numerous literary, media, performing and visual arts institutions as regular budget items. Furthermore, the government provides a guaranteed annual income to visual artists. [28] In effect, minimum salary and working conditions are established by the government. The role of Architect originated with the "absolute" monarchies of the seventeenth to late nineteenth centuries. In the twentieth century social democratic and other political parties in most Western European countries assumed the role of Architect after the collapse of active monarchy following World War I.

The "Tomato Revolution" of the 1970s, in which the audience protested the content of Dutch theater, demonstrates the revolutionary policy dynamic that can result from the Architect role.

[D]issatisfaction expressed in poor attendance, position papers, meetings and ultimately tomatoes, smoke bombs and invectives, gave government a clear indication that there was a serious gulf between the public's perception of need and what tax money was purchasing . . . Now in a revival of one of the world's fundamental rites, the death/ castration of the parent cleared the way for the child's assumption of power and prestige. Mythic relationships prevail even in government support system! [29]

*The Engineer*

The Engineer State owns all the means of artistic production. The Engineer supports only art that meets political standards of excellence; it does not support the process of creativity. Funding decisions are made by political commissars and are intended to further political education, not artistic excellence. The policy dynamic of the Engineer State tends to be revisionary; artistic decisions must be revised to reflect the changing official party line. The economic status of the artist is determined by membership in official Party-approved artists' unions. Anyone who does not belong to such a union is, by definition, not an artist. All artistic enterprises are state-owned and operated; that is, all artistic means of production belong to the State.

The Engineer role is attractive to a "totalist" regime because it focuses the creative energies of artists toward attainment of official political goals. Many Western governments, however, also find the Engineer role attractive in constructing a commercially viable arts industry in which the profit motive, or "capitalist realism," plays an ideological role analogous to "socialist realism." In the West, capitalist realism is generally expressed as "if it does not pay, kill it."

There are several weaknesses associated with the Engineer role. First, all art is subservient to political or commercial objectives. Second, the creative energy of artists cannot be completely channeled. Repressed artistic ambition results in an "underground" subversive of party aesthetics or capitalist values, for example, the phenomenon of the "counterculture." [30]

There is a counterintuitive paradox associated with the Engineer role. With respect to the Soviet Union, it is the works of the Czarist period that receive critical acclaim in the West, not the works of socialist realism. With respect to Western art, it is the popular cultural products; for example, Hollywood movies and rock music-that are eagerly sought after within socialist and communist countries, not the works of socialist realism.

Between the Communist Revolution in 1918 and 1932 the Soviet government played the role of Architect. The arts were viewed by the first "People's Commissar of Enlightenment" as an integral part of human development, but artistic change was seen as evolutionary, not revolutionary. While the workers were considered the owners of the "artistic means of production" they were not considered ready to operate them. First they would have to be educated through access to the capitalist art of the past after which true proletarian art could emerge. Censorship and control over content were relatively rare. [31]

In 1932, with the second Five Year Plan implemented by Joseph Stalin, the costs of industrialization and the need to develop a new socialist society combined to change the role of the State from Architect to Engineer:

This second page in socialist cultural policy saw the rise of the doctrine known as Socialist Realism . . . [that] downplays the notion that the "means of production" in the arts belongs to the masses, substituting the idea that it is the final product, the artwork itself, that is the property of the proletariat. Under this scheme, the social responsibility of the artist lies in "satisfying" the "owners," that is producing works that can be immediately accepted by the masses. [32]

Henceforth all art produced in the Soviet Union had to be socialist realist; that is, realist in form and socialist in content. Artistic activity was organized into "creative unions" to monitor new works and ensure conformity with the aesthetic principles of the Communist Party. Artists who produced work that did not conform were expelled and no longer recognized as artists.

*The Linkages*

Although these roles are mutually exclusive in theory, in practice most nations combine some or all of them. A few examples will demonstrate. In the United States, the National Endowment for the Arts complements tax expenditures (the Facilitator) with grants to artists and arts organizations, thereby playing a Patron role. In Great Britain, the Office of Arts and Libraries complements the Patron role of the Arts Council of Great Britain by providing direct grants to selected arts and cultural facilities. In France, the Architect role of the State is complemented by tax expenditures in support of charitable donations to the arts; thus, it also plays a Facilitator role.

Figure 4 provides a schematic summary of the four alternative modes of public support to the fine arts. The Facilitator does not formally use the arm's length principle. Rather, funding decisions are made by corporate, foundation and individual donors according to their tastes, not according to national arts policy objectives or artistic standards of excellence. In the case of the Architect and the Engineer, funding is provided directly by a government department. In the former case, support is provided according to community standards, and in the latter, according to political standards. The Patron is the only role in which the arm's length principle is applied. Funding is provided by government to an arm's length arts council that then makes grants according to professional standards of artistic excellence.

**Figure 4  
Models for Supporting the Arts**

| ROLE        | MODEL COUNTRY  | POLICY OBJECTIVE    | FUNDING                                   | POLICY DYNAMIC | ARTISTIC STANDARDS | STATUS OF THE ARTIST  | STRENGTHS & WEAKNESS   |
|-------------|----------------|---------------------|---|----------------|--------------------|---|--|
| Facilitator | USA            | diversity           | tax expenditures                          | random         | random             | box office appeal & taste; financial condition of private patrons         | <b>S:</b> diversity of funding sources<br><b>W:</b> excellence not necessarily supported; valuation of private donations; question benefits; calculation of tax cost |
| Patron      | United Kingdom | excellence          | arm's length arts councils                | evolutionary   | professional       | box office appeal; taste & financial condition of private patrons; grants | <b>S:</b> support of excellence<br><b>W:</b> elitism   |
| Architect   | France         | social welfare      | ministry of culture                       | revolutionary  | community          | membership in artists' union; direct public funding                       | <b>S:</b> relief from box office dependence; the affluence gap<br><b>W:</b> creative stagnation  |
| Engineer    | Soviet Union   | political education | ownership of artistic means of production | revisionary    | political          | membership in official artists' union; Party approval                     | <b>S:</b> focus creative energy to attain official political goals<br><b>W:</b> subservience; underground; counter-intuitive outcomes                                |

## History

### United Kingdom

The Arts Council of Great Britain (ACGB), established in 1945, was the first arm's length arts council. The British government adopted the arm's length principle in order to distance the arts from politics and bureaucracy. They wanted to avoid the system of state support existing in Russia and Germany prior to 1945, where official art was imposed by Ministers of Culture. [33] The government also recognized that within the arts community there was "a desire to run one's own show and deep rooted mistrust of bureaucratic interference" [34]

The arm's length arts council, as an institution, has been described as "distinctly British" [35] for two reasons. First, the ACGB was the first of its kind. Second, the arm's length arts council had been developed from the experience of other British cultural institutions including the University Grants Committee and the British Broadcasting Corporation.

Established in 1919, the University Grants Committee was "an unelected body of university men, appointed by the Chancellor of the Exchequer, on whose advice the Government of the day asked Parliament each year to vote money for distribution, without strings, to each university." [36] Similarly, the British Broadcasting Corporation was created in 1923 at arm's length from government to ensure freedom of the press.

Lord Keynes, first Chairman of the Arts Council of Great Britain, described arts patronage in Great Britain as having come about in a "very English, informal, unostentatious way." [37] Others view the arm's length arts council as:

a classic British compromise, dependent on Treasury grants, supervised by a Government department, but with Council members appointed, in theory at least, for their expertise rather than their political disposition, and a staff who were not civil servants. [38]

### Canada

In 1951, the Royal Commission on National Development in the Arts, Letters and Sciences 39 recognized the need for public funding of the fine arts. The Royal Commission recommended the British arm's length arts council model as that most suitable for Canada while rejecting direct funding of the arts through a ministry of culture.

Quite apart from the fact that the problems confronting us have little in common with those in other countries, we find that in general they are dealt with abroad by a centralized Ministry of National Education or by a Ministry of Cultural Affairs, arrangements which, of course, in Canada are constitutionally impossible or undesirable. [40]

The nature of the Canadian Confederation in which certain fields, such as education and health, are the constitutional responsibility of the provinces, was an important consideration for the Commissioners. The Commissioners were concerned about federal encroachment on provincial responsibilities, particularly with respect to education because of its relation to the arts and culture. The Royal Commission drew a distinction between formal and informal education. The former was the special domain of the provinces. The Commissioners, however, saw "no prohibition in Canadian law against any group, governmental or voluntary, contributing to the education of the individual in its broadest sense" including the arts and culture. [41]

In response to the recommendations of the Royal Commission, the Parliament of Canada, using death duties levied on the estates of two prominent Canadian industrialists-Sir James Dunn and Izaak Walton Killam created the Canada Council for the Encouragement of the Arts in 1957. [42] The Canada Council differed from the British arts council in that it was endowed with \$100 million, half of which was to be used for capital grants to universities - similar to the British University Grants Committee-and the other \$50 million for an endowment whose income would make the Canada Council financially independent of government. In this sense, the Canada Council more closely resembled a U.S. private foundation than the Arts Council of Great Britain. In fact, the first meeting of the Canada Council, held in the Office of the Prime Minister, included representatives of the Carnegie, Ford and Rockefeller Foundations. [43] In 1963, Dorothy Killam, wife of Izaak Walton Killam, donated \$8.5 million to the Canada Council in recognition -that it was her husband's estate that, in effect, had endowed the Canada Council. [44] In 1965 she bequeathed an additional \$7 million to the Canada Council. [45]

For the first five years of its existence, the Canada Council was both politically and financially independent from government. Grants, services and administrative activities of the Council were funded from endowment income. The Canada Council first received an appropriation from the Parliament of Canada in 1965 in recognition of its success in fostering and promoting the arts, and in order to prepare for celebrating the 100th anniversary of the Canadian Confederation. From this time forward, the Canada Council became what was known as the "chosen instrument" of the federal government to encourage artistic activity in Canada. Currently the annual appropriation from Parliament represents approximately 85 percent of total Canada Council income.

The arm's length arts council model was also adopted at the provincial and local levels of government in Canada. The Saskatchewan Arts Board, established in 1948, is the oldest arts council in Canada. The Provinces of Ontario, Manitoba and Newfoundland subsequently created arm's length arts councils in the 1960s,1970s and 1980s. In addition, there are arm's length councils in a number of Canadian cities including Montreal, Toronto, Vancouver and Ottawa.

### Other Commonwealth Countries

Other Commonwealth countries have also established arm's length arts councils patterned on the British model. These include the New Zealand Arts Council established in 1963 (succeeded by a restructured Queen Elizabeth B Arts Council in 1975) and the Australia Council for the Arts established in 1975. Further research is required to trace more completely the evolution of arts support in other Commonwealth countries. [46]

### United States

In the United States, until 1965 the tax system (the Facilitator role) was the only vehicle for federal support to the arts. In 1965 the National Endowment for the Arts (NEA), an arm's length agency, was created. The experience of the United States is instructive because it highlights other dimensions of the arm's length principle, for example, who determines the budget, and to whom the agency reports. In the United States these involve the distinction between the President (the executive branch) and the Congress (the legislative branch).

The NEA differs from the Canada Council in that it is explicitly an executive agency. Its budget is proposed by the President through the Office of Management and Budget but is subject to the approval of Congress. The NEA "has learned to be more politically involved than the other two (Britain and Canada) . . . if only because its budget is subject to much more legislative scrutiny and alteration than occurs in Britain or Canada with their much greater executive supremacy." [47]

The Smithsonian Institution provides another interesting contrast. Established in 1846 by an Act of Congress under the terms of the will of James Smithson, an Englishman, the Smithsonian is a legislative agency. Congress appoints its Board of Regents and proposes its annual appropriation. In 1983 the Congressional appropriation was \$275 million and the endowment amounted to \$250 million. [48]

This distinction between an executive and a legislative agency has some parallel with the Canadian experience. The Canada Council was created by an Act of Parliament and reports to Parliament, but it is explicitly "not an agent of Her Majesty" [48] and therefore beyond the control of Her Majesty's government of the day. Thus, the Canada Council can be considered analogous to a legislative agency such as the Smithsonian Institution. The evolution of the Canada Council has other similarities with the Smithsonian: both were created with an endowment derived, indirectly or directly, from private estates; both, over the years, have benefited from subsequent private bequests and endowments; both have developed special collections and special services (in the case of the Canada Council these include the Canada Council Art Bank, the most extensive collection of contemporary Canadian visual art in the country, and the Canada Council Touring Office, which services the touring and career development needs of Canadian performing artists and artists' management); and both have become "national" as opposed to "federal" institutions.

## Operations

The arm's length arts council is essentially concerned with the development of the fine arts. Public support to the commercial arts generally is outside the terms of reference of arts councils. In the case of the amateur arts, the bulk of public support comes from departments of recreation and culture at the local and provincial levels.

Many arts councils are holding back on support to amateurs believing, as does the Arts Council of Great Britain, that although amateur activity is of great importance in the total spectrum of a nation's arts, support for amateur activity is not a proper function for national government, given limited funds and given, too, that there are other sources of support for amateurs, notably local government. [50]

However, in New Zealand, Australia and the United States, arts councils do provide some funding for amateur or what are called "community arts." In Canada, the Canada Council Explorations program also provides some support for amateur or nonprofessional arts activities.

There are a number of ways in which the arm's length principle is applied in the operations of fine arts councils. These include the role of the board of trustees, the use of peer evaluation to foster the development of artistic excellence and the nature of client relations.

### The Board of Trustees

One feature of arts councils essential for the operation of the arm's length principle is the board of trustees, whose members collectively constitute the council itself. Members of the board are generally appointed by the government of the day. It is to the board that the State entrusts responsibility for the activities of the council; that is, after being appointed, members of the board

are expelled to act as "legal trustees," independent of the political needs of government. It is public confidence in the integrity and ethics of board members that ensures that government remains at arm's length from the council. Ideally, members of the board should be individuals with wide knowledge and experience of the arts. The purpose of boards, "apart from the democratic wish to prevent the power of public patronage [from] being too narrowly concentrated, is to create an organization which can reach out into the community and be sensitive to community needs and conditions as well as to movements in the arts." [51] Thus, the board of trustees ought to be very sensitive to the political implications of public opinion.

The essential role of the board is to act as "an intermediate body, responsibly and accountably disposing of public money and including in itself people with direct current knowledge of the arts and their administration." [52] In this intermediary role, the board is responsible for keeping politicians and bureaucrats at arm's length from the day-to-day operations, and from political directives and pressures; for preventing ministry officials who may have no background in the arts from handing out money as a form of patronage; for ensuring that judgments about the arts are made by professionals in the field; for serving as a buffer between government and the arts; and for acting as an advocate of the arts to government and the general public.

#### *Peer Evaluation*

The arm's length arts council uses a system of peer evaluation to ensure that its granting decisions are based upon professional assessments that are then approved, or from time to time rejected, by the board of trustees. The peer evaluation system lies at the heart of the arm's length arts council. This system has its origins in English law. It rests on the premise that justice imposed by the lords on commoners is unjust because the circumstances of lords and commoners are radically different. [53] Therefore, an artist ought to be judged by his or her peers, and, accordingly, other artists are involved in grant-making decisions.

We believe that any judgment brought to bear on a work of art in our interest will be a subjective judgment and that any person we consult can only give us a subjective opinion, however stern his own inner disciplines may be. Therefore what we are seeking as criteria is in fact a consensus of subjective judgments from people who, through long commitment to the arts, have developed a controlled sensitivity to the means of expression and a profound understanding of the content. Where this consensus can be accumulated a kind of objectivity results. [54]

A similar system of peer evaluation is used in determining funding by scientific and medical research councils around the world. Although objectivity is generally more apparent in the sciences than in the arts, scientists and professional medical researchers must be used to make granting decisions, because they are generally the only people qualified, or sufficiently knowledgeable, to do so.

#### *Client Relations*

An arts council has, in effect, two distinct sets of clients, the artists and arts organizations. The ways in which an arts council relates to these clients reflect varying applications of the arm's length principle. Arts councils are not generally distant from their artistic clients. Council staff maintain ongoing communications with client arts organizations and artists. Generally, arts council staff try to ensure that applicants for support satisfy not only artistic requirements but also financial, administrative or other criteria.

After clients have received a grant, arts council staff also assess financial and other, administrative reports concerning the use and application of funds to determine whether clients have fulfilled their obligations as proposed in their application. Similarly, staff may also review the artistic activities of client organizations to determine whether other policy requirements, approved by the board, have been met. For example, they might want to know whether an orchestra had fulfilled its Canadian content performance quotas. The findings of these staff assessments are made available to jurors as well as to members of the board of the arts council. Such assessments are then used in the adjudication of subsequent grant applications.

The arts council's relationship with the public involves yet another dimension. In general, arts councils have mandates to support both production and enjoyment of the arts; that is, the arts council serves as both "paymaster and tastemaker."

On the one hand the artists and the organizations through which their work is presented will press their claim for artistic freedom to the limit, and view with alarm anything that smacks of taste-making. On the other hand, members of the public as taxpayers may object strenuously to what they perceive as an insensitivity to community tastes and standards or indulgence of artistic follies . . . . Contending with two would-be masters, the government and the clientele, it can succeed in its role of patron only by maintaining something of an arm's length relationship in both directions. [55]

Some observers have proposed that arts councils should operate at double arm's length. In this refinement, an arts council would operate at arm's length both from government and from its clients. Thus, an arts council, having assessed the artistic merit of clients, would not direct or control their activities. [56] This policy would be in direct contrast with most continental European countries where publicly subsidized arts institutions have little or no administrative independence from government.

#### *The Status of Arts Councils*

The effectiveness of the arm's length arts council in fostering and promoting artistic excellence has been reaffirmed in a number of countries in recent years. In a 1982 Report by the Education, Science and Arts Committee of the British House of Commons, Public and Private Funding of the Arts, the Committee was concerned not to disturb existing arrangements where they work well simply for the sake of administrative neatness. The Committee recommended that the Arts Council of Great Britain should have "an assured future and central role in relation to the performing and creative arts." [57] Similarly, in 1981 in the United States a Presidential Task Force on the Arts and Humanities "declared the Endowments to be 'sound' and recommended that they remain as originally conceived." [58]

In Canada, the Federal Cultural Policy Review Committee also found that the Canada Council's arm's length relationship with government was necessary and effective. The Committee viewed creative and interpretive activity to be the principle responsibility of the Canada Council and that such activity had "the greatest vulnerability to political direction and the greatest need for autonomy." [59] Similarly, the arm's length status of the Ontario Arts Council was also reaffirmed by the Ontario Special Committee on the Arts in 1984. [60]

The arm's length principle as applied to arts funding has thus been reaffirmed in many countries as the most effective means to foster and promote the fine arts. However, the autonomous arts council remains the subject of ongoing international debate and now confronts "a volatile situation where the arts are thriving and vocal, the community is more aware and equally vocal about its need for the arts, while government is both interested and more inclined to interfere." [61]

### **CONVERGENCE**

Continental Europe, the British Commonwealth and the United States have each experienced a different evolution of public support of the fine arts. This reflects the differing political and cultural traditions of the various countries. In the United States, the tradition has been one of separation of church and state, free market competition and, particularly before the imposition of the income tax, private philanthropy. Based upon these traditions, the United States has adopted the Facilitator role. In Britain and other Commonwealth countries, governments have distanced the arts from the State, preferring to apply the arm's length principle through autonomous arts councils. The European experience has primarily been that of the Interventionist, reflecting the role played by the absolute monarchs from the seventeenth to late nineteenth centuries [62] as well as the earlier role of the medieval Church. Czarist "autocracy" combined with Communist ideology has resulted in adoption of the Engineer role by the Soviet Union.

One observer has suggested that in the last decade there has been "a slow convergence" between the Patron role embodied by the arm's length arts council and the Architect role embodied in the Ministry of Culture. [63] This convergence, however, is only part of a more general trend that reflects a number of factors including the changing structure and nature of the economy, declining real resources available to the public sector and the rapid growth in the size and importance of the arts industry. The major trends leading toward a convergence of roles are outlined below.

#### *Toward the Facilitator*

The Facilitator State funds the fine arts through tax expenditures made on behalf of private patrons. Two factors are leading many countries toward the Facilitator role. The first is the decline in available public resources coupled with growing deficits. This decline has led many governments to consider what appears to be the outstanding success of the Facilitator role as practiced in the United States. In the United States, tax expenditures, in the form of charitable donations, provide about two-thirds of all public support to the arts. [64]

The second factor leading various governments to consider an enhanced Facilitator role is the increase in corporate sponsorships of fine arts activities. The "up-scale" nature of the fine arts audience - that is, high levels of education and income [65] - is an attractive market for many corporations. Corporations increasingly sponsor fine arts activities, not as charity but as a major marketing technique. Sponsorship reflects the correspondence between a corporate target market and the arts audience. Sponsorships are made from corporate or public relations budgets, rather than from donations budgets. As a business expense, corporate sponsorships are also tax deductible.

British, French, German, Canadian and other governments are currently engaged in various studies and efforts to enhance tax incentives for private sector donations to the fine arts. At first glance, the Facilitator role is an appealing option in a time of limited public resources because tax incentives are not reported as government expenditure. However, the Facilitator role has a number of drawbacks.

First, private patrons tend not to support controversial productions or new innovative art forms. For example, the Canada Council, in 1982, was the primary supporter of dance and theatre, art forms that tend to be controversial because of esoteric experimentation, scatological language, political themes or frontal nudity. The private sector, on the other hand, was the largest supporter of music and opera, art forms that draw on an established repertoire and tend not to be controversial. [66]

Second, corporate donations and sponsorships are inherently "cyclical" in nature. When the economy is good, corporate donors and sponsors increase support to the arts. But when the economy is bad, times when the fine arts generally need increased support, private donations and sponsorships decline. Furthermore, private patrons tend to suffer from "money illusion," an illusion that also plagues support from the public sector. Real support, measured in constant dollars, declines or remains stable in times of inflation, while the nominal value of the donation, measured in current dollars, increases rapidly. [67]

Third, problems with corporate sponsorship have been reported by some arts groups. Corporate sponsors from time to time try to exercise control over artistic standards to ensure the highest possible public relations value to the corporation. Such commercial interference can be as much of a threat to artistic freedom as political interference. Unfortunately there is no statistical information available concerning sponsorships, partly due to the confidential nature of advertising spending. The Institute of Donations and Public Affairs Research has initiated a survey of corporate sponsorships. Preliminary results suggest that in Canada the number of corporate sponsorships of cultural events now exceeds sponsorships of sporting events.

Fourth, tax expenditures cannot generally be targeted because funding decisions are made by corporate, foundation and individual donors according to their own tastes. Furthermore, the cost of tax expenditures is very difficult to calculate and can seriously erode the fiscal strength of the public sector.

Finally, although the American system is envied by many countries, it is a fact that most Western countries already have tax expenditure policies in place. These financial incentives do not appear to the authors to be less attractive than those provided by the government of the United States. The relatively low level of donations in other countries appears to reflect differences in cultural factors rather than in financial incentives. In Canada, for example, the same financial incentives are available to corporate and private donors in the Provinces of Ontario and Quebec. Yet available statistical evidence indicates that donations are significantly lower in Quebec, reflecting an Architect tradition in which the State is expected to provide the bulk of support to the arts directly through grants rather than through tax expenditures.

#### *Toward the Patron*

The Patron State funds the fine arts through arm's length arts councils. In countries such as Sweden and the Netherlands, where the Architect role predominates, the arts are funded through ministries of culture and are treated as part of the overall national social welfare policy. Both countries have, however, adopted a limited version of the arts council. In Sweden, it is called the *Statens Kulturråd*; in the Netherlands, the *Raad voor de Kunst*. Both differ from the British and Canadian arts councils because they are strictly advisory bodies at present. The ministries have the final say in how funds are distributed. Nonetheless, the creation of these councils represents an apparent convergence of the Patron and Architect role in both countries.

In West Germany, the situation is unlike that in most other European countries, but similar to the Canadian experience because of the confederate nature of government. According to the Constitution of the Federal Republic of Germany; the *lander* (the regional governments) are responsible for funding and policy concerning education and culture. The federal government is restricted in its ability to support the arts because of the experience of the Nazi regime. No federal ministry or arts council can exist. Although the arm's length principle is not explicitly expressed, the Constitution requires all public support of culture "to respect and defend artistic freedom and refrain from influencing methods, content and trends."

This mandate is succinctly summarized in the Constitution by the statement: "art is free." [68] Both the federal and *lander* governments, however, are considering creating a semi-private national (as opposed to federal) grant-giving council somewhat similar to the Canada Council.

In the United States, the National Endowment for the Arts (NEA) was established in 1965, and by the end of the 1970s state arts councils had been established in all of the states of the union, reflecting a shift toward the role of Patron for U.S. federal and state governments. Within Canada, some provincial governments have also moved toward the Patron role. In the Province of Alberta, the ministry of culture-Alberta Culture- has used lottery funds to create several independent arts foundations and other institutions. [69]

#### *Toward the Architect*

The Architect State funds the fine arts through Ministries or Departments of Culture. Artistic enterprises, however, maintain autonomy in artistic decision-making. In a number of countries there has been a trend away from the Patron role toward the Architect role in public support of the fine arts. A number of factors have contributed to this trend. The first is the increasing financial needs of large arts organizations as they mature to "world-class" status. This maturation tends to be a function of a number of factors including development over a period of years of consistently high professional standards, international exposure and acclaim of these standards and, to a lesser extent, large-scale and complex operation. All of these factors increase the absolute amount of resources required.

In the performing arts, for example, rising costs result when larger companies maintain an extensive repertory with associated costs of rehearsals, sets, props, costumes, storage and back-stage machinery; operate professional development and training programs or professional schools to bridge the gap between academic accreditation and professional excellence; risk a steady stream of original works to challenge the audience and maintain the competitive edge of the company, and tour, the world with all the attendant financial implications.

World-class arts organizations may also diversify into multimillion dollar, and multipurpose facilities including restaurants, bars, parking and other activities. Such activities offer career development opportunities for Canadian arts administrators and thereby contribute to an upgrading of financial and management practices. These activities increase the competitive edge of Canadian arts organizations. But world-class scale also has greater down side risk, for absolute losses are an order of magnitude greater than they are for small arts institutions.

Second, as the financial needs of large arts organizations have increased, most arm's length arts councils have been receiving declining real resources from government while simultaneously confronting the increasing needs of the maturing national arts community. As the arts community grows from a small intimate group of individuals into a national community, the need for intra- and inter-community communications tends to increase, e.g., conferences, periodicals and seminars as well as service and support organizations. Similarly, as an arts community matures, the need for, and the fees of, experienced and talented artists increase.

Furthermore, like the sciences, the arts are a dynamic area. New art forms emerge from time to time. If these new and emerging art forms are to be fostered and promoted, arts councils must provide support to new clients at the same time as they are increasing their support of large organizations to allow them to attain or maintain world-class status. Failure to support the maturation of individual artists, arts organizations and the arts community as a whole encourages emigration of talent, both artistic and administrative, to other jurisdictions more able and willing to support excellence. This results in a loss of artistic development opportunities, highly qualified human resources and the economic spin-offs associated with a strong and vigorous artistic sector.

The pressure of large arts organizations on the declining budgets of arts councils has resulted in increased pressure on governments to intervene directly. In Great Britain, for example, the Arts Council continues to be the principal fine arts funding body. However, direct support is also provided by the Office of Arts and Libraries. A recent review of the activities of large performing arts organizations in Britain recommended that the Office of Arts and Libraries assume direct responsibility for funding such large institutions. [70] Although the government did not accept this recommendation, it did earmark funds for such institutions through the Arts Council. Similarly, in Australia, the financial inability of the Australia Council to provide more funding to the Sydney Opera has led the Opposition party in the federal parliament to call for the abolition of the arts council itself. [71] This recommendation has not been accepted by the government.

In Canada, the Canada Council also continues to be the primary fine arts funding agency. However, real resources available to the Council have declined for almost ten years. [72] In order to foster and promote small, new innovative arts organizations, the Council has reduced support to large institutions, which have, in turn, pressured government for direct funding. A similar situation has also arisen in Australia. [73] Thus, in Australia, Britain and Canada the dilemma is the same for arts councils and large arts institutions.

Although some may have been convinced that a well-disposed political gift horse should not be examined too closely, others remained strongly aware of the risks to the arts which can result from arts councils encouraging, ignoring or acquiescing in moves by the political arm of government which prevent a broad bi-partisan commitment to the arts. [74]

Another factor leading toward the Architect role has been the development of a new, unconventional source of public finance, specifically, lotteries. Over the period from 1970 to 1980, lotteries developed as a major new revenue source for the arts in Canada. [75] Lottery funding, however, has not accrued to arm's length arts councils except in the case of the Manitoba Arts Council. Rather, it has gone to ministries of culture. At the national level, lottery funds were used in 1979 to create the Program of Special Cultural Initiatives of the Department of Communications. Department funding of the fine arts includes deficit retirement, and capital and equipment funding, activities the Canada Council has been unable to continue supporting because of limited financial resources. The Department has also increased funding of touring and special projects conducted by fine arts organizations, activities the Canada Council still supports.

At the provincial level, lottery funds permitted the creation of provincial ministries of culture during the 1970s. Lottery-funded ministries of culture at the provincial level radically altered the pattern of arts support in only ten years.

The pattern of support to the arts in the 1950s and 1960s was one of arm's length agencies created by the provinces, but with the provinces playing a relatively small role. Both the provinces and the arm's length agencies tended to take direction from the program initiatives of the Canada Council. By the mid-1970s the arts support pattern had changed to one of provincial ministries of culture using lottery revenues playing the leading role in innovative arts support programs . . . The role of arm's length agencies declined, both in relative dollar terms and in terms of initiating innovative support programs. [76]

Similarly, the Massachusetts Arts Lottery was used to create local Arts Lottery Councils rather than giving resulting lottery revenues to the Massachusetts Council for the Arts and Humanities. The very success of the arts lottery has led to a passionate debate within the state. There is serious questioning as to whether the two arts funding structures should be combined and, if they are, whether the fine arts or the amateur arts will gain. [77] In general, state or provincial lottery funds have been used to develop the amateur rather than the professional fine arts. The resulting growth in the amateur arts, or community arts, is another significant development during the last decade.

A third factor has been the increasing pressure of government to achieve egalitarian social policy objectives, which may inhibit attainment of artistic excellence. These objectives include equality of opportunity regardless of age, sex, color or religion. Such objectives, if imposed on arts councils by quotas or equivalent techniques, do not allow for the fact that the distribution of talent and promise is random and changes over time. [78] The long-term social policy objectives of governments tend to be effected through bureaucratic methods that do not allow for the dynamic nature of artistic activity and talent.

In most government activities, the civil service is concerned with the preservation of the status quo to maintain stability in the general running of the country while governments change and ministers come and go. They cannot readily respond to the rapidity of change which reflects a healthy arts scene. [79]

A fourth force leading toward the Architect role has been increasing public pressure for censorship of new electronic media. The rise of the video cassette has been accompanied by increased public awareness and sensitivity to the sex-and-violence issue in the commercial and the fine arts. Public pressure has been increasingly exerted on the fine arts. New legislation has been introduced in the Province of Ontario, for example, that compels video cooperatives and other fine media arts institutions to license art works before they can be exhibited. [80]

#### *Toward the Engineer*

The Engineer State owns all artistic means of production. In many Western countries there is a trend toward the Engineer role, not with respect to the fine arts but with respect to the development of a profitable, export-oriented commercial arts industry. This trend, however, does have significant implications for public support to the fine arts. It has been fueled by four factors.

First; the cultural dominance of the United States in the commercial art has become a priority policy concern in many countries. For example, the French Minister of Culture, Jack Lang, has called for "a crusade against American entertainment, which he condemned as a financial and intellectual imperialism that no longer or rarely grabs the territory but grabs consciousness, ways of thinking, ways of living." [81] Canada has explicitly recognized this threat in the restructured Investment Canada Agency (formerly the Foreign Investment Review Agency) by specifically designating culture as a sector requiring special monitoring. Concern about the geopolitical implications of American cultural products has been reflected in studies conducted in the United States itself.

Upon this ever-shrinking globe all societies and all cultures are involved in an inevitable struggle for pre-eminence and survival. Those who shape tomorrow's world will be those who can project their image in order to exercise a dominating influence and long-range control. If we wish our values and style to triumph, we are forced to compete with other cultures and other centers of power. [82]

Second, insofar as the commercial arts have become a preoccupation of government, they have overshadowed the fine arts. This dominance has been the case especially in Canada. For example, between 1978 and 1984 the Government of Canada dramatically increased direct and indirect funding of "end-product" commercial arts, compared to a significant decline in support for the research and development-oriented fine arts.

There are two dimensions to the federal commercial arts policy. First, with respect to its own agencies, the federal government has "engineered" a Canadian communications conglomerate consisting of Telefilm Canada, funded by a special cable television tax, concerned with financing; independent producers, supported by tax expenditure and grant policies, concerned with production; the Canadian Broadcasting Corporation, funded by Parliament, concerned with distribution; and the National Film Board, funded as a department of government, concerned with process research and development. Second, with respect to the private sector, the Government of Canada created a commercially viable media arts industry through regulatory changes. Progressively, through its licensing agency, the Canadian Radio Television and Telecommunications Commission, the Government of Canada created a commercial television industry in the 1960s, the most extensive cable television system in the world in the 1970s and a pay-TV system in the 1980s. As in the case of copyright, [83] by legislation and regulation the State created a marketplace and profit-making opportunities that previously did not exist. Given the important role played by legislation and regulation in national arts policy, institutional economics with its emphasis on maximizing behavior in the context of culture and law provides appropriate methodologies for the study of the economics of the arts. [84]

Third, economic impact studies have, over the last five to ten years, increasingly demonstrated the employment, revenue and tourist impact of the fine arts. [85] The increasing recognition of the economic implications of the arts has led to increasing government involvement in the fine arts, for example, the September 1984 designation of arts administrators as occupations of national importance for purposes of the Canadian National Training Act.

Fourth, Western governments from time to time have interfered with artistic freedom in the name of national security. The most dramatic example was the activities of the Congressional Committee on Un-American Activities in the early 1950s. The careers of several prominent artists, including the "Hollywood 10," were destroyed for alleged Communist affiliations.

In Canada a "separatist" provincial government was elected in Quebec in 1976. The electoral victory of the separatist Parti Quebecois occurred partially in response to support from the Quebec artistic community. In federal cultural agencies, including the Canadian Broadcasting Corporation and the National Film Board, the federal government investigated, blacklisted and, in some cases, fired journalists and artists with separatist affiliations. The Canada Council was one of the few agencies receiving federal support to resist successfully pressure to apply political standards to arts funding. The Council was not immune, however, to a general decline in federal political and financial support of the fine arts.

In Great Britain, the Thatcher government was recently accused of pressuring the board of the British Broadcasting Corporation to stop a program featuring two alleged members of the Irish Republican Army and the Protestant Ulster Defense Force from being aired, even though both were duly elected representatives of the Ulster legislative assembly. [86] A national broadcast news strike followed compliance by the BBC. This strike demonstrated the deep and widespread concern of artists and journalists that government was engineering the news and threatening the independence of the BBC.

The BBC does not know which crisis to panic over first. Its role as a publicly funded institution is being questioned by an official inquiry; its autonomy is being questioned by everybody, after the decision not to broadcast a television documentary about extremists in Ulster. Then comes the story, in the Observer newspaper last weekend, that the state security service has been vetting and blacklisting lots of BBC employees and would-be employees from an office within the corporation's labyrinthine headquarters, Broadcasting House. What price editorial independence? [87]

#### **THE ARM'S LENGTH PRINCIPLE: CONCLUSIONS**

The arm's length principle is a general public policy principle applied in a wide range of constitutional and public affairs in most Western countries. The principle is the basis of a general system of "checks and balances" deemed necessary in a pluralistic democracy to avoid undue concentration of power and conflict of interest. Its application to arts funding is therefore not exceptional, but rather only an example of its application to a specific public policy issue.

Yet, the question remains: What is the appropriate balance between arm's length and accountability? Do arm's length agencies have a special responsibility to be open to public scrutiny, or to be "transparent" in the sense of public access to information? What special monitoring mechanisms are required to ensure that autonomy does not result in irresponsibility?

#### *The Arts*

There are three distinct segments of arts in contemporary society: the fine arts, the commercial arts and the amateur arts. Collectively they constitute the arts industry, one of the fastest growing and largest employers in Western economies. Within each segment, the individual artist is the ultimate source of all art. Furthermore, in terms of economic function the three activities are intimately related. The amateur arts not only actualize the talents and abilities of the individual citizen but also provide an educated audience and an initial training for the fine and the commercial arts. The fine arts, in the pursuit of artistic excellence as an end in itself, provide research and development for the commercial arts. The commercial arts, in the pursuit of profit, provide the means to market and distribute the best of the amateur and the fine arts to a large enough audience and in a form suited to earning a profit, for example, that of recordings.

The rationale and organization of production in each segment of the arts industry, however, are significantly different from one another. Given these differences, different public policy instruments are required to promote each segment of artistic activity. Yet one must ask whether policymakers have engineered distinctive national, yet commercially viable, arts industries. In particular, have they recognized and adequately patronized the need for research and development in the fine arts?

### Alternative Modes of Public Support

In theory, there are four alternative modes of public support for the fine arts. The Facilitator State funds the arts through tax expenditures made according to the tastes of individual, corporate and foundation donors. The Patron State funds the arts through arm's length arts councils, which promote standards of professional artistic excellence. The Architect State funds the arts' social welfare policy through ministries or departments of culture and promotes community standards. The Engineer State owns all the means of artistic production and uses them for purposes of political education.

Most countries have, to varying degrees, adopted all four modes of public support. This practice has resulted in multiple public sources of funding for the arts. Such variety is beneficial to both artists and arts organizations. However, should not different roles be adopted in funding different segments of the arts industry? Can the Architect or the Engineer effectively promote artistic excellence? Can the Patron effectively promote amateur art and still challenge rather than reinforce community standards? Can the Facilitator, through tax expenditures, promote a commercially viable arts industry? Appropriate roles depend on the policy objectives of the state. Can democratic governments develop effective policies that distinguish among the promotion of diversity, artistic excellence and community and political standards in the arts-all at the same time?

### The Arm's Length Council

The arm's length fine arts council developed in most English-language countries, including Great Britain, Canada, Australia, New Zealand and the United States of America, in response to the use of the arts for political purposes in Nazi Germany and Stalinist Russia. In Canada, Great Britain and the United States, arm's length arts councils have been subjected to intensive review and investigation in the last five years. In every case, the arm's length arts council has been reaffirmed as the most effective mechanism for promoting excellence in the arts. In spite of this reaffirmation, however, the debate continues concerning the role and effectiveness of the arm's length arts council.

In the light of this apparently never-ending debate, one reviewer of an earlier draft of this paper wondered if it might be the epitaph for the arm's length arts council. But surely this debate reflects the normal and necessary tension in a democratic society. The strength of the arm's length council depends on public confidence in its board of trustees. If trustees place political affiliation before artistic excellence, then the artistic community loses confidence. If the trustees place excellence before political affiliation, the government of the day loses confidence and may reduce its financial support. Will this ongoing test of confidence be the destiny of every arm's length agency?

There also remains the question of the "double arm's length" principle. Should arts councils actively direct their clients to achieve certain artistic or national objectives? A variation of the double arm's length principle involves the question of whether professional arts council staff act at arm's length from their own boards of trustees. [88] Another version of this question is whether the arm's length arts councils have become too "bureaucratized." Is this a stage in the maturation of the arts council as an institution? Such is the case with widely held public corporations, which since the late 1920s have exhibited a separation between ownership by the shareholders and control by management. Does the apparent bureaucratization of the arts council reflect the dramatic growth of the arts industry in the 1960s and 1970s? How does the level of bureaucratization in arts councils compare to that in ministries of culture?

### Convergence

In all countries the alternative modes of public support to the arts have tended to converge. Virtually all the countries we have reviewed are actively studying or implementing new tax expenditure policies to promote private patronage of the arts. Countries that traditionally provided support to the arts through ministries of culture are now creating advisory councils at arm's length from the government. Countries that traditionally funded the arts through arm's length arts councils are developing ministries of culture for the direct funding of the arts by government. With the exception of the United States, most countries are striving to engineer commercially viable arts industries, while at the same time increasing censorship of artistic expression for moral or political reasons, for example, licensing video and other new media arts in order to limit pornography and violence, purging artists with politically unpopular views and denying access to the media by artists who advocate violence as a vehicle of political change.

In this convergence there, lies a real danger that the needs and unique contributions of the fine arts will be overlooked. Does not a commercially viable arts industry ultimately depend upon the fine arts for its new scripts, scores, talent and techniques? Will public concern with pornography and violence lead to censorship of the fine arts? Will access to the fine arts be limited only to artists who adopt and express political views acceptable to the current generation? In the absence of any other system that is clearly superior, is not the arm's length arts council the most effective guarantee that in a democratic country the arts will not be crushed under the tyranny of present-day commercial, moral or political concerns? As one commentator has noted in regard to the distinction between art and entertainment, "Works of art last and shape national identities; television shows popular today are forgotten tomorrow." [89]

### NOTES

1. This often quoted statement of Lord Melbourne was actually expressed in a very specific context described by Lord Cecil in his biography of Lord Melbourne:

Benjamin Haydon, diarist and painter ...made Melbourne's acquaintance in the autumn of 1832 . . . . The two had long discussions on politics, art and religion in which Melbourne listened with apparent gravity to Haydon's exalted rhapsodizings . . . .

[Haydon] found Melbourne so sympathetic that he was soon trying to enlist his help in what was the most cherished object of his heart-namely, to persuade the State to become an active patron of historical painting and more especially of the historical painting of Benjamin Haydon . . . . Melbourne was against the State taking on any task that was not a necessity; he did not look on historical painting as a necessity. Moreover, it is likely that he realized that Haydon was far from being the great artist he fancied himself ....

But Haydon had never been one to let truth get in the way of his dreams, without a struggle . . . . In 1834 he returned to the charge and called on Melbourne at his house. Melbourne, just out of bed, appeared delighted to see him. But the upshot of this and subsequent interviews, was to confirm Haydon in his disillusionment . . . . [H]is attitude towards historical art was, so far as Haydon could see, nothing short of lamentable. "God help the minister that meddles with art!" he had remarked shockingly.

Lord David Cecil, *Melbourne* (New York: Grossets,1954), p. 245.

2. Claire McCaughey, *A Survey of Arts Audience Studies: 1967 to 1984* (Ottawa, Canada: Canada Council, Research and Evaluation, September 1984).

3. Harry Chartrand, *An Economic Impact Assessment of the Canadian Fine Arts*, Third International Conference on Cultural Economics and Planning, Akron, Ohio, April 1984.

4. Institute for Research on Public Policy, *The Contribution of Service Attributes to Trade Performance* (Ottawa, Canada: Department of Regional Industrial Expansion, 26 March 1985).

5. *Canada Council Act*, 1957, c. 3, Queen's Printer, Ottawa, 1970.

6. L. Applebaum and J. Hebert, *Report of the Federal Cultural Policy Review Committee* (Ottawa, Canada: Minister of Supply and Services, 1982), p.16.

7. "BBC Under Pressure," *Globe and Mail*, Toronto, 13 August 1985, p. 6.

8. D. Crane, *A Dictionary of Canadian Economics* (Edmonton, Canada: Hurtig Publishers, 1980), p. 24.

9. *Ibid.*, p. 11.

10. Chartrand, "An Economic Assessment:", op. cit.

11. H.H. Chartrand, *Social Sciences and Humanities Research Impact Indicators*, Futures, January 1980.

12. A. Koestler, "The Aesthetics of Snobbery," *Horizon*, Winter 1965.

13. "Salvador Dali Prints: A Dash of Original Sin," *The Economist*, 16 March 1985, p.101.

14. "Industry Outlook Scoreboard," *Business Week* 21 March 1984, pp. 236286.

15. Research and Evaluation, Selected Arts Research Statistics (Ottawa, Canada: Canada Council, April 1985), pp. 5-13.. The Census of Manufactures estimate of arts industry employment, however, significantly understates actual employment in the arts industry. Using the more detailed 1981 Census of Population, the arts industry had a reported total employment of 234,280 workers, making it the largest employer in Canada compared to the 20 manufacturing industries recognized by Statistics Canada. Research & Evaluation, *A Canadian Dictionary and Selected Statistical Profile of Arts Employment 1981* (Ottawa, Canada: Canada Council, 15 January 1984).

16. D. Cheatwood, "The Private Muse in the Public World," in K. Mulcahy and C.R. Swaim, eds., *Public Policy and the Arts* (Boulder, Colorado: Westview Press, 1983).

17. W.D. Kay, "Toward a Theory of Cultural Policy in Non-Market, Ideological Societies", *Journal of Cultural Economics*, December 1983.

18. Le Figaro Patrimoine 31 May 1980.



19. Honourable Michael Wilson, *Securing Economic Renewal: Budget Papers* (Ottawa, Canada: Department of Finance, 23 May 1985), p.17.
  20. Alan Feld, Michael O'Hare and J. Mark Davidson Schuster, *Patrons Despite Themselves: Taxpayers and Arts Policy* (New York: New York University Press, 1983).
  21. Margaret J. Wyszomirski, "The Reagan Administration and the Arts: 1981-1983," *American Political Science Association*, Chicago, Illinois, 1-4 September 1983.
  22. M. Glasgow, "The Concept of the Arts Council," in Milo Keynes, ed. *Essays on John Maynard Keynes*, (Cambridge, England: Cambridge University Press, 1975).
  23. Education, Science and Arts Committee, *Public and Private Funding of the Arts*, Eighth Report, House of Commons (London: Her Majesty's Stationery Office, 1982).
  24. *The Times*, London, England, 8 August 1983.
  25. "French Arts in the Doldrums: Bonjour Tristesse," *The Economist*, 3 August 1985, pp. 77-84.
  26. V. Bladen, *The Financing of the Performing Arts in Canada* (Ottawa, Canada: Canada Council, 1971).
  27. Chartrand, "An Economic Impact Assessment:", op. cit.
  28. A.S. Keller, *Contemporary European Arts Support Systems*, National Endowment for the Arts National Partnership Meeting, Marvin Centre, George Washington University, June 1980.
  29. *Ibid.*, p. 86.
  30. B. Martin, *A Sociology of Contemporary Change* (Oxford, England: Basil Blackwell, 1981).
  31. W.D. Kay, "Toward a Theory of Cultural Policy in Non-Market, Ideological Societies", op. cit.
  32. *Ibid.*, p.9.
  33. Education, Science and Arts Committee, *Public and Private Funding of the Arts*, p. xxx, op. cit.
  34. R. Hutchison, *The Politics of the Arts Council* (London: Sinclair Browne; 1982), p.15.
  35. Education, Science and Arts Committee, *Public and Private Funding of the Arts*, p. xxx.
  36. Lord Redcliffe-Maud, *Support for the Arts in England and Wales* (London: Calouste Gulbenkian Foundation, 1976), p. 24.
  37. V. Massey and G.H. Levesque, *Report of the Royal Commission on National Development in Arts, Letters and Sciences 1949-1951*, Ottawa, 1951 p. 375.
  38. Hutchison, *The Politics of the Arts Council*, p. 16, op.cit.
  39. Massey and Levesque Report of the Royal Commission on National Development in Arts, Letters and Sciences 1949-1951, op. cit.
  40. *Ibid.*, pp. 373-374.
  41. *Ibid.*, p. 6.
  42. Until 1978 the Canada Council was also responsible for fostering and promoting the social sciences and humanities. In 1978 the Canada Council Act was amended and a separate Social Sciences and Humanities Research Council was created. The new Council lost its arm's length status and has become an agent of Her Majesty. Serious questions are being raised as to whether this change has benefited social science and humanistic research in Canada.
  43. A. Trueman, *A Second Yew of Things: A Memoir* (Toronto, Canada: McClelland and Stewart, 1982), p.138.
  44. D. How, *A Very Private Person: The Story of Izaak Walton Killam and His Wife Dorothy* (Trustees of the Estate of the late Dorothy J. Killam, 1976), p.108.
  45. *Ibid.*, p.113.
  46. As of the writing of this paper, the Research and Evaluation staff of the Canada Council is compiling "A Comparative Study of Arm's Length Arts Councils."
  47. Joseph Wearing, "Funding the Arts: A Cross National Perspective," p. 5, op. cit
  48. Smithsonian Institution, *1983 Annual Report* Washington, D.C., 1984.
  49. Canada Council Act, section 13, op. cit.
  50. Gulbenkian Foundation, *The Arts Council Phenomenon: Report on the First Conference of Commonwealth Arts Councils* (London: Calouste Gulbenkian Foundation, 1981), 43.
  51. *Ibid.*, p.17.
  52. R. Williams, "The Arts Council," *The Political Quarterly* 30, no. 2 (April/June 1979):159.
  53. Judgment by one's peers has its origins in the 39th clause of the Magna Carta, which states that  
No freeman shall be taken or imprisoned or disseised [sic] or outlawed or exiled or in any way destroyed, nor will we go upon him nor will we send upon him;  
except by the lawful judgment of his peers or [and] the law of the land. W.J.V. Windeyer, *Lectures on Legal History*, 2d edition (rev.) (The Law Book Company of Australia, 1957), p. 81.
- This apparent guarantee of trial by jury, however, is based on an historical misinterpretation of the Charter.
- The Charter then became an assertion of individual freedom, a recognition of Parliamentary sovereignty, a guarantee of the continuance of common law in England. All this was based on a misinterpretation of the clauses of the Charter. To medievalists it is therefore an error. But in the history of England and of the British people it has been the truth; and we may hope it will remain the truth. In the letter of the law, it is an error. But this error has become accepted as, in truth, the law. When the English people from time to time demanded that the Charter be confirmed they did not intend to pledge their King to laws which had become obsolete, but to that fundamental conception which underlay all special provisions, a conception of the relation of the government to the governed which has become almost proverbial in the Anglo-Saxon world.
54. Canada Council, *12th Annual Report* 1970, pp. 8-9.
  55. F. Milligan, "The Arts Council as Public Patron," in E. Sweeting, ed. *Patron or Paymaster? The Arts Council Phenomenon*, Report on the Second Conference of Commonwealth Arts Councils (London: Calouste Gulbenkian Foundation, 1982), p. 35.
  56. Wearing, "Funding the Arts," p.13, op. cit.
  57. Education, Science and Arts Committee, *Public and Private Funding of the Arts*, p. xlvi, op. cit.
  58. Wyszomirski, "The Reagan Administration and the Arts," p.17, op. cit.
  59. Applebaum and Hebert, *Report of the Federal Cultural Policy Review Committee*, p. 32, op. cit.
  60. R.W. Macaulay, P. Day and G. Sherman, Report to the Honourable Susan Fish, Minister of Citizenship and Culture by the Special Committee for the Arts, Toronto, Spring 1984.
  61. Gulbenkian Foundation, *The Arts Council Phenomenon*, p. 26.
  62. H.H. Chartrand, A Submission to the Subcommittee on the Revision of Copyright: House of Commons (Ottawa, Canada: Research and Evaluation, Canada Council, 4 March 1985), p. 59.
  63. J. Mark Davidson Schuster, *Supporting the Arts: An International Comparative Study*, Washington, D.C.: U.S. Government Printing Office, March 1985), p: 23.
  64. *Ibid.*
  65. McCaughey, *A Survey of Arts Audience Studies*, op. cit.
  66. Research and Evaluation, *Selected Arts Research Statistics*, pp.14-53, op. cit.
  67. H. Baumol and W. Baumol, "On Finances of the Performing Arts During Stagflation: Some Recent Data," *Journal of Cultural Economics* 4, no. 3 (December 1980): 1-14.
  68. K. Hentschel, "Financing the Arts in the Federal Republic of Germany from the Viewpoint of a Land," in J. Myerscough, ed *Funding the Arts in Europe, Studies in European Politics* 8 (London: Policy Studies Institute, October 1984), p. 31.
  69. H.H. Chartrand and J. Ruston, *Lotteries and the Arts: The Canadian Experience, 1970 to 1980* (Ottawa, Canada: Research and Evaluation, Canada Council, 1981), p. 34.
  70. C.B. Priestley, *Financial Scrutiny of the Royal Opera House Covent Garden Ltd.* (London: Her Majesty's Stationery Office, 1984).
  71. "Time to Change the Arts Funding System," *The Australian* 6 June 1985.
  72. Research and Evaluation, *Selected Arts Research Statistics*, p. 80, op. cit.

73. "A Changing Arts Outlook?" *The Adelaide Advertiser*, 4 June 1985, p. 7.
74. Gulbenkian Foundation, *The Arts Council Phenomenon*, p. 26, op. cit.
75. Chartrand and Ruston, *Lotteries and the Arts*, op. cit.
76. *Ibid.*, p. 50.
77. L. Kirwin, "The Massachusetts Arts Lottery: An Examination of its Role in State Arts Policy," J.F.K. School of Government, Harvard University, Massachusetts, April 1984.
78. Milligan, "The Arts Council as Public Patron," p. 37, op. cit.
79. Sweeting, *Patron or Paymaster?*, p. 7, op. cit.
80. Z. Gartner, "Waging War on the Censor," *Globe and Mail*, 1 June 1985.
81. "Where U.S. Still Rules: Monies, Television," *U.S. News and World Report*, 15 July 1985, p. 28.
82. Pentagon strategic research paper quoted in N. Garnham, "Towards a Political Economy of Culture," *New Universities Quarterly*, Summer 1977.
83. Chartrand, *A Submission to the Subcommittee on the Revision of Copyright*.
84. Chartrand, "An Economic Impact Assessment.", op. cit.
85. D. Cwi, *Economic Impacts of Arts and Culture Institutions* (Washington, D.C.: National Endowment for the Arts, 1977); Port Authority of New York and New Jersey, *The Arts as an Industry* (New York: Cultural Assistance Center and the Port Authority of New York and New Jersey, 1983); and Chartrand, "An Economic Impact Assessment." op. cit.
86. "BBC Under Pressure," *Globe and Mail*, 13 August 1985, p. 6.
87. "BBC: Another Last Straw," *The Economist* 24 August 1985, p. 46.
88. P. O'Flaherty, "Importance of Arts Overseers Spawns Central Canadian Bias," *Globe and Mail*, 26 August 1985.
89. T. Thomas, "Television and Culture: The Quest for National Identity," in Research and Evaluation, *The Arts: Television and Touring* (Ottawa, Canada: Canada Council, 22 August 1985, p. 46.

@inproceedings{Chartrand2010THEAL, title={THE ARM'S LENGTH PRINCIPLE AND THE ARTS: AN INTERNATIONAL PERSPECTIVE-PAST, PRESENT AND FUTURE}, author={Harry Hillman Chartrand and Claire McCaughey}, year={2010} }. Harry Hillman Chartrand, Claire McCaughey. Published 2010. Introduction The Arm's Length Principle In Constitutional Affairs In Public Affairs The Arts The Arts Industry The Linkages Figure 1: Types of Art Figure 2: Economic Relationship Alternative Modes of Public Support Figure 3: Alternative Modes & Objectives The Facilitator The Patron The Architect The Engineer The Link The arm's length principle (ALP) is the condition or the fact that the parties of a transaction are independent and on an equal footing. Such a transaction is known as an "arm's-length transaction". It is used specifically in contract law to arrange an agreement that will stand up to legal scrutiny, even though the parties may have shared interests (e.g., employerâ€“employee) or are too closely related to be seen as completely independent (e.g., the parties have familial ties).