

State production of cultural nationalism: political leaders and preservation policies for historic buildings in France and Italy

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Mark Thatcher,

Department of Government,

London School of Economics

Abstract

Although cultural and political nationalism have often been treated as separate, recent studies argue that they are linked because the state produces policies such as promotion of cultural heritage to further nation building. The article examines the conditions that favour national political leaders adopting policies to protect historic buildings for aims of political nationalism. It compares France and Italy, focusing on the period after 1870. It finds that in both countries, national political leaders have introduced extensive protection of historic buildings when faced with major challenges such as war, regime change or pressures from localism or supporters of cultural nationalism as part of wider strategies to build and reinforce the nation state. But Italy extended protection earlier and more deeply than France, suggesting in a later nation state with strong inherited cultural nationalism but major political weaknesses and, national political leaders may introduce earlier, more far-reaching and more layered legal protection than in states created earlier and with fewer weaknesses.

Key words: cultural nationalism; historic buildings; France; Italy; heritage

Political and cultural nationalism have often been treated as separate (Liebich 2006). Indeed, in his classic study, Hans Kohn (1944) presented them as antithetical, arguing that whereas in ‘Western’ nations such as France, Britain and the US, “nationalism found its expression predominantly... in political and economic changes” supported by the rising and progressive ‘middle classes’, in ‘non-Western’ nations, in which category he placed Germany, Italy and the Slavonic peoples, “nationalism found its expression predominantly in the cultural field” (Kohn 1944: 4). Such cultural nationalism was backward looking, as it was “founded on history, on monuments and graveyards...and stressed the past” and drew support from the aristocracy and the masses (Kohn 1944: 574).

In contrast, more modern scholarship has rejected the division between a cultural nationalism based on (re)constituting the past and a political nationalism focused on the creation of a nation state (as well as Kohn's simple categorisation of nations- Kuzio 2002, Hutchinson 1987, Brubaker 1999). Instead, it argues that the development of the modern nation state goes hand in hand with cultural nationalism. Hutchinson (1987, 2013) points out that cultural nationalism does not end when a nation state is formed but is a recurring movement, often a modernising one driven by the aim of moral regeneration, which adopts state-centred strategies to achieve its aims. Leerssen (2006) underlines that the state produces or 'cultivates' cultural nationalism as part of strategies of building and reinforcing the nation state and national identity. Using the example of France, Martigny argues that state has used cultural nationalism as a means of reinforcing its legitimacy, as "culture and cultural symbols have played a crucial role in the formation and functioning of the Republic" (Martigny 2008: 544).

Indeed, the literature on French heritage (*le patrimoine*) underlines that heritage has formed part of state strategies to create a 'national identity' (cf. Thiesse 1999, Poulot 2006, Leniaud 2001: 42-145). Within this, more specific studies of 'historic monuments' argue for a close association between the birth of the modern French nation state and its definition and protection of such monuments (for recent reviews, see Potin and Hottin 2014, 2016; for major modern works, see for example, Poulot 1998, 2008, Leniaud 2001). They present France as a very early state protector of monuments, starting from the immediate aftermath of the 1789 Revolution, and then trace its institutional foundations and expansion in the nineteenth century (Mélonio 2001, Bercé 2000: ch 1; Frier 1997) They argue that 'the state' ('l'Etat') used protection of 'historic monuments' as part of seeking to create myths and symbols about 'the French nation' (eg. Auduc 2008, Poulot 2006) and against centrifugal tendencies, notably from movements promoting regional or local identities (for differing views, see Leniaud 2001: 365-384, Kowlaski 2011).

The literatures on state production of cultural nationalism and on *le patrimoine* in France are valuable in bringing in the state as an active actor that can define, produce and use heritage for its purposes. But they also face a number of questions. One concerns causal relationships between state development and cultural heritage protection. The state's purposes in protecting heritage cannot be assumed to be always those of political nationalism. Indeed, state actors can introduce cultural heritage policies for other motives, such as economic growth. Moreover, protection can be led by non-state actors, including cultural nationalists who use the state to further their aims (see Introduction; Hutchinson 1987). Thus far from protection being driven by the state for political nationalism, it may reflect the state being 'captured' by cultural nationalists.

A second set of issues concerns specific cross-national hypotheses. The French case has not only been an important example in broad debates but also been part of a rich country-specific literature on *le patrimoine* and monuments. Such studies offer detailed historical evidence, in contrast to say Kohn, and look at particular parts of 'the state'. But they rarely provide many structured cross-national comparisons and hypotheses, even for Europe.¹ This is particularly so when the central focus is on 'the state', often defined very broadly and in a French context. It is often unclear whether France is an exceptional case or an example of more widespread processes.

Given these issues, the present article's central question is: which conditions have favoured national political leaders adopting policies to protect historic buildings to build and reinforce

the nation state in France and Italy? It has two related purposes. One is to examine the French case comparatively, to see whether processes that led its policy makers to develop cultural heritage policies are found elsewhere. The second is to develop wider claims about the conditions that favour states in Europe producing policies to protect historic buildings for political nationalism. Within this, it analyses how and why a specific set of actors within the state- national political leaders- pursue these policies. Hence it seeks to contribute to the modern literature by developing claims about state production of cultural policies and nationalism.

France is compared with Italy, with a focus on the period after 1870, when the modern nation state was being consolidated or formed. The two countries are geographically close and their artistic and cultural heritage has similarities (eg. styles and even artists). At the same time, the Italian state differs in ways that could be important for its production of cultural heritage policies, especially in the light of the literatures on cultural nationalism and heritage. The modern Italian state was preceded by a long-standing and strong cultural nationalist movement expressed in forms such as art, monuments, opera, literature, that gave rise to a 'national sentiment' (cf. Riall 2007, Banti 2000, Körner and Riall 2009). It became single a nation state well after France, following a long history of fragmentation and foreign control. Indeed, Italy was classified by Kohn within his 'non-Western' category of countries in which backward-looking cultural nationalism predominated (Kohn 1944: 4). After unification, its democracy was fragile and indeed broke down after 1918. It is often classified as being a 'weak state', at least relative to France (cf. Dyson 2010: x), due to problems such as unstable parliamentary majorities, corruption, a fragmented and resistant public administration and higher public mistrust of government. The literature specifically on heritage (*'il patrimonio'*) and its safeguarding (*'la tutela'*) is rarely comparative but often underlines the multiple difficulties faced by the Italian state, especially a weak administration and lack of resources (eg Settis 2002, Commissione Franceschini 1967, Tamiozzo 2014). Hence the Italian state offers important variations compared to France, both for Kohn's framework and also for an analysis centred on state production of cultural nationalism.

Cross-national comparison is combined with process tracing of the role of national political leaders in policy making within each country. Such tracing can help in separating historic building protection undertaken for nationalism from that undertaken for other reasons and in specifying the roles and strategies of national political leaders. These tasks are far from easy but some indicators can offer valuable evidence, notably: who took the initiative for change (for instance, political leaders, administrators or non-state groups); the motivations and discourse justifying protection; timing, notably whether linked to major events in nation building or survival; the criteria for protection.

The article examines major pieces of legislation that gives powers to the national government over the demolition, alteration, repair and use of buildings that it does not own, whether in private hands or those of other parts of the state. Such powers are central to policies towards historic buildings as they allow national governments to define 'historic' buildings and then override the rights of owners. In line with the approach of the special themed section on nationalism and policy, as well as space constraints, the focus is on debates and modifications concerning policies, especially in the form of legislation; preservation in practice is brought in insofar as views and debates about it affected or illustrate debates and decisions about policies towards historic buildings.

France: regime changes, war and historic buildings

National political leaders in France have played a direct and prominent role in protection. Historic ‘monuments’ have formed part of strategies by national political leaders to build and promote the nation state ‘in times of major external and internal challenges. Legislation has often come soon after major disruptions such as changes of regime and war or fear of these. State action has usually been justified by ‘the national interest’ conceived as building ‘the nation’ and as a modernising force (cf. Poulot 1998, Thiesse 1999). A key element has been the claim by the central state to legitimacy in overriding local and private interests, which it has often treated with suspicion.

Detailed legislation in France came after 1870, although several key features of French policies and norms were seen earlier and the 1789-1870 period is important as background.

Revolutions and ‘national’ historic buildings 1789-1870

The 1789 Revolution saw considerable destruction of historic buildings, but also sparked a counter-movement to protect them in the name of ‘the nation’. It was led by political leaders as well as intellectuals and art historians. They argued that monuments should be preserved to reinforce ‘the national identity’ and prestige, as part of wider strategies of supporting national museums and art (Leniaud 2001: 365-84 Choay 1991: 113). The most notable example in the 1790s was Abbé Grégoire who produced famous reports to the *Convention Nationale* (of which he was an elected member) opposing ‘vandalism’ and calling for ‘national objects’ which were ‘the property of all’, to be safeguarded.²

Legislative and administrative measures soon began that underlined the national interest in historic buildings or ‘monuments’ (for overviews, see for instance Hurel 2007, Poulot 2006). A decree in Year II forbade damaging “libraries and monuments belonging to the nation” and in 1809 the Code Pénal (Article 237) included criminal penalties for those who “damaged monuments whose purpose was public use or decoration”. Starting in 1810, several lists of ‘historic monuments’ were compiled by the Prefects, the local agents of the Paris government. The measures were taken in the context of revolutionary regimes that faced wars. However, another important factor was domestic- the measures served to reduce the scope for local ‘learned societies’, which had sprung up to research and protect historic buildings but were seen by the Paris government as undermining national unity.

In the nineteenth century, different regimes extended the pre-1815 measures in the name of establishing a ‘national culture’, although its content differed from the revolutionary and Napoleonic period and across regimes (Mélonio 2001 and Choay 1991:76-95 and 100; see more generally, Thiesse 1999). Whilst intellectuals, writers and historians pressed for action, senior political leaders played direct and central roles. In the 1820s, prominent writers and historians such as Victor Hugo and Chateaubriand attacked ‘wreckers’, but legislative measures only came when taken up by political leaders. Almost immediately after the 1830 Revolution, the new Interior Minister, Guizot, produced an important report to King Louis Philippe, arguing for the need to conserve “our national antiquities” to protect “national civilisation” (Choay 1991; Bercé 2000: 11-24 and Auduc 2008: 27-40; for a legal historical analysis, Wagener 2014). It led to the establishment in 1830 of the Inspecteur général des Monuments Historiques within the Interior Ministry, who travelled the country to assess and preserve historic monuments (Auduc 2008: 37-38; Hurel 2007: 33-4; Dussaule 1974,

Mélonio 2001: 152-3.) The Paris government sent Circulars in the 1830s to the Prefects stating that no historic monument should be demolished or have work done to it without the agreement of the Inspecteur général. Buildings on the list had grown to 3000 by 1849 and were eligible for central government grants for restoration, which had, on Guizot's initiative, been voted by parliament from 1830 onwards and which were managed by the Commission des Monuments Historiques (established in 1837) (Hurel 2007: 33-34). These policies were continued under Napoleon III, whose regime sought to promote its prestige through art and culture (Hurel 2007: 54-58).

Measures to protect historic monuments before 1870 formed part of strategies by successive regimes to present themselves as inheritors of France's 'glorious past' of the Gauls and Romans. Thus, for example, major sites such as the Roman arenas at Arles and Nîmes or the town of Carcassonne, were preserved (and often 'restored' according to prevailing ideas of their 'original' appearance, most famously by Eugène Viollet-le-duc). Some *Inspecteurs* were politically influential, most notably Prosper Mérimée, the second *Inspecteur general* (1834-1852). Equally, Napoleon III took a personal interest in preservation, - for instance, in pre-historic remains as part of writing his book on Julius Cesar and establishing commissions to investigate history. Preservation policies aided the central state in guiding or constraining the energies of local groups which it sought to constrain and co-opt to maintain 'national unity' (cf. Leniaud 2001: 365-84, Poulot 2006 ch. 4).

At the same time, the legal force and scope of policies before 1870 were limited (cf. Auduc 2013). Thus for instance, the lists of buildings placed no legal obligations on their owners and the Inspecteur général des Monuments Historiques could only suggest measures to the Paris government and local authorities. Although in theory expropriation was possible on the general grounds of 'public need', it faced the constitutional protection of private property, and remained a very difficult procedure that required funding (Auduc 2008; for rare exceptions see Frier 1997, p.65). Equally, the Commission des Monuments Historiques was composed of unpaid part time figures and lacked staff. Protection was highly dependent on contingent circumstances such as the priorities of the Inspecteur and political leaders.

Protecting 'the nation' - the expansion of central government powers 1870-1945

Major legislation to protect historic buildings only came after 1870, notably laws in 1887 and 1913 that greatly expanded central government powers, followed by further measures that widened their effects after 1918. Changes were led by central government ministries and were accepted both by those on the political left such as Radicals and Socialists and by the nationalistic Right, with debate being more focused on central-local issues. Several factors lay behind the development of extensive legislative protection, but an important common thread was strengthening the state in the face of war and fear of overseas powers. The 1887 and 1913 laws formed part of policies of the Third Republic before 1914 that sought to entrench Republican values and extend their reach across 'the nation', including through 'national' lists of monuments, arts policies, 'great leaders' and books (Leniaud 2001: 335-6), as well as spreading the French language. It is noteworthy that the Administration des Beaux Arts was part of the Ministry for Public Education.

Soon after the birth of the Third Republic, legislative proposals were made by successive Education Ministers, notably Waddington and Bardoux, both staunch conservative

republicans. They followed the 1870 military defeats by Germany and fears of the weakness of the state and economy relative to its powerful neighbour (see Fiori 2012, Genet-Delacroix 1992). They were explicitly linked to developing ‘the nation’, and formed part of wider policies of French ‘cultural superiority’ and then international competition over the beauty of cities, with strong promotion of Paris as ‘the most beautiful city’ (cf. Fiori 2012; for cross-national linkages, see Swenson 2013). Thus for instance, draft legislation in 1879 referred to “the national interests” and “the general interests of the Nation” and the role of ‘the State’, claimed that conservation of historic monuments “belongs to modern society” (Ministère de l’Instruction Publique et des Beaux Arts 1879, pp.6,7 and 2).

‘The national interest’ was also equated with increasing central government powers over local authorities. Local initiatives to protect historic buildings had grown, notably during the 1860s, especially in major cities, where they challenged planning by the Prefects. The most egregious examples were in Paris under Haussman, who as Prefect demolished many medieval buildings despite campaigns to save ‘*le vieux Paris*’, to make way for new boulevards and ‘liberate’ the view for prestigious landmarks such as the Louvre (cf. Fiori 2012). Legislation offered a centralised response to local preservation movements.

The legislative proposals led to the Law of 30 March 1887 on the Preservation of Historic Monuments and Artistic Objects. It emphasised the national rationale for conservation. Hence it applied to buildings “whose conservation, from the point of view of history or art, had a national interest” (Article 1). It was strongly supported by Administration/Minister des Beaux Arts³ and passed without debate in the Chamber of Deputies, indicating support across different political groups, but had to overcome some opposition in the Senate (most of whose members were elected by the *départements* and hence sensitive to the powers of local bodies) notably on the grounds of central government ‘expropriation’ of local buildings (Wagner 2014: 207-219, Auduc 2013 and debates in the Senate and Chamber of Deputies).⁴

The 1887 Act allowed the Minister to list buildings owned by all public bodies (central government, *départements*, towns or other public bodies by decree), after advice given by the Commission des Monuments Historiques, itself a body within the Ministry. Unlike earlier measures, listing had major regulatory implications: the building could not be destroyed, repaired or modified without the consent of the Minister. An Annex contained a list of ‘historic monuments’.⁵ In contrast, privately-owned buildings could only be listed with the consent of their owners. Attempts to allow their compulsory listing were rejected as infringing on principles of private property (Auduc and Cornu 2013).

From c1899, officials in the Administration des Beaux Arts sought further measures to extend legal protection, notably over privately-owned buildings (Auduc 2008: 346; Perrot 2013). However, these ideas were unsuccessful until taken up by national politicians. In particular, after 1900, members of the two houses of parliament produced a series of reports and proposals that led in 1913 to the ‘Law of 31 December on Historic Monuments’ (Cornu 2013). Politicians cited several factors linked to nationalism to justify the legislation. In particular, they used the rhetoric of protecting the nation’s treasures, especially against ‘foreigners’. This followed a series of ‘scandals’ after 1900 concerning the export of works of art, including entire buildings, notably to the US. French policy makers also sought to show that the country’s ‘national’ heritage was equal to that of countries treated as competitors, especially Germany, and used the Italian law of 1909 as an example (Bercé 2000: ch 2, see Swenson 2013 and Négri 2013). A key element here was that the Right supported state action as part of its strident political nationalism linked to religion- for example, Maurice Barrès,

led a powerful campaign to save ‘the nation’s churches’ (Barrès 1914). Indeed, the state had become responsible for many Church buildings following the separation of Church and State in 1905 (Fornerod 2013 and Auduc 2008: 275-383). Finally, the legislation took place in a period in which the Third Republic faced major issues of legitimacy following the Dreyfus Affair, as well as fears of an impending war.

The 1913 law provoked remarkably little parliamentary debate, being passed under ‘urgency provisions’ (Cornu 2013).⁶ It greatly extended central government powers over privately-owned historic buildings (for a comprehensive discussion of the 1913 law see Bady et al 1913). It had a wide potential coverage, namely “buildings whose conservation offered a public interest from the point of view of history or art” (Article 1) (Frier 1997: 66). It allowed the Minister to list publicly and privately-owned buildings- ‘*monuments classés*’. Listing had major consequences- the building could not be destroyed or restored, repaired or modified in any way without the agreement of the minister. The minister and local authorities (*départements* and *communes*) could expropriate listed buildings due to the “public interest that they offered from the point of view of history or art”.⁷ If private owners objected, listing required a decree in the Conseil d’Etat, and they could claim compensation for their losses due to the imposition of this ‘*servitude*’.

Compensation costs represented an important obstacle to protection of historic monuments, but the 1913 law created a second and potentially wider category through a supplementary inventory of buildings which, without justifying immediate listing “nevertheless offered a sufficient archaeological interest to make their preservation desirable” (Article 2). These buildings were subject to temporary three-year protection and became known as *monuments inscrits* (Auduc 2008, especially pp.423-435). Inclusion did not require compensation if owners objected, a crucial matter since ministerial funds were very scarce. Moreover, criteria for inclusion were less rigorous than for the first group (the *monuments classés*).

The category of *monuments inscrits* provided a bridgehead for a major extension of state protection after 1918. Preservation was given renewed nationalistic impetus by the massive destruction of the war, symbolised by the famous images of ruined historic centres of cities (whilst Ypres in Belgium is the best known, French cities included Arras, Saint Quentin, Reims and Cambrai). But funding for purchase or repair was in very short supply. Following fears of foreigners purchasing and physically removing entire buildings or sometimes particular parts (eg. doors, windows or inscriptions), the loi du 23 juillet 1927 extended state regulation of privately-owned buildings, with reduced compensation provisions and inclusion of a wider range of buildings. In particular, if work would lead to breaking up a building or part of a building, the ministry could impose its provisional inclusion in the list of *monuments inscrits* for five years, during which time the building would be protected. This gave the ministry time to find the funds to pay for compensation for full listing. Faced with debate in the Senate on grounds of private property rights, its supporters, especially the Minister, argued that ownership rights should be limited, justifying their stance with examples of exports of parts of buildings abroad, especially to Britain and the US.⁸

Protection of the area around individual historic ‘monuments’ became an important issue (see Auduc 2008: 419-423 and 440-462). Again, it conflicted with principles of private property. Although the law of 2 May 1930 on natural sites and landscape allowed the creation of ‘protective zones’ (Article 28), it faced major constraints such as requirements of lengthy consultation, a decree by the Conseil d’Etat and compensation. These limitations were greatly reduced in the middle of the Second World War by the remarkable loi du 25 février

1943 on the surrounds ('*abords*') of historic buildings, which offers a further example of the tight linkage between regime change and protection (cf. Poulain 2003 and Karlsgodt 2011). The Administration des Beaux Arts obtained the legislation under the Vichy regime and hence did not have to obtain parliamentary approval. The ministry argued that there was considerable war damage to historic buildings for which funding was lacking, but also underlined the dangers from a 'spread of ugliness' and the importance of safeguarding cathedrals, thereby linking protection with the regime's support for official Catholicism and hundreds of years of history. The law allowed buildings within a 500 metre radius of a historic monument to be categorised as *monuments inscrits* and even expropriated on broad grounds, notably ensuring visibility and 'full appreciation' of the building. All work on buildings within the 500 metre radius also needed prior authorisation by the Ministry and its Service des monuments historiques. The legislation formed part of the Vichy regime's attempts to define its concept of French sovereignty and heritage in ways that gave it legitimacy (cf. Karlsgodt 2011). It provides another example of the flexibility of historic building protection policies, which could be adopted by different kinds of regime in pursuit of their varied notions of 'the nation'.

Post 1945: broadening historic buildings and cultural nationalism

By 1945, France had extensive legal protection by central government of individual historic monuments and their surrounds. The post-1945 period saw a broadening of its regulation of entire areas or zones of architectural heritage. Although part of wider policies on urban planning and decentralisation, heritage protection has remained linked to themes of the role of the central state, controlling local power and 'modernisation' of 'the nation'.

The most important legislative change came soon after the creation of the Fifth Republic. As in earlier periods, senior national politicians played direct and prominent roles. On returning to power in 1958, De Gaulle established a Ministry of Culture and appointed André Malraux as its minister (cf. Laurent 2003: 163-186). Although Malraux wanted to champion modernist architecture in France, long-standing 'historic' city centres were under threat of demolition, notably in Lyons and Avignon. The Prime Minister, Michel Debré, and the construction minister, Pierre Sudreau, sought new legislative instruments for central government. Malraux cited examples of destruction by private developers that local authorities had failed to prevent and argued that France had to safeguard its past for its future.⁹ De Gaulle himself followed the debates and took a personal interest.¹⁰

The 1962 'loi Malraux' (la loi du 4 août 1962) introduced the concept of 'protected sectors' (*secteurs sauvgardés*) to cover areas that might lack a historic monument but had an aesthetic or historic interest as a whole. Although sectors were local, the law gave important powers to central government (Laurent 2003: 172-3). Thus two ministries drew up a list of eligible towns whose mayors could apply for inclusion (attracted by state funding and then tax breaks); but the law also included a provision for imposition of protected sectors by the Conseil d'Etat. Once selected, the Ministry of Culture undertook or commissioned studies to delineate the areas covered and create detailed plans concerning which buildings could be demolished and the nature of restoration. All work permits within the protected sector needed permission from the Architectes des Bâtiments de France, who were civil servants from the Ministry of Culture.

From the 1980s onwards, local/regional authorities received new powers as part of part of more general process of decentralisation. But central government retained many controls over the protection of historic buildings and , the importance of ‘national’ heritage and the dangers of the ‘excessive’ multiple local ones formed part of a counter-reaction in the 1990s (Leniaud 2001: 28-34). Thus for instance, the loi du 7 janvier 1983 allowed local authorities to create protected zones for architectural and urban heritage and possible relaxation of the rules on surrounds of historic monuments.¹¹ But the ministry’s agreement was needed for the creation of a zone and any change to the 500m rule around historic monuments. Building decisions still need agreement by the Architectes des Bâtiments de France.

When changes to reduce central government regulation have been suggested, they have met powerful resistance. Thus for instance, legislation in 2009 (the loi du 3 août 2009, Article 9) reduced approval of building work in the zones by the Architectes des Bâtiments de France to a non-binding opinion. This provoked fears that mayors would undertake ‘unsuitable’ developments and led to opposition by associations for heritage (*Libération* 19-20.9.2009, *Localtis.info* 3.6.2009).¹² In response, the subsequent Culture Minister, Frédéric Mitterrand, set up a Commission to look at the relationship between elected officials and professionals in heritage protection. It led to new legislation that largely restored the power of central officials (loi no.2010-788 du 2 juillet 2010, especially article 28). When further proposals were made by the government to increase local discretion, there was fierce criticism and many amendments, notably in the Senate (*La Tribune de l’Art* 15.2.2015, 28.9.15 and *Le Monde* 10 July 2015).

It was followed by a further law (la loi du 7 juillet 2016) which merged different types of sites that were under the responsibility of subnational authorities into “remarkable heritage sites” and underlined the powers of central government. Thus for instance, it maintained a major role for the Architectes des Bâtiments de France, reinforced the National Commission of Heritage and Architecture and gave the state many powers over the drawing up of local plans for safeguarding and developing areas, heritage and architecture. The episodes illustrate fears of local discretion and the continuing controls of the central state over the powers given to subnational authorities in the name of ‘the nation’.

Italy

As in France, national political leaders in Italy have sought to use heritage, including protecting historic buildings, as part of efforts to build and bolster the state. Preservation policies have been supported on the grounds of creating a ‘modern’ nation state. But there are important and at first sight, surprising, contrasts with France. Despite facing multiple problems, the new Italian state kept and then extended legislation (for overviews of legislative developments, see Cassese 1976 and Condemmi 1993). There has been considerable ‘layering’ in terms of types of legislation and levels of government, so that the same buildings are subject to multiple legal protections. Legislative protection has been more comprehensive and often come earlier than in France or most other European countries.

Examination of the policy process helps to explain the patterns found. In particular, the difficulties faced by the Italian state and the susceptibility of national political leaders to pressures by cultural nationalists, notably art historians, museum directors and lawyers, both

within the state and outside it, offer significant explanatory factors. Policies after 1870 began in the context of a significant legal inheritance which is therefore briefly considered.

Pre-1870 – legislation before the nation state

Considerable legislation by the Papacy and individual states existed well before Italian unification, often covering both buildings and export of artistic objects (Emiliano 1978 and Condemi 1993).¹³ Papal legislation was the most important and from the late 1500s, “there was barely Popewho did not provide his recipes for the conservation of monuments” (Parpagliolo 1932: 22). In the midst of the Napoleonic invasion of Italy, the Edict of 2 October 1802 issued by Cardinal Doria Pamphilj extended existing prohibitions on the destruction of ancient buildings, whether publicly or privately owned, as well requiring licences for the export of objects and imposing a 20% tax on them.¹⁴ Thereafter, the Edict of 7 April 1820 issued by Cardinal Pacca, set out a comprehensive set of rules and attempted to create more effective administrative arrangements (Volpe 2007: 49-51). In addition, a system of *‘fidecommessi’* or entailments through wills whereby collections and estates remained intact, often by primogeniture, was extended- for instance, in 1816 Pope Pius VII allowed new entailments to be created, and his successors permitted the creation of permanent entailments (Volpe 2007: 60-67).

Despite the country not existing as a nation state, cultural nationalism was a strong factor in the desire to protect ‘Italian’ artistic heritage (Mengozzi 2012). An important concern was to limit ‘foreigners’ taking or buying objects from ‘Italy’. The English were the most prominent in the eighteenth century- Montesquieu in 1729 wrote that “the English take everything from Italy: paintings, statues, portraits” (although he also noted that “but they rarely take good things. The Italians sell off as little as they can and are experts selling to those who are not”, underlining the complexities of trade in cultural objects) (Montesquieu 1844: 170). Later, Napoleon’s theft of hundreds of artistic objects was strongly resisted by Italians and partially reversed under the Treaty of Vienna in 1815 after his defeat, in large measure thanks to Antonio Canova. The desire to protect ‘heritage’ against foreigners was a crucial factor in the 1802 and 1820 Edicts. Hence the Italian nation state inherited considerable legal protection linked to cultural nationalism.

1870-1922- extending protection in a newly-created nation state

Political unification seemed to threaten the legal protection of heritage. The new Italian state, lacking resources and facing major economic difficulties, was “caught in a violent contradiction between public benefit and private interest” (Emiliani 1978 :1). Many art dealers and economic ‘liberals’ sought to end papal controls. They attacked the 20% tax on art exports in the name of free trade and sale restrictions, especially the *fidecommessi*, in the name of private property rights (Balzani 2004: 31). Their position was strengthened by the pre-1870 Constitution which remained in force, which stated that “all private property, without exception, is inviolable” (Article 29 of the Statuto Albertino- Mattaliano 1975: 3). Legislative proposals in 1871 included provisions to end pre-unity laws and instead apply the usual Civil Code to artistic objects (Mattaliano 1975: 3-17, Parpagliolo 1932: 69-82 and Volpe 2007: 60-77).

Despite these apparently unpropitious circumstances, Italy introduced sweeping legislation before 1914. A ‘preservationist’ coalition formed which argued that protecting heritage was essential to Italy as a nation. Far from being a backward movement, its members saw preservation as a force for the creation of a ‘modern’ nation state’. They opposed the economic liberals on nationalistic grounds, emphasizing the rights and role of the state in preventing the loss of historic objects and collections, especially to foreigners. In the 1870s, the preservationist coalition was mostly led by art historians and several ministers of Public Education (who were responsible for the ‘*belli arti*’ - the fine arts).

The initial coalition was able to prevent removal of existing protection but not to obtain its extension. Thus in 1870-71, no agreement on a replacement to the *fidecommessi* was found. Instead, legislation in 1871 (law no.286) declared that, until a new law was passed, pre-unity legislation remained in force. Subsequent attempts by successive ministers of Public Education, notably proposals in 1875-76, 1878, 1886 and 1892, to establish greater state powers to protect artistic objects in return for ending the *fidecommessi* failed in the face of lack of state funds and arguments about private property rights (Parpagliolo 1932: 80-82 and Mattaliano 1975: 10-18).

The political stalemate between those seeking the removal of restrictions on heritage and those seeking greater regulation were decisively settled between 1900 and 1914. At first, economically ‘liberal’ ideas and the interests of the art dealers appeared to have the upper hand. A law was passed in 1902 (Legge 12 giugno 1902, no.185 Sulla conservazione dei monumenti e degli oggetti di antichità e di arte) that was highly favourable to them. It established that the ministry should draw up a list of artistic objects within a year; thereafter, pre-unity legislation would be ended and hence all objects would be open to sale. The main limit was that the state would have a right of pre-emptive purchase for objects on the Ministry’s list, which was to be financed by a sliding tax on exports.

The fate of the 1902 law revealed both the strength of cultural nationalism and why administrative and economic weakness provided good reasons to adopt broad controls over privately-owned property to protect historic objects. The law greatly altered the political situation, since it placed the onus on the government to find sufficient funds to buy heritage, a policy that was very difficult given the state’s financial constraints and small revenues from exports. Moreover, the Ministry lacked the administrative and political capacity to produce a definitive and widely-agreed list of the art works to be protected. As a result, application of the 1902 law was suspended.¹⁵

Moreover, the balance of forces was changing. The ‘preservationist group’ which favoured restrictions on exports on cultural nationalist grounds, grew.¹⁶ The major modification from the 1870s was a broadening of support and greater mobilisation from the rising middle classes, such as intellectuals, scholars, art historians and the educated bourgeoisie in Tuscan and Northern cities such as Florence, Ravenna and Milan. It enjoyed links with senior administrators within public institutions, notably the new Directorate General for antiquities and fine arts in the Education Ministry. Such administrators often developed proposals and put them forward when they saw political openings for legislation. Politically, the coalition was heterogeneous, spanning old aristocratic families to republicans and socialists, although individuals from Tuscany and the North were prominent.

Despite holding different points of view (for instance, on private property rights), members of the preservationist coalition shared the belief that cultural heritage was crucial for the nation

and its identity. They had two related aims, namely protection of artistic heritage and preventing its export abroad, especially to Britain and the US. Hence cultural nationalism offered a 'glue' that overcame differences. Supporters promoted themes of protecting Italy's cultural heritage in newspapers and new literary reviews, notably *Il Marzocco*, a weekly founded in Florence in 1896 and *Emporium*, an art magazine based in Bergamo, which were linked to growing nationalist debates (cf. Perfetti 1984: 17-24; Balzani 2008:15-17). They drew on recent legal scholarship that offered legal norms for protecting heritage.¹⁷

New legislative proposals were made by the protectionist party. The subsequent process indicated the importance of nationalism and the support of the broader coalition, especially outside the government (Balzani 2003). In 1905-6 a campaign took place that combined parliamentary efforts with public ones, notably in the press with journals such as *Il Marzocco* and *Emporium* (Balzani 2003: 58, 27-28). Turnover of Ministers for Education between 1903 and 1906 was high, but one (De Marinis) established a ministerial committee, made up of members of parliament and experts. It was driven by its Rapporteur, Giovanni Rosadi, deputy for Florence and also a contributor to *Il Marzocco*. The committee produced a draft law that proposed substantial extensions to the state's powers over private owners and rights for private citizens and associations to launch legal action to protect heritage objects. But the bill faced opposition in the Senate, where aristocrats with private collections and estates were powerful and which was subject to lobbying by art dealers who pressed for greater freedom to export and trade.

The 'preservationist' coalition mobilized using strong nationalist arguments about the dangers of the loss of important objects abroad. Newspapers and journals campaigned for protection of Italy's artistic treasures and attacked opposition to protection in the Senate. Associations for the protection of artistic heritage held meetings and organized a petition to support legislation on nationalist grounds. Thus for instance, the Association for the Defence of Ancient Florence (*l'Associazione per la difesa di Firenze antica*) sent a petition to the Senate in December 1908, which referred to the "immortal glories of the Homeland" and was signed by prominent individuals and groups from all over Italy, but especially from economically developing areas such as Umbria, Tuscany and Ravenna.¹⁸ Important figures within politics and public administration supported reform. One was Felice Barnabei, a deputy and former direttore generale per le Antichità e belle arti, who argued that the nation's heritage was in danger and had to be preserved, both for national culture and honour (Balzani 2003: 48-51). Another was Luigi Rava, a university law professor from Ravenna, who sought to balance social progress with the defence of private property and served for three years as Minister (1906-9), which allowed him time to press legislation forward. He was aided by another native of Ravenna, Corrado Ricci, a former professor and head of important galleries, including Brera and the Uffizi, who became director general of the Belle arti. Finally, the March 1909 elections saw a weakening of the liberals and a strengthening of the 'left'.

The preservationist coalition had altered the terms of debate. Previously radical ideas of state controls over privately-owned objects on grounds of the nation's identity despite private property had now become acceptable. In this situation, many aristocratic members of the Senate, led by Prince Colonna, accepted the need for some legislation. At the same time, Rava and Ricci were prepared to compromise and abandon the more far-reaching elements of the draft that had emerged from the Camera dei deputati.¹⁹ The result was an agreed compromise which was passed overwhelmingly both in the Camera and the Senate in May-June 1909. The protectionists and aristocrats had found a common agreement in the name of the nation.

The law “no. 364 Per le antichità e le belle arti” of 20 June 1909 marked a significant development of state powers over material cultural heritage, including historic buildings. It introduced restrictions on “mobile and immobile objects which are of historic, archeological, paleontological or artistic interest” (Article 1). This was a very wide definition- indeed, potentially broader than the French law of 1913 which required a ‘public interest’. Despite Italy’s parlous financial state and the lobbying by art dealers or the need by aristocrats to sell inherited art, ‘objects’ included not only paintings and sculptures but also parts of buildings, which were often removed and sold off. Thus it had broader scope than the French law of 1913 which focused on entire buildings. A series of bodies (including provinces and church organisations) were given the task of drawing up a list of these objects (Article 3) -again, in contrast to France where listing was in the hands of central government.

Objects covered by Article 1 which were owned by public or private organisations, including any public or ecclesiastical body or any kind of legally established association, were subject to a series of restrictions (*‘vincoli’*) (see especially Articles 2-4). Correspondingly, the Minister acquired wide powers and legal sanctions were instituted. With respect to historic buildings or objects, the Minister was empowered to take all measures including restoration (at the expense of the owner) or moving them in order to ensure their integrity and safety.²⁰ Equally, the objects could not be demolished, moved, altered or restored without the permission of the Minister.²¹ These were very wide powers, especially when they did not require financial compensation. The main exclusion were ‘modern’ objects- created by living persons or within the previous fifty years. The time limit reflected a concern for older, pre-unity objects, underlining the autonomy of cultural and political nationalism in Italy.

Private individuals also faced significant state restrictions. All owners or even those in possession of objects covered in Article 1 who received official notification that the object was of “important interest” could not alter its ownership or possession without notifying the ministry (Article 5). Equally, if offered for sale, the government had the right to buy the object at the contract price within two or four months (Article 6). The legislation went as far as allowing expropriation of these objects if their condition was deteriorating or merely in danger of so doing, and their owner did not restore them within a deadline set by the Minister. Expropriation could be undertaken not just by the minister but also by other bodies- provinces, local councils and legally established associations/bodies which sought to conserve objects for cultural purposes and public enjoyment (Article 7). Individual owners faced similar restrictions on demolition, repair and modification to organized bodies for buildings, although they could challenge Ministerial decisions before the courts (Articles 12 and 13).

The law also protected the surroundings of historic objects. Under Article 14, in towns where there were objects covered by the law, new buildings or rebuilding work was undertaken, then rules about a ‘zoning plan’, distances, dimensions and other norms could be produced to ensure that the perspective or light needed for the monument would not be damaged.

The 1909 law provided the Minister and other public bodies with a very broad set of powers for historic buildings. It imposed many restrictions on privately-owned historic buildings and objects. Its scope and provisions for controlling and even expropriating historic objects, even if privately owned, went considerably further than the later French law of 1913 in major respects, such as the scope and definition of historic objects, the role of multiple bodies and ministerial powers over objects. Only with legislation in 1927 and then 1943 did France have

similar provisions on objects and surrounds. The 1909 legislation remains the basis of Italian legal protection until this day.

Provisions for landscapes and other examples of ‘natural beauty’ had been removed from the 1909 law as part of the compromise agreement. But legislative proposals continued to be made by the preservationist coalition, notably Rosadi and Ricci. A Commission was established that again consisted of intellectuals and officials as well as elected politicians in 1919 which provided the impetus for legislation proposed by the then Education Minister Benedetto Croce, a major intellectual and philosopher. It was justified by references to Italy’s ‘national identity’ (the landscape being “the material and visible representation of the country”) and the opinions of artistic and scientific experts, as well as the need to keep up with developments in other countries.²² It led to the Law no.778 of 1922 for the Protection of natural beauty and immobile objects of particular historic interest’ which went well beyond natural beauty to cover ‘views’ or landscapes, including in cities, thereby offering some additional protection for historic buildings (see Settis 2010: 152-167 for the process). It offered an early example of ‘layering’ of legal protections from different sources.

1922-44 Dictatorship and sporadic protection

Under Mussolini, there was no further legislation for a long period. The 1909 law was interpreted in a very limited manner. One reason is that from 1911, the ‘List of Monumental Buildings’, begun in 1902, restarted; although claiming not to be definitive, buildings not on the list enjoyed limited protection (Condemi 1993: 33-34). But another was that in the 1920s, the Fascist regime was closely linked to the Futurist movement and developed ‘Fascist art’. Insofar as there was preservation, it was to link the regime with a glorified view of certain periods of Italy’s past, especially its Roman past, and to dissociate it from periods when Italy was seen as disunited and weak. The most prominent example was the destruction of much of medieval Rome and other ‘inferior’ buildings in the 1920s and 1930s while excavating and preserving Roman ruins and erecting new buildings with ‘fascist architecture’. The Via dell’Impero which combined the ruins of Roman Fora and the Colosseum with massive modernist buildings, was the most prominent example. Mussolini took a personal and visible role in leading the destruction of certain buildings and the idea of a ‘renewed’ Rome as a symbol of a successful ‘nation’ in both Roman and Fascist periods (Vidotto 2006, ch VI, esp 189-194).

However, in the 1930s, major figures from the worlds of art history, museums and law prepared the ground for an extension of protection. Thus, for example, legal bases for increasing restrictions over private property were developed by Santi Romano, a senior lawyer and professor, there were critiques of existing preservation by art historian Roberto Longhi and new theories and practices of restoration were established by intellectuals and officials in the administration for the Belle Arti such as Cesare Brandi and Carlo Argan (cf. Merusi 2012, Masi 1992, Fittipaldi 1984, Cassese 1976, Settis 2010: 122-127). But legal change depended on propitious political circumstances.

These occurred in the late 1930s. The political context changed as the Fascist regime turned away from Futurism and towards more ‘traditional’ art. Moreover, in November 1936 Giuseppe Bottai, a major writer on culture and fascism, became Education Minister. Experts on preservation from inside and outside the Ministry met and took the initiative for new

legislation in 1938, which was taken up by Bottai. Mussolini himself met senior officials and stated that the administration had to be careful about businessmen damaging “the face of the nation” (Merusi 2012: 5-6, citing Giovannoni). Finally, in shadow of expected conflict, legislation formed part of preparing to safeguard heritage in times of war (Bottai 1938).

Thus in 1939, legal protection was significantly extended by two laws. The first, on the protection of objects of artistic or historic interest (Legge 1 giugno 1939, n. 1089 Tutela delle cose d'interesse artistico o storico- the ‘Legge Bottai’) was justified in terms of the “superior interests of the Nation” and its “idealistic and economic interests”(cf. Grisolia 1939, Ragusa 2014: 42-52).²³ It protected objects that “because of their link with political and military history, literature, art and culture in general were recognised as of particular importance”, a slightly wider definition than in earlier legislation. It extended the powers of the Ministry of Education, notably by reducing distinctions in treatment between different types of owner-similar provisions applied to private and state bodies. It also allowed visits to historic buildings even if owned by private individuals. It extended protection to villas, parks and gardens which had been largely excluded from the 1909 law. The second law, on natural beauty and landscapes (Legge 29/6/1939, n. 1497, Sulla protezione delle bellezze naturali e panoramiche), limited building works, notably in terms of height. Legislation in 1942 on urban planning by local councils introduced notions of respecting the two 1939 laws on natural beauty and on objects.

Hence the already extensive legal provisions of the 1909 and 1922 laws were widened under Mussolini with strong reference to promoting nationalism. There was further layering of protection, emanating from different sources (objects, landscapes and urban planning) and levels (central and sub-national).

After 1945- deepening and layering of protections

After the end of WWII, legal provisions were further extended as part of building the new Republic (Cassese 1976). Protection of artistic and historic heritage was greatly debated in the Constituent Assembly and initial formulations altered to deepen the national protection of heritage (Settis 2010: 179-193; cf. Condemi 1993: 41-2, Emiliani 105-112; Casini et al 2013: 5-35). Thus Article 9 of the Constitution states that “ 1) The Republic promotes cultural development and scientific and technical research. (2) It safeguards natural beauty and the historical and artistic heritage of the nation”. The Article was made one of the ‘fundamental principles of the state’ giving it very high legal standing. Its also seems to be the first example in the world of such a legal status (Settis 2010). A key reason for the wording was to limit the ability of subnational governments, especially Regions, to develop their own policies. Equally, the principles of the 1909 and 1939 legislation were maintained through the ‘Codes’ for cultural heritage (notably in 1999 and then 2004) that brought together separate pieces of legislation, and indeed it extended the concept of ‘cultural goods’ (Casini 2006). The Codes continued to refer to the nation- for instance, the 2004 Code stated that “the protection and development of cultural heritage seek to preserve the memory of the national community and its territory” (Article 1).

The greatest extension of protection after 1948 came through planning and environmental legislation, and relatedly the powers and duties of local and regional government (For legal analyses, see Cartei 2007, Casini 2005). But rather than assign responsibilities to one level, duties have been given to all, notably because of provisions in legislation on protection of

‘objects’, urban planning and the environment (for a strong critique, see Settis 2010). Thus for instance, additional provisions to protect historic-artistic importance were inserted into legislation on urban planning in 1967 while from the 1960s and 1970s onwards, further restrictions were added to protect ‘historic city centres’ and in the 1970s and 1980s, powers over the environment were delegated to regions (cf. Battini et al 2013; Condemi 1993: 45-6). The legislation provided greater legal protection for whole areas or zones. It offered another example of ‘layering’ as the same buildings are subject to several types of regulation (legislation on historic objects, landscape/views and urban planning), often from different levels of government.

A key issue in Italy has been implementation. While legal protection may be strong, critics have pointed out a largescale growth of illegal building works that damage the landscape and historic buildings due to problems such as administrative weaknesses and corruption (Settis 2010: 3-4 and 10; for a more positive view, see Lorenzo Casini’s article, this volume). But such problems have often led to increased administrative and legal controls, with experts from inside and outside the state taking a major role in pressing for new legislation. A series of high-level commissions in the 1950s and 1960s investigated difficulties in implementing legislation – for instance, the Francechesini and Papaldo Commissions (cf. Condemi 1993: 42-45; Ragusa 2014: 110-128 and 202-253). The most influential, the Commissione Franchesini (1967), was composed of both members of parliament and experts from inside and outside the public administration. The critiques of administrative weakness were a major reason for the creation in 1974 of a separate Ministry of ‘cultural heritage’ (‘beni cultural’- MiBAC, renamed MiBACT in 2013 when tourism was added), in the name of the importance of cultural heritage for the nation’ (Ceccuti 2012). In the 2000s, when changes to the 2004 Code were proposed during Silvio Berlusconi’s premierships, alterations such as ‘silenzio assensio’ (implied consent unless explicit refusal for development is issued by the relevant bodies) or provisions that allowed private management or even ownership of public heritage objects met with great controversy and often were blocked or greatly contained (cf. Cammelli 2004).

Layering of legal protections and decentralization have been argued to be a product of the political weaknesses of the Italian state, such as short-term political deals, clientelism and capture by private interests (eg. Settis 2010). But they have often augmented political attention and the number of actors involved in heritage- town, region and national, together with the courts who are a vital actor since many disputes take legal form. National heritage protection is superimposed on subnational protection, as towns and regions decide how to promote it within a loose overall Italian nationalism. The result is an extensive set of legal protections that is difficult to alter.

Conclusion

In both France and Italy, a very wide-ranging legal framework for historic buildings has been created since the late nineteenth century that gives the national government powers to override the rights of owners (public or private), not only for individual buildings, but also whole areas. The expansion of legislation has been closely linked to political nationalism. Political leaders have justified it in the name of ‘the nation’ and sought to link protection to periods of supposedly glorious ‘national pasts. Those leaders have from very different

regimes and had very varied notions of ‘the nation’ and its pasts, underlining the plasticity of historic building protection, which can be adapted to diverse political objectives and contexts. Supporters of protection have cited lofty aims such as national beauty or history and identity in justifying protection, with rather little discussion of economic advantages. The policies have often formed part of broader strategies by political leaders of nation building and reinforcement.

Co-existing with common directions and processes are sometimes surprising differences in outcomes between the two countries. In France, legislation began soon after 1789 and was greatly extended after 1870. Italy was a more a recently-formed nation state which faced strong financial pressures and serious debates about removing existing protection in 1870, and later was subject to political instability and dictatorship. Yet it passed earlier and more sweeping legislation than France, in terms for instance, of the definition and scope of protection and inclusion in the Constitution. It layered protections so that historic buildings in Italy are often subject to multiple legal provisions.

How do these findings relate to wider debates about state production of cultural nationalism? What wider arguments about state policies towards cultural heritage and indeed cultural nationalism can be proposed? Any claims must be tentative given that the present article has examined only two countries, and hence would require further testing. Nevertheless, the cases offer evidence for a broader discussion. France is often cited as the paradigmatic ‘Western’ or ‘civic state’, with a long history as a nation state, strong political nationalism and state traditions, in contrast to Italy (Kohn 1944; cf. Dyson 2010). Yet the findings run counter to Kohn’s treatment of cultural nationalism and support claims by authors such as Leerssen (2006), Martigny (2008) and Hutchinson (1987, 2013). In France and Italy, the state has been a major producer of cultural nationalism by using historic buildings as part of strategies to legitimate itself, supporting Leerssen’s and Martigny’s analyses. In both, historic building protection has been part of state building and strategies to ‘modernise’ and develop it, as suggested by Hutchinson, rather than a backward force as argued by Kohn.

Analysis through comparison and process tracing can also be used to suggest conditions that favour state production of historic building protection. In both countries, national political leaders have turned to policies of protecting historic buildings when new regimes have begun, war has occurred or loomed, and there have been feared or actual pressures from ‘localism’ or supporters of cultural protection outside and inside the state. Thus it is noteworthy that every new political regime in France has rapidly proposed legislation, while such debates began in Italy immediately after the creation of the modern nation state in 1870 and then on the creation of the Republic after 1946. But process tracing also suggests some differences in the challenges and the capacities of national political leaders to respond that can help to account for contrasting outcomes in legislation. In France, national political leaders have taken direct and leading roles, notably in terms of initiating and preparing proposals. In Italy, intellectuals, art historians and officials from national and local museum administrations have played more direct roles in the extension of legal protection, taking the initiative and pressing change on national government in the name of nationalism. Indeed, the very weaknesses of central government administration in Italy, such as difficulties in defining lists of protected objects, finding finance or ensuring implementation of existing legislation, gave actors favouring cultural nationalism opportunities to press their case. Equally, whereas France has been able to introduce central state controls over subnational government, in Italy choices about where to place controls have been avoided and instead, powers given to many different levels and administrations.

Study of France and Italy suggests that in a nation state formed later and with political weaknesses in which cultural nationalism was already strong, national political leaders may introduce earlier, more far-reaching and more layered legal protection than in states created earlier and with fewer weaknesses, to compensate for the challenges and difficulties the recently-formed nation state faces. More generally, the cases studied suggest that faced with challenges such as regime change, war and internal domestic pressures, national politicians promote historic building protection as part of wider strategies to build and reinforce the nation.

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¹ Even when seeking a wider context, the analysis is focused on France- eg Poulot 2006 entitles his book ‘A history of heritage in the West’ but it is mostly on France, with other countries being brought in as influences on France.

² The Report and accompanying decree are available online- <http://gallica.bnf.fr/ark:/12148/bpt6k48495b/f29.item.zoom>.

³ The status of its political head varied over time, being a secrétaire d’État and a sous-secrétaire d’État.

⁴ Especially Sénat debates of 10 and 13 April 1886 *Journal Officiel* 598-609 and 614-617 , and for the Chambre des Députés *Journal Officiel* 22 mars 1887, pp789-90.

⁵ *Journal Officiel* 1887 89: 31 March, pp.1522-1533

⁶ For parliamentary debates, see *Journal Officiel*, Chambre des Députés 2e séance du 20 novembre 1913, *Journal Officiel* Sénat séance du 19 décembre 1913, du 26 décembre 1913 and du 29 décembre 1913.

⁷ Moreover, they could also expropriate other unlisted buildings to “isolate or restore a listed building or one proposed for listing” (Art 6), a further potentially very sweeping power, although this represented a sweeping step, and it was not until the law of 1943 on surroundings (*les abords*) that a simpler system was introduced.

⁸ Sénat séances du 10 février 1927, 15 février 1927 and 3 mars 1927.

⁹ See his speech to the Assemblée Nationale - *Journal Officiel* 2e séance du 22 juillet 1962: 2775-6.

¹⁰ For instance, writing to Malraux to congratulate him on a speech about historic buildings- Lantelme 1998: 65.

¹¹ Since 1993, called zone de protection du patrimoine architectural, urbain et paysager- ZPPAUP

¹² <http://www.localtis.info/cs/ContentServer?c=artVeille&pagename=Localtis%2FartVeille%2FartVeille&cid=1244003630376> accessed November 2013.

¹³ For even earlier legislation, see Volpe 2007: ch.1 and Pargagliolo 1932: 5-13.

¹⁴ See for instance Articles 7, 8, 9 and 12.

¹⁵ Delaying legislation was passed in 1903, 1905, 1906 and 1907.

¹⁶ Known as the *partito protezionista*- translated here as preservationist group to avoid confusion as it was not a political party and also favoured restrictions on exports for cultural nationalist reasons and not on economic grounds of protecting home producers- on the contrary, the art dealers favoured freedom to export.

¹⁷ Eg drawing on legal scholars such as Camillo Boito (1836-1914) or Giovanni Battista Cavalcaselle (1819-1897); see also Mariotti 1892.

¹⁸ Reproduced in Balzani 2003: 131-352.

¹⁹ Eg. additional rights for citizens and associations and the inclusion of gardens and landscapes.

²⁰ Many provisions concerned exports of objects which are not analysed here.

²¹ The main limit was that the Minister needed to obtain the view of the Consiglio superiore per le antichità e le belle arti (Article 4), but even this could even occur afterwards in cases of urgency.

²² Speech to the Senate of 25 September 1920, available at

<http://www.rivista.ssef.it/www.rivista.ssef.it/site2e2f-2.html?page=20040913091214766&edition=2010-02-01>, accessed 16 August 2017.

²³ Disegno di Legge, Camera dei Fasci e delle Corporazioni, XXX Legislatura, vol 5, n.154, pp132-3.