

# CULTURAL & POLITICS

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## THE ADMINISTRATION OF AESTHETICS

*Censorship, Political Criticism,  
and the Public Sphere*

Edited by Richard Burt  
(for the Social Text Collective)

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sive faith. In denying the appeal to overturn Woolsey's decision Judge August N. Hand writes, "Art certainly cannot advance under compulsion to traditional forms and nothing in such a field is more stifling to progress than limitation to experiment with a new technique" (*Uh*, 788).

18. On Comstock, see Heywood Brown and Margaret Leech, *Anthony Comstock: Roundsman of the Lord* (New York: Boni, 1927).

19. Richard Poirier, "Hum 6, or: Reading before Theory," *Raritan* 9 (1990): 30.

20. For a very different sense of English instruction at Amherst College, see H. Bruce Franklin's "Amherst and Empire," in *Back Where You Came From* (New York: Harper's Magazine Press, 1975), 63-73. Franklin entered Amherst in September 1951. On the course that Poirier says was the model for Hum 6, he writes, "Amherst had just developed a freshman English course that was becoming widely known as a model of sophistication and ingenuity. English 1 was designed to indoctrinate us into a set of beliefs based on the premise that only a highly select and rigorously trained intellectual elite could glimpse the essence of 'reality,' which lay in the total dependence of the objective world on the subjective. . . . We soon learned our first lesson, that our teachers were brilliant, that they were in possession of some great mystery, and that they were to lure us into this inner sanctum with sly looks, bizarre questions, a thousand little suggestive ironies, cryptic comments on our papers, and very occasionally a dramatic physical act in the classroom" (66-67). Nonetheless, Franklin admits that English 1 did him "some good, mainly by letting me in on the ways the cynical ideologues of the empire could manipulate language" (67-68).

21. Quoted in Bryer, "Joyce, *Ulysses*, and the *Little Review*," 163.

22. As Kevin Detmar pointed out to me, the publisher's ads for *Ulysses* in the *Saturday Review of Literature* include the sort of aids that Joyce refused to allow. Random House to include in the book. Stuart Gilbert had already published (and copyrighted) his version of the correspondence chart, but since it was in a book of criticism, it did not bother Joyce, who merely insisted that it be separate from the text of *Ulysses*.

## **Whistler v. Ruskin: The Courts, the Public, and Modern Art** Stuart Culver

*Indeed, among the dangers threatening modern art, not the least is that it is becoming inoffensive.*

—Theodor Adorno, *Aesthetic Theory*

At almost the same time Theodor Adorno was reaching this conclusion in his *Aesthetic Theory*, the Congress of the United States was establishing the National Endowment for the Arts (NEA), which could be described as a contributor to the administered culture Adorno distrusted. In an effort to secure the place of art in the nation's public sphere and believing that the arts required public funding because the values they represented were at once too crucial and too tenuous to be trusted to the vagaries of the marketplace, Congress proposed to help finance projects that a panel of experts deemed worthy. These experts would be indifferent to the pressures of the marketplace, popular taste, and political constituencies and, Congress assumed, would judge each proposal solely on the basis of its artistic merit. This assumption of the radical autonomy of art seems naive today; and if we take seriously Adorno's critique of administered culture, we can say that the ideological function of the NEA lies precisely in its claim to have cordoned art off from politics by defining the projects it chooses to fund as timeless, priceless masterpieces bearing a purely aesthetic value.

If the NEA seems theoretically committed to the autonomy of the aesthetic realm, it is because the agency is itself an institutionalization of a modernist conception of art that insists on distinguishing

authentic works of art from the consumer-oriented products of the entertainment industry on the one hand and blatant propaganda on the other. Art, in this official view, is somehow essential even though it is neither what people want nor what they need to know. But if the NEA has always been in theory modernist, in fact the agency has been willing to fund recent, postmodern projects that claim to challenge both the elitism and the formalist or nonrepresentational bias of high modernism. Despite Adorno's warning that art might lose its critical power once it comes to rely on such agencies, the NEA has managed to fund projects that seem to stand at odds with the theory justifying the agency in the first place simply by refusing to be detached or autonomous enough.

These grants seem to have gone unnoticed until 1989, when the Corcoran Gallery of Art felt compelled to cancel its scheduled showing of photographer Robert Mapplethorpe's *The Perfect Moment*. In the ensuing months conservative politicians and cultural critics ruminated through the agency's files to discover more outrages against the values and tastes of typical Americans, funded by their own tax dollars. The conservative critics of the NEA share with postmodern artists a distrust of the notions of autonomy and expertise that underlie the NEA's modernist ideology of art. The conservatives, of course, do not just distrust modernist theory; they also believe that postmodern art is itself produced by and for a cultural elite whose tastes not only differ from but actually subvert the values that hold the American people together across racial and economic divisions. In its more paranoid moments, this brand of cultural criticism argues that a leading cause of contemporary social problems is the art that caters to degenerate tastes and prevents the honest expression of "traditional" values. The target of this attack is not just the modernist mechanism for determining which projects ought to be funded but also the very notion that the government should fund art when it cannot guarantee either the social utility or general comprehensibility of the work it sponsors.

One could say that the controversy has its benefits: art has clearly regained its power to offend, and people are being forced to debate the meaning of free speech and to question their own assumptions about what art is and can do. There are, however, more ominous consequences and none more ominous than the fact that some people have been put on trial for displaying or selling suspect works.

The most noteworthy case was the arrest of Dennis Barrie, the curator of Cincinnati's Contemporary Arts Center, who was willing to show the Mapplethorpe photographs when the Corcoran would not. In October 1990 a Cincinnati jury surprised and frustrated the conservatives by acquitting Barrie of all the charges brought against him. By insisting on the autonomy of art and the sanctity of the gallery, the jurors assented to the modernist notion that art is fundamentally different from pornography because the true work of art is not reducible to its content. More significantly, they refused to decide among themselves what counts as a work of art and placed the testimony of the art expert above the concerns of local citizens. As one juror put it, "It's like Picasso. Picasso from what everybody tells me was an artist. It's not my cup of tea. I don't understand it. But if people say it's art, then I have to go along with it."<sup>1</sup> It is crucial to recognize that the acquittal in Cincinnati was less a victory for free speech than a triumph of what I would call the modernist approach to legitimating art, a mode of legitimation that preserves the distinction between art and obscenity by rewriting it as the critical difference between works of art—distinguished by formal qualities established by the testimony of experts—and pornographic commodities, which appeal more immediately to the senses and are never admitted into galleries or museums.

What the Cincinnati verdict lets us see is just how deeply this modernist conception of art has penetrated both legal and popular conceptions of aesthetic value and significance despite—or, rather, because of—its refusal to be responsive to the interests and concerns of the average citizen. In the pages that follow I want to explore how exactly this approach to the regulation of artistic production and consumption came into being and how the contradictions implicit in it first appeared in the public eye. I want to do this by looking at a trial that took place in London more than a century ago, when the modernist ideology of art was first being articulated. The trial is James McNeill Whistler's 1878 libel suit against John Ruskin. In that London courtroom, as in Cincinnati, a panel of jurors was asked to decide what counted as a work of art and who had the right to police the country's galleries and museums. I want further to underscore the implications of the trial and its aftermath by looking at how it affected the critical theories and practices of one particularly interested observer, Henry James, who reported on the trial for the

*Nation*. James's brief notes on the affair register its impact as both a minor cultural trauma and an embarrassing media event that confused the public about the process of artistic production and the role of critical commentary as it introduced them to the new theories and practices of modern art.

The dispute began in 1877 when, reviewing an exhibition at the recently opened Grosvenor Gallery, Ruskin singled out Whistler's *Nocturne in Black and Gold* as a particularly egregious example of the worst tendencies of modern art:

For Mr. Whistler's own sake, no less than for the protection of the purchaser, Sir Coutts Lindsay ought not to have admitted works into the gallery in which the ill-educated conceit of the artist so nearly approached the aspect of willful imposture. I have seen and heard, much of Cockney impudence before now; but never expected to hear a coxcomb ask two hundred guineas for flinging a pot of paint in the public's face.<sup>2</sup>

The review, which appeared in Ruskin's *Fors Clavigera*, argued that the "forced eccentricities" of the murky, bewildering painting amounted to a fraud perpetrated against the British public because the artist refused to take seriously the aims of artistic representation. Whistler, Ruskin suggested, was offering up for sale paintings that were merely novel and obscure in an effort to see what the public could be made to buy.

The artist won his suit. The jury found that Ruskin had unfairly damaged Whistler's reputation when he attacked his motives but awarded Whistler only a farthing in damages. In what is usually described as a Pyrrhic victory, the jury granted the artist the right to call whatever he produced a work of art but refused to assign any real value to that work. At the same time, the free speech of the critic was restrained in order to ensure the autonomy of artistic production. By appealing to the law of libel, Whistler managed not only to limit the authority of the nation's leading art critic but also to establish arts independence from bourgeois notions of meaning and value, an independence so absolute that the painter's work was dismissed as essentially without economic value. *Whistler v. Ruskin* should be recognized as a crucial moment in the formation of the modernist ideology not because the *Nocturne in Black and Gold* represents a critical turning point in the tradition of oil painting, but

rather because the testimony in court (together with the ensuing battle of words between Whistler and the established art critics of England and the United States) marks a turning point in the way artists sought to justify their work and envision their place in cultural institutions. Anticipating the Mapplethorpe verdict, Whistler's jury abdicated any role in determining aesthetic value; if they were willing to say that the *Nocturne* was probably a work of art, the jurors refused to decide whether or not it was good as art and good for them.

Like the conservative critics of culture today, Ruskin believed that bad art posed a real threat to social values in general, and he demanded a more legible kind of painting than Whistler's. To his mind, the muddled nocturnes appealed only to the decadent tastes of an emerging cultural elite who cultivated superficial pleasures that had little to do with the public good. Yet, unlike Jesse Helms and Patrick Buchanan, Ruskin did not simply identify the significance of a work with its content, and he had been an aggressive advocate of other brands of artistic innovation. Moreover, he was deeply committed to conceiving art as a powerful critique of existing social values and economic practices. What he saw in Whistler was a decadent aestheticism that failed to be offensive in the correct, politically productive way.

The London jury was actually confronted with two competing accounts of how art resisted dominant social values and with two ways of differentiating works of art from the mass-produced articles of everyday use. Ruskin imagined that art could serve as a model for what all forms of manufacture could and should become. Regarding the artist as a craftsman absorbed in his work, he argued that art offered an alternative to the alienated labor of the factory and a way of reconciling the equally crucial values of beauty and utility. Whistler, conversely, believed that beauty had nothing whatsoever to do with utility and was unwilling to think of himself as either a medieval craftsman or just another factory hand; he presented himself to the jury instead as a professional, an expert whose competence derived both from his practical experience in the studio and his familiarity with the great works of art history and crucial documents of art theory. His paintings, therefore, could be judged only by those who understood not only how they derived from and participated in a worldwide tradition, but also how he conceived and

executed them. Whistler asked the jurors to think of every artistic practice as a self-regulating profession that provided the public a service that only another artist could appreciate or evaluate. Like that of the doctor administering a dose of medicine, the professional artist's concern is not what people want but what, given his specific theoretical and practical knowledge, he thinks they ought to have. Arthur Symons described Whistler's art as just this effort to prescribe: "He had shown them a glimpse and they wanted a gulp."<sup>3</sup> If Ruskin saw Whistler asking the public to purchase what they could not understand, Symons suggested that this art was in fact a willful rejection of normal modes of consuming art; these were paintings that withheld themselves from the untutored eye.

The Grosvenor Gallery opened in June 1877 as a self-consciously modern alternative to the Royal Academy. It was intended to provide new conditions of display that were uniquely suited to contemporary experiments in painting. The gallery's owner, Coutts Lindsay, described the Grosvenor as

an entirely independent picture gallery, where distrust of originality and imagination would not be shown, delicate workmanship would not be extinguished, and the number of pictures displayed would not be too large for the wall-space. (cited CW 29158)

Independent of government control, open to innovations, allowing its visitors to confront each image on its own terms, the modern gallery promised to give the public the best possible access to the new art. But what made the gallery popular in its early years was just the fact that it seemed thoroughly novel and wickedly transgressive. In a review of the second Grosvenor exhibition, Henry James suggested that the gallery's visitors were all too willing to be shocked by the new in art. He claims to have overheard one woman complain that the exhibition was not "peculiar" enough: "I am rather disappointed, you know; I expected the arrangement of the pictures would be more unusual." James wonders if she would have been satisfied if the pictures had been "hung upside down or with their faces to the wall." The woman was not a dadaist *avant la lettre*; she merely exemplified the appetite for "something very strange and abnormal" that brought the London crowds to the Grosvenor.<sup>4</sup> James shared Ruskin's distaste for this desire, which seemed vulgarly to commodify modern art as novelty for novelty's sake.

Ruskin was troubled in two distinct ways by Whistler's prominence in the gallery's first exhibition. The Grosvenor announced itself as both the definitive display of modern masterworks and a way of inserting the new painting into the marketplace. The paintings were, after all, for sale. Yet, Ruskin charged, this odd mixture of museum and shop kept Coutts Lindsay from recognizing his responsibilities as a shopkeeper. Speaking as a sort of consumer advocate, Ruskin chastised the would-be curator for not ensuring the quality of his merchandise, arguing that "just as the dealer in cheese or meat answers for the quality of those articles" so too must the art dealer (CW 29155). To the critic, the *Nocturne* seemed, like so much tainted meat, potentially a threat to the health of everyone passing through the doors of the Grosvenor.

Ruskin was, however, more deeply disturbed by the way in which Whistler's self-promoting modernity pandered to the appetite for novelty and peculiarity that brought so many Londoners to the gallery. Whistler seemed to be exploiting the troubling desire for images that viewers can neither use nor comprehend; hence his pictures opened up a gap between their market value and their utility. Unconcerned with her own perception of the *Nocturne*, Whistler's hypothetical buyer treasured the canvas because it seemed to have value in the eyes of others if only by virtue of its outrageous defiance of representational standards. The *Nocturne's* purchaser could not help but be a speculator, but Ruskin wanted an art shopper to "buy nothing with intent to sell again" and, if at all possible, to "buy it of the artist only, face to face" (CW 29154). The clarity of values in exchange was crucial in Ruskin's political economy. In *Unto This Last* he had defined wealth as "the possession of useful things, which we can use." Whistler's nocturnes proved that this is no taxonomy; people could indeed be made to buy things the use of which they could never really know. Economics properly understood recognizes that "consumption is the aim and end of production," but Whistler's brand of modernism encouraged and exploited the gap between buying and using, mystifying value where Ruskin expected it to be most clear (CW 9104).

Ruskin had begun his career in art criticism by trying to convince the British public that another painter whose works appeared illegible and poorly crafted was in fact producing works they could use. *Modern Painters* was devoted to showing exactly how Turner's

departures from conventional realism were in fact what gave his paintings their value. If Turner's more eccentric landscapes did not delineate objects clearly it was because they captured the violent movements of nature. Ruskin argued that this approach to "modern" painting forced the viewer to reconceive nature as a force or power and not just a collection of objects. The trouble with conventional landscapes in the tradition of Claude, he argued, was just that they blinded the viewer to nature by confronting her with objects too clearly delineated under atmospheric conditions too transparent to be real: "It cannot, I think, be expected that landscapes like this should have any effect on the human heart, except to harden or degrade it" (*CW* 3125). Ruskin wrote the five volumes of *Modern Painters* in the hope that he could educate the typical British eye to the point that it could take in both the scientific accuracy of Turner's landscapes and the moral lesson implicit in each canvas. In Ruskin's aesthetics, good taste was just the ability to see accurately and hence was inextricably bound up with moral vision. Bad art and good were both symptoms and causes of an individual's—and a nation's—moral and political condition. By learning how to read pictures like Turner's and in turn fostering the production of such images, the nation could provide itself with the means of self-improvement. Ruskin's defense of Turner can be seen as both a repudiation of sentimental tastes in landscape painting and a recuperation of the popular demand for both narrative and moralism in art.

Still, to an untrained eye, Whistler's nocturnes might seem to be merely a darker version of Turner's more extreme landscapes, and so Ruskin needed to establish an objective criterion that average viewers could use to determine whether they were being visually assaulted or not. He found it in what he termed the painting's composition, which he considered both a moral and a formal quality. In the final volume of *Modern Painters* he defined composition as "the help of everything in the picture by everything else" (*CW* 7205). The well-composed painting mimes the interdependence or organic integration of the natural world and is the result of both the artist's perception of the law of cooperation at work in the phenomena of the world and a conscientious effort to make that vision of integration visible to others. The successful artist is, therefore, equal parts visionary and craftsman; and the composition that distinguishes his

paintings is both a formal quality and the moral tale he has to tell. When Ruskin looked for an analogy for poorly composed pictures, he turned to the denaturalized landscape of industrial England: "the mud or slime of a damp, over-trodden path in the outskirts of a manufacturing town" is an instance of an unhelpful or disintegrated mixing of parts (*CW* 7207). It is as though the social relations surrounding industrial production had actually contaminated nature. Whistler's uncomposed *Nocturne* with its violent and unnatural mixture of colors seemed to Ruskin to be an example of an art that colludes with industry in the destruction of nature's moral example.

Ruskin found an alternative to Whistler's modernism in the Pre-Raphaelite paintings of Edward Burne-Jones also on display in the Grosvenor. The critic noted the "utmost conscience of care" visible in Burne-Jones's work; where Whistler seemed to have quickly flung paint onto his canvases, these paintings palpably displayed the expense of effort that went into their making (*CW* 29160). In praising Burne-Jones, however, Ruskin had little to say about his moral vision or his scientific accuracy. Ruskin was beginning to consider composition merely a formal property—the presence of craft but not vision—and to identify the use value of a painting with the spectacle of devoted labor it presented rather than the grand narrative it related.

Thus the case for the defense in the libel suit raised two related questions: Was Whistler's *Nocturne in Black and Gold* "composed"? Did he put any serious effort into its making? Ruskin's attorney noted that his client required from every artist "a laborious and perfect devotion to art" and expected to see the signs of that devotion inscribed on the canvases.<sup>5</sup> Testifying for the defense, Burne-Jones suggested that, though the nocturnes were "good in colour," they were "bewildering in form" and, as a group, represented just "one of a thousand failures to paint night." Whistler, he went on, "evaded the great difficulty of painting" when he passed these sketches off as finished work.<sup>6</sup> Ruskin's favorite described the work of his rival as arty but uncomposed, demonstrating a sense of visual values like color and atmosphere but lacking any deep-seated devotion to the craft of painting.

Whistler seemed to have helped the defense when he confessed in court that he could "knock off" a nocturne in a day or perhaps two. Indeed, what Ruskin called his "Cockney impudence" was in

part his refusal to be the sort of craftsman Ruskin wanted all artists to be. Instead of insisting on the amount of conscientious care and labor that went into each of his works, Whistler explained that his paintings were worth two hundred guineas because each of them had "the knowledge of a lifetime" behind it (GAME 5). To his modernist sensibility, art was not a labored production but a scientific experiment. As Whistler's lawyer described his client's practices, the painter had come up with "a theory of his own" that he followed "with earnestness, industry, and almost enthusiasm."<sup>7</sup> Each of his paintings, therefore, had value in relation to other works and to the possibilities of the medium in general. Values of this sort, Whistler maintained, appeared "only to those who understand the technical matter" (GAME 8).

The instructions the jurors were given made the verdict inevitable: "A critic should have full latitude to express the judgments he has formed" and can even use ridicule to make his point, the judge declared, but no one can use criticism as "a veil for personal censure" or criticize "merely for the love of exercising his powers of denunciation" (Adams 24). There may be art for art's sake, but not criticism for its own sake. Following the logic of libel law, the judge distinguished legitimate criticism that attended only to the work itself from the illegitimate effort to criticize the motives and character of the person behind the work, making clear to the jury that they were not just to determine the relative authority of two different varieties of expertise but that they were implicitly defining the kind of activity criticism properly is. The notion of criticism as merely the analysis of a work's objective features is at odds with Ruskin's belief that, at bottom, art is both a reflection of and an operation on a society's moral condition. It was inevitable that Ruskin would transgress the boundaries libel law establishes between private individual and public expression, person and work. The legal formalism that recognized an irreducible gap between alienable property and the individual ultimately limited the range of critical commentary.

Believing that every work was a performance the public could not understand much less objectively analyze, Whistler testified that "none but an artist can be a competent critic of art." Criticism is indeed necessary but its scope should be restricted to "technical criticism by a man whose life is passed in the science which he criticizes" (GAME 6). If Whistler's theoretical approach to painting

requires critical, rather than popular, appreciation, it nonetheless reduces the range of critical activity to the mere second-guessing of strategies and techniques. The artist refused to let the critic broach any of the larger questions about art's final purpose or social role. As a proponent of Gautier's *l'art pour l'art*, Whistler held that artists should never worry about what use their paintings may serve as they strive after purely aesthetic effects; thus, in his most radical description of the nocturnes as a group, he suggested that these paintings succeed in appealing to the viewer's visual sense without engaging the intellect. He told the jurors that his *Nocturne in Blue and Silver* was not intended to be a correct representation of *Battersea Bridge* by moonlight. "My whole scheme," he insisted, "was to bring about a harmony of color" (GAME 8). According to his testimony, the artist was never interested in clearly delineating objects in the real world, nor was he concerned to reproduce a prior act of vision; rather, he wanted to construct a visual experience for the viewer, performing a service that the viewer would in all likelihood never notice.

Whistler, consequently, had a very different understanding of the place of nature in the visual arts. The objects and phenomena of the natural world could no longer be considered art's privileged subject matter; they were instead a collection of raw materials the painter could use to bring off highly artificial visual effects. "Seldom does nature succeed in producing a picture," Whistler noted, and so the modern painter should take an anti-organic approach to composition rather than seek only to copy how colors and forms are organized in nature (GAME 143). In effect, Whistler was converting what Ruskin saw as the end of painting into its means and vice versa. He extended this reversal of purpose and instrument even to the human subjects of his canvases: "I care nothing for the past, present, or future of the black figure, placed there because black was wanted at that spot" (GAME 126). This seems to approach a dehumanizing technological appropriation as the human figure becomes merely a tool for distributing color around the canvas; thus he called his famous portrait of his mother *An Arrangement in Black and Gray*. Of course, that painting points to a gap between Whistler's theoretical claims about nonrepresentational art and his actual practice, which, even in the nocturnes, never dispensed with the subject. The painter was not so much giving up representation as he was distort-

ing its purpose and complicating the public's access to the object behind the image.

Whistler was in fact engaged in a struggle against what he understood as the dominant mode of reception and criticism, the literary interpretation of painting. Looking past the formal elements—the painterly concerns of color and mass—the typical critic saw only the story behind the picture. Whistler was willing to risk being entirely misunderstood in order to prevent his paintings from being so easily read. Recognizing this reduction of image to narrative as the repression of painting's real power, the artist claimed to “divest the picture of any outside anecdotal interest” (cited in Merrill 144). The nocturnes, therefore, are intended to make the viewer experience the difference between looking through a painting and actually seeing it as a work of visual art. What could be called the aura or form effect of one of Whistler's modern paintings is just its resistance to any easy translation of pictures into words or visual sensations into moral concepts. In this gap between looking through and truly appreciating pictures, another tension becomes evident. We see the hedonism of the modernist call for a purely visual pleasure and the abstract intellect at work in its means of production. The modern painting will immediately and physically gratify the eye even as its techniques and aesthetic merits remain inexplicable to the average viewer. If painting does perform a public service, it seems to be a sort of physical therapy that acts subliminally on its patient.

Ruskin's mistake, Whistler believed, was to imagine that by teaching the public how to read moral allegories into paintings, he could bridge the gap between the painter's intentions and the public's reception. “The gentle priest of the Philistines,” writing as an uncensored and uninitiated middleman, actually “widened the gulf between the people and the painter” (*GAME*150). The artist felt that the gap could never be bridged and assumed it was his responsibility to disabuse the public of any illusion that it had been: art was something the typical person would never really understand.

To this end, in his “Ten O'Clock Lecture,” delivered in the aftermath of the libel suit, Whistler attacked the central premises of Ruskin's approach to art history: “There never was an artistic period. There never was an art-loving nation” (*GAME*139). If Ruskin hoped to create another golden age for art by educating the public eye to the standards of the best art, Whistler was resigned to the fact that

artists would never give the people what they wanted. Throughout the course of history the artist stood in the same alienated relation to society. The first artist, according to Whistler's theory, was a nonproductive, feminine figure who “strayed by the tents with the women and traced strange devices with a burnt stick on a gourd” (*GAME*139). Investing useful objects with a supplementary value that is unnecessary and largely unnoticed, this primordial artist—and any one who follows in his path—stands at odds with the interests of the tribe. Therefore we can assume no necessary relation between a given form of society or mode of production and the making of interesting art. As Whistler put it, “Art happens. No hovel is safe from it, no Prince may depend upon it” (*GAME*150). It is an ahistorical, universal resistance to notions of utility and instrumentality.

Whistler, of course, anticipated the founding gesture of the NEA by imagining a barrier separating art from ideological argument even as he suggested that governments can never really subsidize art. The artistic masterpiece is, he insisted, “no more the product of civilization than the scientific truth is dependent upon the wisdom of a period” (*GAME*155). Whistler presented himself as the consummate professional, a master of all studio techniques who was accountable for every step in the composition process. He made his own brushes and frames and attempted to govern exactly where and how his pictures would be shown in an effort to make every step count as a clear, consciously considered choice. The difficulty of the artist's job is precisely this unrelenting decision making, not the mere expenditure of physical labor. To purify this process, the artist requires autonomy. The very presence of the public or the critic in studios and galleries is a threat to rational composition. “An inroad into the laboratory would be locked upon as an intrusion; but before the triumphs of Art, the expounder is at ease” (*GAME*33). This appeal to the scientist's workplace portrays Ruskin and others of his ilk as interlopers disrupting the scene of artistic production, but Whistler was conflating the scene of production proper (the studio) with the scene of display and consumption (the gallery). The implication is that it is just as crucial to police the public's response to the finished work as it is to keep prying eyes out of the artist's laboratory. Under the logic of professionalism, as the artist becomes more autonomous and accountable, he is increasingly insulated from the public, and Ruskin's presence at the Grosvenor seems just

as problematic as that of the woman Henry James overheard, his criticisms of no more import than her wish for novelty.

In fact, one of the nocturnes was entered in court as evidence upside down. Apparently no one noticed except Whistler, and he seemed not to care, not because he thought the nocturnes could be hung any way, but because, to his mind, modern art simply could not be seen in a courtroom. It only becomes visible in a museum and then only to the few who know how to look. But if aesthetic values cannot appear in court, why did Whistler bother to sue Ruskin in the first place and risk becoming a caricature in the popular press as the trial turned into a media event?

Perhaps we can find a clue in Oscar Wilde's humorous review of Whistler's lecture. Wilde heard Whistler argue that "the slightest appearance among a civilized people of any interest in beautiful things is a grave impertinence to all painters." The painter "explained to the public that the only thing they should cultivate was ugliness, and that on their permanent stupidity rested all hope of art in the future." Wilde surmised that Whistler's audience "was extremely gratified at being rid of the awful obligation of admiring anything."<sup>38</sup> They are left blind and happy by the very logic of modern art. Thus Whistler's day in court must be seen in retrospect as an unqualified success for the painter and his supporters. By simultaneously granting him autonomy and refusing to recognize the value of his work, the jurors found a way not to have to worry about hating, loving, or fearing art, while the modern painter found a way of protecting his work from the bourgeois appetite for moralistic narrative by insisting on his own superficiality.

The duplicity of the verdict—art is autonomous and valueless—reflects the doubleness in Whistler's carefully cultivated public persona. He insisted on presenting himself to the jury as both a professional and a dandy, accountable for every step in the composition process yet throwing off paintings with little effort or thought, performing a public service but with no apparent concern for the consequences. If Whistler tried to place art within rationalized production, he did so subversively, by mining its instrumental logic and making a fetish of technique while foreclosing any discussion of use. What makes Whistler's performance at the trial so fascinating is his refusal to dispel the fear that his modern art might be a hoax after all. Like Poe before him, Whistler appeared as both scientist

and humbug, his work constantly confusing rationality and unreason. When Whistler undermined the process of consuming pictures by giving a glimpse instead of a gulp, he provided what Adorno calls a determinate negation of the system of industrial production; it is the modernist formula for keeping art both protected and offensive and stands in marked contrast to Ruskin's notion of an art that would itself police and purify relations of production and consumption and to the postmodern effort to forge an antiaesthetic art.

For Henry James, Whistler's nocturnes could only be appreciated as "incidents of furniture or decoration" (*PE* 165); their presence in the Grosvenor exhibit served only to confuse works of art with ordinary commodities like wallpaper. Yet in his most famous theoretical statement, the novelist seems to have aligned himself with Whistler: "We must grant the artist his subject, his idea, his *donnée*; our criticism is applied only to what he makes of it."<sup>39</sup> In other words, James would have the critic attend only to questions of execution and treatment, and he wants to expand the reading public's sense of what counts as a literary subject or story. Still, disturbed by Whistler's effort to reduce the authority of the critic and limit the range of his commentary, the novelist goes on to say, "Art lives upon discussion . . . upon the exchange of views and the comparison of standpoints" (*PP* 376). If the critic's work is parasitic on the artist's, the artist is, at least to this extent, parasitic on the critic. James was concerned, I would suggest, with reestablishing the role of criticism as a means of regulating artistic production in the wake of Ruskin's libel. He agreed with Whistler that, while art itself is "one of the necessities of life," criticism is no more than "an agreeable luxury" (*PE* 177). But, as he reflected on the critic's role in the modern marketplace where novels and paintings are mass produced, he came to advocate a paradox: criticism is an essential luxury, secondary but nonetheless requisite. James resolved this paradox by conceiving the critic's office as fundamentally sacrificial. It is his job to understand and experience for others too busy or too distracted to encounter art themselves. The critic is then the artist's exemplary audience and, increasingly, the public consumes only vicariously through him. In this view, the critic cannot be said to judge the work according to a set of universal standards as Ruskin believed he did; instead, the critic masters the practice of consuming art.

Jamesian criticism, therefore, is not the closed conversation among

professionals Whistler envisioned. It is, rather, the primary means for recuperating the relation between the artistic work and its world. Yet the reading public must feel more and more tempted to consume vicariously through the critic, consuming the consumption of art as they read only criticism. One way of reading James's late fictions is to see them as essentially fables of the critical office, dramatizing the danger implicit in it. Narrating his tales through the eyes and minds of partially detached observers, the novelist suggested that it is difficult if not impossible to distinguish consuming a story from creating it. Indeed, his late style is as modern as Whistler's because it conflates luxury and essence, production and consumption.

In an effort to escape the paradoxes implicit in the aesthetic ideology of modernism, recent artists have sought to break down the wall between the gallery and the outside world Whistler helped to construct. Believing that the ideals of disinterest and autonomy stand in the way of artistic production and troubled by the unacknowledged affinities between Whistler's rationalized professionalism and contemporary modes of social domination, postmodern artists reject modernist logics of display and evaluation. Yet defenders of postmodernism acknowledge that we cannot quite do without the museum: "If it was true that much art could be seen as art only within the museum, it was also true that much art (often the same) was critical of the museum."<sup>10</sup> Hal Foster has argued that this contradiction is resolved in the postmodernist's "dialectical supersession of modernism."<sup>11</sup> What this means is that each new work comes into being as a direct challenge to the founding distinctions of modernism: these antiaesthetic or antiauratic projects are only original when they call attention to their derivativeness, can only have integrity when they violate the limits of any given medium, and can only be serious by being irreverent. They are, in short, antimodern by virtue of being thoroughly antiprofessional.

The problem, however, is how to distinguish works engaged in a serious rethinking of art as a cultural institution from those that merely exploit the fluidity of forms in our postindustrial, multimedia world. Can we talk about the artistic merit of avowedly antiaesthetic works? The only possible answer is that the best art is art that resists most powerfully the canons of taste and evaluation. Postmod-

ernism, therefore, risks making a fetish of resistance where modernism fetishized technique.

My intent in discussing the Cincinnati trial is to point out that work that could be called postmodern was protected there by an appeal to the modernist ideology of art. Mapplethorpe's images are actually quite easily assimilated into the modernist canon. Self-consciously arty treatments of nontraditional subjects, the photographs are marked by a tension between form and content. As the jury recognized, just because these are black and white images they seem more like art, offering the viewer a distanced, mediated encounter with the objects and events instead of pornography's immediacy. One of the city's disappointed crusaders for decency implicitly acknowledged this as he vowed to continue the fight: "If they come back with those pictures and they're in color or are bigger, our citizens will demand that it go to a grand jury."<sup>12</sup> Under the modernist logic that identifies art with the difficult and the distant, the more simulacral works are the less likely that they will be protected as art.

This may be why the attacks of cultural conservatives have centered on performance art as well as photography; "live" performances seem less mediated and more easily reducible to their "meaning" or "value content" to a public brought up on Whistlerian notions of the art object. The defense of artists who have been denied funds by the NEA four has more often than not turned on questions of free speech and the constitutional right to self-expression. At a time when it is increasingly difficult to distinguish speech from action, performance art can easily be defended as symbolic conduct, like burning a cross or a flag. But this defense is beside the point since it offers no response to the conservative argument that there is no reason for funding this particular speech by calling it "art." The issue becomes particularly cloudy when self-styled "post-porn modernist" Annie Sprinkle puts on a performance at the Kitchen—an NEA-funded New York performance space—that is largely indistinguishable from the one she puts on at a *Screw* magazine party. The Kitchen's director insists that the performances were different simply because one took place "in an art context."<sup>13</sup> As Sprinkle told one critic, the audience at the Kitchen was willing to regard her performance "From lots of different perspectives."<sup>14</sup> This defense actually recuperates the modernist aesthetic, merely relocating "form" in the response of the audience. Champions of postmod-

ernism like to believe that these new forms of art resist outdated legal and aesthetic categories, forcing critics to reconceive what the art object is and can be. But I am suggesting that "art" remains the same disinterested interest; it is merely located more absolutely in the consuming subject. Commenting on the Cincinnati trial, conservative constitutional lawyer Bruce Fein seems to recognize this: "People don't usually walk into museums to have their prurient interests aroused."<sup>15</sup> The question is not what is shown but to whom it is shown and under what conditions. This virtually removes all formal grounds for censorship (anything is art if it is found in an art gallery, and an art gallery is wherever art lovers gather to respond aesthetically to objects). At the same time, this argument suggests an alternative justification for the NEA: what is being funded is not today's masterpiece (with a special relation to the tradition); rather, the government is sponsoring aesthetic responses, giving more people the opportunity to be Jamesian critics and disseminating the critical office that both Whistler and Ruskin wanted to monopolize.

## NOTES

1. Cited in Edward De Grazia, "Girls Lean Back Everywhere": *The Law of Obscenity and the Assault on Genius* (New York: Random House, 1992), 655. De Grazia offers a fairly extensive account of the Cincinnati trial and the ensuing attacks on the NEA.
2. "Life Guards of the New Life," *Fors Clavigera* Letter 79 in *The Complete Works of John Ruskin*, ed. E. T. Cook and Alexander Wedderburn (London: George Allen, 1903-12) vol. 29, 146-69 (this passage, 160). Subsequent quotations from Ruskin will be taken from this collection, abbreviated as *CW* followed by volume and page numbers.
3. Arthur Symons, *Studies in the Seven Arts*, in *The Collected Works of Arthur Symons* (London: Martin Secker, 1906, reprinted 1967), vol. 9, 35.
4. Henry James, *The Painter's Eye: Notes and Essays on the Pictorial Arts*, ed. John L. Sweeney (Cambridge, Mass.: R. Hart-Davis, 1956), 161. Subsequent references to this volume will be abbreviated *PE*.
5. Cited in Laurie Adams, *Art on Trial: From Whistler to Rothko* (New York: Walker, 1976), 17.
6. Cited by Whistler in *The Gentle Art of Making Enemies* (London: Heinemann, 1892, reprinted New York: Dover, 1967), 15. Subsequent references to this volume will appear parenthetically as *GAME*.
7. Cited in Linda Merrill, *A Pot of Paint: Aesthetics on Trial in Whistler v. Ruskin* (Washington, D.C.: Smithsonian Institution Press, 1992), 138. Merrill offers by far the most complete account of the trial.
8. "Mr. Whistler's Ten O'Clock," in *The Artist as Critic: Critical Writings of Oscar Wilde*, ed. Richard Ellmann (New York: Random House, 1969; reprinted Chicago: University of Chicago Press, 1982), 14.
9. Henry James, *Partial Portraits* (New York: Macmillan, 1889; reprinted Ann Arbor: University of Michigan Press, 1970), 394. Subsequent references will be abbreviated *PP*.

10. Hal Foster, "Postmodernism: A Preface," in *The Anti-Aesthetic: Essays on Postmodern Culture*, ed. Hal Foster (Port Townsend, Wash.: Bay Press, 1983), 14.

11. *Ibid.*, 14.

12. De Grazia, *Girls Lean Back*, 655-56.

13. Cited in Amy Adler, "Art and Obscenity," *Yale Law Journal* 99: 1359-78, 1370.

14. *Ibid.*

15. De Grazia, *Girls Lean Back*, 653.