

## A Critique of Levinson

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Ever since Morris Weitz in his classic 1956 paper “The Role of Theory in Aesthetics” condemned the classical sense of defining art in essentialist terms, philosophers, aestheticians, and art critics alike have increasingly concentrated upon limit cases. Weitz, influenced by Wittgenstein,<sup>1</sup> presented an argument that pointed out the shortcomings of popular definitions of art. These definitions failed because they either neglected to capture features common to all works of art, neglected to capture features particular to certain artworks, or misconstrued the logic of the concept of art (Weitz, “The Role of Theory in Aesthetics”).<sup>2</sup> Scholars were left trying to deduce a non-emotivist definition of art that was neither mimetic (as in Plato), formal (as in Clive Bell), or expressive (as in Leo Tolstoy). Furthermore, according to Weitz, any new definition should remain “open” in that it must allow for creative novelties (Weitz 189).

Now, what such creative novelties are we talking about? Well, to give an example, in the early twentieth century the expression of art’s limits became commonplace within the art world. Artists such as Marcel Duchamp, Richard Hamilton, Jasper Johns, and Andy Warhol introduced artworks that pushed the envelope from within. Their idea: “let’s produce

<sup>1</sup> Wittgenstein argued that essentialism (the Platonic idea that words are relations to the real world, corresponding one-to-one) fails in that many words simply present family relations, not one simple uniform thread (Wittgenstein, *Philosophical Investigations* 65–75).

<sup>2</sup> This work will be referred to by the author’s last name followed by the page number on which the cited material occurs.

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works in some procedure [and see] whether art succeeds in incorporating it.” Interestingly enough, Weitz’s theory succeeded in incorporating these revolutionary artworks.<sup>3</sup> However, Weitz’s theory was only successful because it set no limits at all (Mandelbaum, “Family Resemblances and Generalizations Concerning the Arts”). Thus, much current aesthetic theory has reverted back to its essentialist roots, albeit attempting to arrive at a definition of art that defeats the proposed errors in essentialism by maintaining that definitions do not exist within essences. Anti-anti-essentialism occupies the middle ground, standing somewhere in between essentialism and anti-essentialism because it defines art while maintaining an “open” conception thereof. In response to anti-anti-essentialism, definitions of art such as Dickie’s institutional theory, Gaut’s cluster concept, Eaton’s culturally advanced notion, and, most significantly for this paper, Levinson’s historical definition have been proposed.<sup>4</sup> In what follows, I will both present an analysis of Levinson’s historical definition of art and will assess the relevant objections. This analysis will be threefold since I will be considering three different types of objections to Levinson: those regarding the *ur*-arts, the implausibility of an intrinsic recursive definition, and the disadvantages of an intentionalist-historicist account.<sup>5</sup> In culmination, I will argue that, although Levinson’s historical definition of art seems to defeat many of the objections that have been raised against it and is not irreparable, his definition ultimately fails to address a contradiction within his intentionalist-historicist framework, specifically that between a proprietary right and the liberalized version of regard-as-a-work-of-art.

So, to begin, let’s give a brief account of Levinson’s historical definition and how it came about. Levinson’s historical definition of art, in fact, actually stemmed from an objection that he had to George Dickie’s institutional theory of art (“Defining Art Historically” 213–33).<sup>6</sup> Roughly, Dickie’s institutional theory maintained that relations to the art world “are

<sup>3</sup> Note that I have not given Weitz’s theory. It is irrelevant to the point that I am making, namely that Weitz’s theory succeeded in assimilating revolutionary artworks, artworks generally not easily assimilated.

<sup>4</sup> Levinson notes that he now believes that his definition should have been denominated “retrospectivist” or “auto-referentialist” (rather than “historicist”), as to avoid associations with robust dialectical-synthetic historicist accounts such as those of Hegel and Danto.

<sup>5</sup> Although what I offer here is by no means a comprehensive account of all of the objections made against Levinson, they are the ones most detrimental to his historical definition.

<sup>6</sup> This work and all others by Levinson will be referred to by title and page number.

the criteria by which art is defined.” But Levinson objected on two accounts. First, Levinson objected to the alleged necessity of an artistic cultural performance. Art, according to Levinson, can be private and therefore depends upon no one but the artist and the potential viewer’s regard (“Defining Art Historically” 225).<sup>7</sup> According to Dickie’s theory, neither a child’s drawing nor his mother’s macramé can be considered art because they were not presented to an artistic institution. Hence, Dickie’s theory is over-restrictive. Second, Levinson presents a *reductio ad absurdum*. If the presentation of artwork is what defines artwork and if it is up to the art world to present the piece, which depends upon the art world’s appreciation of that piece, is not the institutional theory just a dressed-up way of equating artwork with the appreciation thereof (“Defining Art Historically” 225)? Thus, the implications of Dickie’s theory fall victim to the same limiting problems that destroyed essentialism.

However, Dickie’s theory did contain the framework from which Levinson’s hypothesis began: the definition of art in terms of non-exhibited properties, defined relationally (“Defining Art Historically” 224). Specifically, Levinson’s move away from Dickie took shape from Levinson’s intent to present artwork that is historically defined, rather than artwork that is presented to an “art world.” Furthermore, what specifies the relation is that it is intended to be presented within a historical context rather than the physical act of presentation to any establishment (“Defining Art Historically” 225). According to Levinson’s formal definition:

(I) *x* is an artwork if and only if *x* is an object that a person or persons, having the appropriate proprietary right over *x*, non-passingly intend for regard-as-a-work-of-art, i.e., regard in any way (or ways) in which prior artworks are or were standardly regarded (“Defining Art Historically” 227).

Notice that the definition remains “open” by having no intrinsic essentialist criteria, but it is limited in that it is exclusive to a historical connotation (“Defining Art Historically” 226). Levinson’s theory initially surpasses his objections to Dickie. For example, suppose a caveman time-traveled to our current times. Would he regard our architecture, our paintings, or

<sup>7</sup> Note, however, that although regard-as-a-work-of-art may entail an exhibit to a third party to qualify as art, Levinson’s theory is not dependent upon some type of cultural performance or presentation.

Warhol's *Brillo Box* as works of art? Certainly not! The term would have no meaning to him. Art without its historical connotation is meaningless because art depends upon both the existence of earlier art and the traditions of regarding that earlier art in particular ways.

But then two obvious questions arise. First, who qualifies as an art-aware maker? Second, since those most knowledgeable of art history are most commonly members of an artistic institution, how does this definition differ from Dickie's? Levinson answers that art-aware makers are simply those individuals who connect their creation to what art has been; if they are not doing this, they are not consciously producing art ("Defining Art Historically" 227).<sup>8</sup> This does not, however, limit our definition to the fully art-knowledgeable, for even a child painting in a kindergarten classroom knows enough about the historical content of art to intend for his painting to be regarded as an artwork as opposed to an article of clothing ("Art Historically Defined: Reply to Oppy" 155). So, Levinson defines "intends for" as that which "makes, appropriates, or concedes for the purpose of" in order to comprehend fashioned, found, and conceptual art ("Defining Art Historically" 228). Furthermore, this intent must be static rather than transient: if someone were to say, "I want to regard *x* as a piece of art," *x* must be in the person's possession, mentally and physically, for a sufficient amount of time before regard-for-*x* becomes effective ("Defining Art Historically" 228).<sup>9</sup>

Also, one must regard past art standardly rather than commonly or passingly ("Defining Art Historically" 228).<sup>10</sup> Although Levinson gives no specific criteria for regarding artworks correctly, he does cite five relevant considerations: how the artist intended his work to be regarded; what manner of regard is most rewarding; kinds of regard similar objects have enjoyed; the optimum regard for realizing the ends which the artist had in

<sup>8</sup> For example, if our caveman were to throw a bucket of paint onto his bed, the product would not be art. This is because the caveman, not being aware of producing art as it has traditionally been regarded, could not have intended it to be art.

<sup>9</sup> In saying "effective," Levinson means "serious and stable" ("Extending Art Historically" 417). Levinson mentions this only in passing, but what I gather from the stipulation is that one must really mean to regard something. In other words, a man passing by his kitchen counter cannot simply point to the object and state that he intends to regard it as art; he must be sincere.

<sup>10</sup> The word "passingly" is a technical term used by Levinson. However, it does not carry much relevance within our current discussion.

mind for appreciation; and what makes for the best development of art (“Defining Art Historically” 228).

But Levinson continues his discussion by adding that the definition includes a proprietary-right condition, meaning that one cannot regard-as-a-work-of-art an object that one does not own (“Defining Art Historically” 228). This is not to be confused, however, with objects that the artist points to or represents, such as occurs in the various conceptual arts (“Defining Art Historically” 228). Furthermore, curators, promoters, and exhibitors cannot turn non-art objects of the past into art (“Defining Art Historically” 229). For example, suppose a caveman, Laurence, brings with him a piece of finely decorated loincloth. As Laurence no longer needs his old loincloth, an art gallery promoter presents it as a piece of art. But Laurence demands the removal of his loincloth from the art gallery walls, claiming that it is a spiritual object not meant for public admiration. We are left with a dilemma. How can an object mounted for regard-as-a-work-of-art simply revert back into being non-art? Simply put, it does not. “It never was art at all, because our present art establishment unknowingly lacked the [proprietary] right to make it such” (“Defining Art Historically” 229). However, this proprietary-right condition does have one exception. Owners unopposed to the intention may grant someone permission to deem their possessions artworks (“Defining Art Historically” 228). This is essentially what happens when an artist is commissioned to create a work of art. Although the sculptor’s marble is not *her* possession, the owner willed it to be granted to her.

Note also that, for an artist to intend for regard-as-a-work-of-art, the intent must meet one of three criteria:

1. *Specific art-conscious intention*: The intent to regard-as-a-work-of-art in the specific way in which some particular artworks or class of artworks have been correctly regarded.
2. *Non-specific art conscious intention*: The intent to regard artwork as past artworks have been correctly regarded, having no specific ones in mind.

3. *Art-unconscious intention*: The intent to regard in some specific way  $x$ , characterized in terms of intrinsic features, where  $x$  is unconsciously a way in which art has correctly been regarded (“Defining Art Historically” 229).

According to these criteria, one may intend either referentially (1 and 2) or transparently (3), allowing for conscious intention or naïveté (“Defining Art Historically” 229). Although Levinson’s idea of *art-unconscious intention* may seem complex, it is really quite simple. Say, for instance, that Laurence, realizing that he was in a strange world and needing to represent the strange futuristic objects that he had been exposed to, began painting mimetic pictures. In this case, since Laurence’s intent for regard was one in which art has historically been regarded, he has unconsciously created art.

But now we ask the question, what about time? Does Levinson’s theory carry time-dependent qualifications? In brief, on Levinson’s theory, “an object can be an artwork at one time and not another” (“Defining Art Historically” 230). This may happen in one of two ways. First, an object may not be an artwork at its creation but may become one at a later date, specifically after the artist has added his intent for regard-as-a-work-of-art into the work’s constitution (“Defining Art Historically” 230). An example is Duchamp’s *In Advance of the Broken Arm*. The shovel had previously existed in a hardware store amongst similar snow shovels before Duchamp had intended it for regard-as-a-work-of-art. However, once he bought the object and intended it to be regarded in a specific way, it became art, even though the physical composition of the object did not change at all. Second, an object may become art after its creation if the history of art catches up with what the object’s creator was involved in (“Defining Art Historically” 231). In other words,  $x$  may become art because it was intended to be regarded in a way  $y$  that is one way in which we presently regard artworks, though  $y$  may not have been a way in which art was correctly regarded at the time of  $x$ ’s creation. For example, a caveman’s mimetic paintings may not have been considered artworks in 800 BC, just as commonplace roadmaps are not considered artworks today. Nonetheless, because intent for regard as mimesis is a subset of where our regard-as-a-work-of-art has evolved since 800 BC, the caveman’s mimetic

paintings would become art if anthropologists uncovered them today (“Art Historically Defined: Reply to Oppy” 154).<sup>11</sup>

Levinson also asserts that what art becomes through a historical evolution “depends conceptually, not just causally, on what art has been” (“Defining Art Historically” 234). This is part of the reflexive nature of the theory as it is construed upon *intent* rather than intrinsic or extrinsic *qualities* of specific artworks. So, working recursively, one may expect to discover one type of intent that was regarded as art from which all art stemmed, the so-called “*ur-arts*” (“Defining Art Historically” 234). According to Levinson’s definition, an object becomes an artwork when its intent is related recursively to the purposes of some *ur-art* of our tradition and when it descends via intentional relations which invoke previous correct regards. As Levinson says:

(II) Initial Step: Objects of the *ur-arts* are artworks at  $t_0$  and thereafter (let  $t_0$  be the time roughly at which the *ur-arts* began spawning the non-*ur-art* artworks). Recursive Step: If  $x$  is an artwork prior to  $t$ , then  $y$  is an artwork at  $t$  if it is true at  $t$  that some person or persons, having the appropriate proprietary right over  $y$ , non-passingly intends (or intended),  $y$  for regard in any way (or ways) in which  $x$  was properly regarded (“Defining Art Historically” 235).

But, again, this brings up a fairly obvious question: how does a reflexive definition of art allow for revolutionary artworks, artworks intended for treatment in a manner distinct from their predecessors (“Defining Art Historically” 233)? Levinson presents two methods that may accomplish this. First, for artists to make “art” despite the revolutionary aspect desired, they must initially direct their audience relative to their work in a way that artworks have previously been regarded (“Defining Art Historically” 233). For example, some, in fact most, artistic movements are revolutionary in a weak sense; impressionist paintings were meant to be regarded in some new specific aspect that was previously not a part of *our* history of regard-as-a-work-of-art (“Defining Art Historically” 232). However, some contemporary movements (such as Dadaism) which attempt to deny the applicability of all past ways of taking art objects require a second method, a method called the “liberalized version of

<sup>11</sup> Assume that Laurence had intended the works to be mimetic rather than spiritual, operable, or some other type of regard that is not historically part of our regard-as-a-work-of-art.

regard-as-a-work-of-art.”<sup>12</sup> This method says to “regard [artworks] in any way (or ways) in which prior artworks are or were standardly regarded or [regard artworks] *in some other way in contrast to and against the background of those ways*” (“Defining Art Historically” 233). Thus, instead of limiting the notion of regard-as-a-work-of-art to artworks as they have been properly regarded in the past, it is extended to admit entirely unpredicted types of regard so long as the artist intends to take up regards in conscious opposition to those past correct ways. Consequently, intent for regard-as-a-work-of-art becomes a relational (albeit confrontational) rather than a teleological construction. If the artist at least consciously nods in the direction of past art, her intent for regard is sufficient to grant that the object be regarded as revolutionary art (“Defining Art Historically” 233).

Now that we have established Levinson’s theory, we must test it by considering relevant objections. The first major objection is Steven Davies’s objection, which concerns the historical chain of the *ur*-arts. He states that “first art must be art already at the time second wave [that is, non-*ur*-art] pieces become art, otherwise second wave pieces could not be art as the result of standing to first art in the art-defining relation” (Davies, “First Art and Art’s Definition” 21).<sup>13</sup> According to Davies, Levinson’s theory offers no explanations as to how the *ur*-arts came about, what they are, or how a recursive definition can ultimately depend upon such a vague and undefined idea. Levinson does offer a solution: *ur*-art procures its art status *ex post facto*, subsequent to founding of the art tradition from which it stemmed (“Art Historically Defined: Reply to Oppy” 157). However, as Davies points out, this conception of the *ur*-arts conflicts with a recursive definition, as it is only retrospectively, following the historical chain of regard-as-a-work-of-art, that one may deductively *identify* the *ur*-arts. It is not a matter of their retroactively *becoming* those *ur*-arts (“First Art and Art’s Definition” 24). Thus, not only do we need an explanation of the *ur*-arts, we also need one that is recursive.

<sup>12</sup> It’s unlikely that Levinson believes that this strategy is essential since he denies that revolutionary artists have this intent: “The art-making intention of consciously revolutionary artists may thus have to be a covertly disingenuous one, somewhat along these lines: my object is for regarding in any way artworks have been regarded in the past (but with the expectation that this will prove frustrating or unrewarding, thus prodding the spectator to adopt some other point of view—this being my ultimate intention” (“Defining Art Historically” 223).

<sup>13</sup> This work and Davies’s *Definitions of Art* will be cited by title followed by page number.



Although Davies's objection may seem convincing, it is refutable. Although the *ur*-arts do require some type of intent for them to be *ur*-arts, they do not necessarily need to be regarded in the same way in which subsequent art is regarded. This is because there was no art that preceded them ("The Irreducible Historicality of the Concept of Art" 370–71). The intent that led to the *ur*-arts was original, as were the *ur*-arts themselves, but the *ur*-arts were not artworks in the proper sense because they could not be regarded in the same way that preceding artworks were, because there were no preceding artworks. Thus, the temporal projection takes place as follows: intent for regard in a specific way, *ur*-arts, intent for regard in the way *ur*-arts are regarded, first artwork, and intent for regard as previous artworks were correctly regarded, artwork, and so on.

But attacks on Levinson's theory do not stop there. Victor Haines has raised two important counterexamples to Levinson's intrinsic recursive definition, one concerning quasi-dollars and the other concerning quasi-vessels:

1. Dollar bills printed by the mint to be regarded as currency that cannot be counterfeited, for example, might be art because it is discovered in some ancient culture that the medium of exchange was art correctly and integrally regarded for its qualities as such a medium (Haines, "Refining Not Defining Art Historically," 237).<sup>14</sup>

2. Similarly, bottles and pots intended for regard as functional vessels to hold stuff may be art because in some previous culture containers were art correctly and integrally regarded for the way they hold stuff (Haines 238).

Both of these supposed counterexamples, though, mistakenly suppose that quasi-dollars and quasi-vessels are correctly regarded as works of art ("A Further Fire: Reply to Haines" 77). For example, if a Chevrolet El Camino were simultaneously regarded as a truck and as a car,<sup>15</sup> then there must be some other regard (a truck bed) that warrants its status as a truck, aside from a car body (which guaranteed only its status as a car). In other words, if quasi-dollars were art, there must be some reason why they are regarded as art (rather than as currency that could not be counterfeited)

<sup>14</sup> This work will be referred to by author's last name and page number.

<sup>15</sup> This is a car combined with a truck. It has the body of a car and the bed of a truck.

which goes beyond their regard as currency. Haines has not shown how this is possible (“A Further Fire: Reply to Haines” 77). Although anything has the potential of becoming art, it is not very likely considering the strict recursive criterion, namely a regressive chain from current regard-as-a-work-of-art to one or more *ur*-art, which the object must meet. Moreover, if the culture that regarded quasi-dollars and quasi-vessels as art were purely alien, so that it would not be involved in our current regard-as-a-work-of-art in the evolutionary sense, then there is no reason to regard quasi-dollars and quasi-vessels as artworks within our culture (“A Further Fire: Reply to Haines” 77).<sup>16</sup> Although Levinson’s definition may be recursively applied to other cultures as well, it is “our concept—the Western, Renaissance-derived notion whose current state of evolution [he] was trying to analyze” (“Extending Art Historically” 413).

Other objections to Levinson involve our ability to identify artworks. According to Robert Stecker, we may never be certain whether particular objects, especially those far abstracted from us in time or place, are truly works of art (Stecker, “The Boundaries of Art” 269). Because it is almost impossible to obtain and follow a chain of causality, as one could do with questionable present-day artworks, it would be impossible to envision the intent for regard with which these far-removed objects were created. So Levinson’s intentionalist-historicist account must clearly be wrong.

This objection is persuasive because, as is noted by many philosophers of history,<sup>17</sup> we may never know for certain whether an event of the past was intentional, undesigned, religious, and so forth—intent is irrecoverable. Nevertheless, do we stop trying to deduce historical causation because of the difficulties thereof? Certainly not! Why should the case be any different with artistic intent? Moreover, there can be no doubt as to whether works such as the *Odyssey* were produced with at least a generous number of intentions that we now view as paradigmatically art-making. Most could assume that those intentions were grounded in, and implicitly referential to, those of some earlier enterprise (“Extending Art Historically” 414). Moreover,

<sup>16</sup> This is because, just as in geological evolution, the development from the *ur*-arts to our present-day regard-as-a-work-of-art, if isolated, plausibly developed completely unique types of regard. Essentially Haines is asking the wrong question. Rather than giving us a way to incorporate a newly discovered culture’s art into our own definition, Levinson is giving us a way to define our own art (as well as others) historically, given that it is restricted to their specific recursive account.

<sup>17</sup> See W. H. Dray, Carl Hempel, Michael Oakeshott, and Michael Stafford.

given its axiomatic qualities such as exquisite form, extended imagery, and detailed characterizations, there is hardly a way in which we could mistake the work for some other intention.<sup>18</sup> Similarly, we know that the *Odyssey* must have been embedded in a tradition of anterior endeavors that were regulated by certain intentions that we correctly label artistic (“Extending Art Historically” 414). Even if Homer’s *Odyssey* were to be regarded as a religious object or a mere chronicle of events, the way that it is written suggests not a single, isolated regard, but a complete ensemble of regards, an ensemble that would include, among its many regards, regard-as-a-work-of-art (“The Irreducible Historicity of the Concept of Art” 370; “Refining Art Historically” 24).

Stephen Davies raises another objection against Levinson’s intentionalist-historicist account:

It becomes difficult to see how Levinson can distinguish the following cases: (a) that in which an artist creates an artwork in the manner in which Levinson suggests; (b) that in which an artist intends something to be viewed as a work of art (and thereby to make it one), when in fact, unbeknown to the artist, it is one already (*Definitions of Art* 171).

So Davies raises the point of a conflict between a constitutive intention and the nettled issue of proprietary-right conditions. If an object is already an artwork in the correct historical sense, can another artist transform it into another distinct work of art?<sup>19</sup> Moreover, can he do so if he does it unknowingly but nevertheless without a proprietary right over the object?

In order to answer this question, one must first consider the ontology of the art-making involved. Is the artwork simply being used in a conceptual performance through being incorporated, unharmed, into another artwork, or is it being altered beyond the replacement of the original artifact? If the former then, because the second order artwork is simply being erected upon the framework of another artwork without canceling the first order work’s status, there seems to be no problem of a proprietary right

<sup>18</sup> Note here that it would not matter if Homer’s intent was to be artistic at that time, as these intents for regard are ones that we currently espouse as historically defined artistic regards (See art-unconscious intention above).

<sup>19</sup> See, for example, *Erased de Kooning Drawing*, 1953, in Battin, Fisher, Moore, and Silvers’s *Puzzles about Art: An Aesthetics Casebook* 24 (hereafter referred to by authors’ names and page number).

(“Extending Art Historically” 416). However, if the latter, the artist does have a proprietary-right problem. A commandeered artwork which is physically altered, even if negligently obtained, is still a violation of a proprietary right, and therefore cannot be deemed an artwork (“Extending Art Historically” 417). For example, if I were to dance the Macarena in my bedroom but then add a few elbow touches and knee slaps, the artwork, the Macarena itself, would not be damaged—the art-making therefore goes on unimpeded. However, if I were to expropriate the Macarena, to change the Macarena itself to include my elbow touches and knee slaps into the dance, as it is understood within the fine art tradition broadly construed, the Macarena itself would be damaged, and my alteration is therefore detrimental to its creators’ intentions. No matter what the improvement, if a proprietary right is violated, the offending work is necessarily not a work of art (“Defining Art Historically” 228).

Davies offers another, final counterexample to Levinson’s account, a counterexample worthy of our attention. It is as follows:

There is nothing to stop an aesthetically minded tour guide showing to the members of her tour party some natural scene, the Grand Canyon say, and intending that they regard it in a way that is the correct manner for regarding some type of art, such as an earthwork sculpture (in an impressionist style). The guide’s intention is no wild hope, because the scene invites just that such regard. We would not be that inclined to say the aesthetically minded tour guide turns the Grand Canyon into an artwork (*Definitions of Art* 173).

But this counterexample can be refuted in a number of ways. First, the tour guide’s intention is merely a passing one, thereby negating the art-regarding intention. Secondly, it seems implausible that the tour guide would in fact be intending for regard-as-a-work-of-art as it is correctly understood (“Extending Art Historically” 418). What historical tie does she present, specific art-conscious intention? Surely not! This is because other earthwork sculptures were trying to present earth-altered impressionist intentions. So, is she presenting a non-specific art conscious intention? Again the answer is no. “Intending something for regard as an  $x$  (or as  $x$ ’s are regarded) is not the same as intending for regard as if it were an  $x$ ” (“Extending Art Historically” 418). Maybe she is presenting

an art-unconscious intention. But, again, this is absurd since her intent is explicitly conscious, not naïve or transparent. Third, of course the tour guide could make the Grand Canyon into a work of art conceptually, intending the presentation of her tour to be a conceptual artwork properly documented. But this is doubtful because of the way in which she referenced the intention (“Extending Art Historically” 418). Last, and most importantly, even if the tour guide were able to fulfill the qualifications mentioned above, there would still be the issue of a proprietary right. As Levinson aptly points out, because the property upon which the tour guide is attempting to confer her intention is of such a scope that no one could possibly possess it, a proprietary right disqualifies her intent (“Extending Art Historically” 418).

In the above paragraphs we have dealt with several major objections to Levinson’s theory. We have shown that Levinson can overcome these objections. In what follows I would like to point out two more counterexamples that challenge Levinson’s intentionalist-historicist account. The first, though refutable, acknowledges a disturbing outcome of the intentionalist-historicist account, as well as an unanswered query. The second counterexample leads to a contradiction, although a repairable one, within Levinson’s definition.

The first of these counterexamples concerns body art, specifically tattooing. One may claim that a proprietary right becomes jeopardized when a tattoo artist tattoos a client. Because a person cannot own another person, would Levinson allege that body art, being intended for regard-as-a-work-of-art in the same way which prior artworks were correctly regarded, does not qualify as artwork unless the artist is tattooing himself? Well, although the two aspects definitely do clash to some extent, by paying for and approving of the artwork to be assigned to a specific area of skin, the client simply transfers his proprietary right to the tattoo artist, just as a commissioned sculptor is provided a block of marble.

As Davies observes, a sculptor commissioned to produce a sculpture does not have the “right to dispose of the marble as one who has a true proprietary right over the marble would” (*Definitions of Art* 176). But this protest misfires when Levinson distinguishes between the two by stating that the proprietary right included in his definition does not include the “right to dispose of” in the sense of “placing, selling, or exhibiting the

resulting object” (“Extending Art Historically” 418). Rather, Levinson’s definition refers to the “right to dispose of” in the sense of “using, modifying, or working alterations on certain materials” (“Extending Art Historically” 418). Thus, Levinson’s definition seems to include tattooing.

What if, however, a person was sedated and a tattoo artist tattooed a beautiful rendition of Van Gogh’s *Starry Night* upon him?<sup>20</sup> In this case, according to Levinson, the work would not be an artwork because of the proprietary right. At this point, all that I can offer in defense of the tattooed *Starry Night* rendition is that it seems upsetting that such a clearly aesthetically pleasing work will not be included in the historical definition whereas Levinson has made room for inclusion of a urinal on its side (Battin, Fisher, Moore, and Silvers 16).<sup>21</sup> Even so, this example raises yet another alternative state of affairs, one that Levinson has not previously addressed. Suppose, upon waking up, the tattooed victim really liked the piece and thanked the artist for doing such a great job. What if an artist intends for regard-as-a-work-of-art an object that he does not have a proprietary right over and then, upon discovering the work, the person who does have the proprietary right approves of the work? How do we account for the position of this work where there is no explicit nor implicit transfer of a proprietary right?<sup>22</sup>

The second counterexample involves graffiti. Noël Carroll argues that, contrary to Levinson, “had Picasso stolen into a subway yard at night and, after the fashion of graffiti artists, painted *Guernica* on the side of a

<sup>20</sup> In fact, for our purposes, an original artwork would be just as effective. Here I am simply using the example of a widely known artwork so that there is no confusion about what exactly the tattoo artist is tattooing.

<sup>21</sup> It seems to me that what Levinson is referring to as “self-aware, revolutionary arts” are precisely works such as Duchamp’s *Fountain*. Thus, the whole reason for proposing the liberalized version of regard-as-a-work-of-art is aimed at the inclusion of Duchamp and similar artist’s works, whereas the proposed example is excluded. Levinson’s definition obviously does not make room for everything and anything that we think is pretty. However, I personally find it disturbing that works that are aesthetically pleasing are not given special consideration, whereas Levinson makes room for pieces that are designed with the intent to specifically aggravate aesthetic sensibilities. Nonetheless, my subjective objection has no logical grounds; Levinson’s definition is sound (albeit with the subtraction of the liberalized regard-as-a-work-of-art).

<sup>22</sup> It has been pointed out that the victim’s appreciation may constitute an implicit, if ex post facto, transfer of proprietary rights. However, I do not believe this is relevant because, necessarily, an ex post facto transfer of the proprietary right took place after the work was completed. The artist’s work cannot be considered art because his intent did not meet the proprietary-right condition. Remember, it is not the work itself that makes it art, but the artist’s intent for regard at the time of conception.

train, it would be art no matter what Mayor Koch says” (Carroll, “Art, Practice, and Narrative” footnote 9). Levinson does not agree: “stylish letterings and designs on subway cars produced by graffiti artists who had no right to deposit them there would automatically not be art by my lights, given a proprietary condition over materials” (“Extending Art Historically” footnote 20). Although Carroll does not pick up his argument in favor of graffiti beyond this context, with respect to Levinson’s definition at least, I would like to do so here. It has been noted by art historian Kevin Element that:

[Graffiti] artists are yelling out, not as immature youths, but rather as mature modern thinkers during a period of history when artistic dissent and creativity is stifled by an art world filled with dogmatic tradition and a media culture pathetically addicted to the consumption of messages and images designed to propagate the sales of consumer products (Element, “Hard Hitting Perspectives on Hip Hop Graffiti”).

According to many who study the graffiti art subculture,<sup>23</sup> graffiti artists’ purpose is not to simply vandalize but rather, as was done by Duchamp and the rest of the Dadaists of the early twentieth century, to deny the applicability of all past ways of looking at art objects. However, whereas the Dadaists took the conceptual route to express their message against the art world, graffiti artists take the material route by denying that materialism (the acquisition of artistic possessions) has any place in the art world. In fact, as stated in the second issue of *Xylene*, a graffiti magazine out of Vancouver, British Columbia, “Art is very powerful and should be for the masses, not the elitist. . . . We must break from the art world and create our own separate identity. . . . Graffiti will be on every surface except your television” (Anonymous, “Major Writers Meeting in New York City in the Year 2000” 18).

There could be no clearer example of an artwork which is intended “to adopt such regards in conscious opposition to those past correct ways [of regarding art]” (“Defining Art Historically” 233). All that Levinson requires in his liberalized version of regard-as-a-work-of-art is that “[the artist] should project the new way [of regard] in . . . antagonistic relation . . . to its predecessors” (“Defining Art Historically” 233). However, this causes a

<sup>23</sup> See Beaty and Gray’s “Zap! You’ve Been Tagged”; Brewer’s “Hip Hop Graffiti Writers’ Evaluation of Strategies to Control Illegal Graffiti”; and Chalfant’s *Spraycan Art*.

problem because artworks, as they are correctly regarded within Levinson's definition, must meet a proprietary condition. Thus, if one were to truly regard-as-a-work-of-art in contrast to the correct regard-as-a-work-of-art, as it is understood by Levinson's own definition (containing a proprietary condition), the opposing regard-as-a-work-of-art would necessarily *not* include this proprietary condition. Graffiti, by specifically targeting the proprietary condition and other aspects of the background of correct regard-as-a-work-of-art, qualifies as art under the criterion of the liberal version of regard-as-a-work-of-art. However, this leads to a contradiction because the proprietary condition is a vital component to Levinson's historical definition; graffiti does not meet this condition.

Although the above graffiti counterexample leads to a contradiction within Levinson's definition, said definition can be successfully reformulated. But to reformulate it either the proprietary condition or the liberalized version of regard-as-a-work-of-art must be dropped from the contradiction. As I have shown, Levinson's definition is robust barring the above stated counterexample. Thus, as the most likely candidate for a recursive definition of art, it is important that we address this contradiction. One way to do this is to drop the least necessary side of the conflict.

Since this problem arises because of the proprietary condition, let us first discuss some consequences of the proprietary condition and then see how we can fix the problem. As seen in response to Davies's counterexample above, a proprietary condition limits what one can regard-as-a-work-of-art to objects that can actually be possessions. Artists cannot simply turn the sky into a work of art, because the sky cannot be owned by anybody. Moreover, as observed in reply to another of Davies's objections, a proprietary condition limits artworks to those works which are not commandeered and then physically altered. An artist cannot merely walk by another artist's work while splashing paint and call the product an artwork of his own. Last, a proprietary condition limits curators, promoters, and exhibitors from turning non-art objects of the past into art.

What, though, are the consequences of the liberalized version of regard-as-a-work-of-art? It seems that the only role for the liberalized version of regard-as-a-work-of-art, at least the only one that we have observed thus far, is the inclusion of truly revolutionary works of art. It can be argued that if Dadaism was truly revolutionary in that its members were



manufacturing works not regarded in any way other than counter-relationally to regard-as-a-work-of-art in which prior artworks are or were correctly regarded, these works would not be included within Levinson's definition without the liberalized version of regard-as-a-work-of-art.

Based upon the consequences of both the conditions above, we must conclude that the most profitable component in question is the proprietary condition. This is because, as noted above, Levinson's liberalized version of regard-as-a-work-of-art is under-limiting. Under this version of the definition, any object with the artist's intent being that of upsetting the art world is acceptable. However, this version of the definition is, in actuality, rarely necessary. According to Levinson himself, even the most revolutionary artists may still evoke a historical regard without the liberalized version of regard-as-a-work-of-art. For example, an artist's intent may be that his or her "object is for regarding in any way artworks have been regarded in the past (but with the expectation that this will prove frustrating or unrewarding, thus prodding the spectator to adopt some other point of view—this being my ultimate intention)" ("Defining Art Historically" 223). Even without the liberalized regard-as-a-work-of-art, most revolutionary artworks may still be included under Levinson's definition, but, in order to defeat the graffiti counterexample above, we must drop the liberalized version of regard-as-a-work-of-art from a historical definition.<sup>24</sup> However, I do not believe that this expulsion will substantially effect the historical definition because, as explicated above, Levinson still has one scheme available that may allow for the inclusion of revolutionary artworks: such works are art if they initially direct their audience in a way in which artworks have previously been regarded ("Defining Art Historically" 233).<sup>25</sup>

In sum, I have addressed the more substantive objections and counterexamples to Levinson's definition and came out with a distinguished

<sup>24</sup> It may be noted here that by retaining a proprietary condition graffiti does not qualify as art. Although some, for instance Carroll, may still object to this conclusion, the point of the counterexample was to expose a contradiction between two components of the historical definition, not to extend the definition to include graffiti. According to one aspect of Levinson's definition graffiti is art. However, according to another aspect (the proprietary condition) graffiti is not to be considered art. The graffiti example is not meant to contradict Levinson's entire theory, but rather to expose a contradiction within the definition so that we may address it.

<sup>25</sup> For example, an artist may sign the artwork in the lower right hand side, as per custom within in the art world, or he may, as the Dadaist artists did, name the work in a way that has been historically associated with artworks. This would include Dadaist artworks, but not, because we have dropped the liberalized version of regard-as-a-work-of-art, graffiti.

and reinforced set of limits upon which to rest a definition of art. However, by utilizing graffiti as a counterexample I exposed a contradiction between Levinson's liberalized version of regard-as-a-work-of-art and his proprietary condition. All the same, this contradiction did not prove devastating to the historical definition because we were able to drop the liberalized regard-as-a-work-of-art from our historical definition without necessarily harming the definition at all. The expulsion does, however, clean up an already formidable anti-anti-essentialist definition of art. As stated by Levinson himself, "Which of the two [revolutionary] strategies is ultimately preferable as a way of accommodating the historical definition of art to revolutionary art making is a question I will not settle here" ("Defining Art Historically" 233). I believe that we have settled that question *here*.

## Works Cited

- Anonymous. "Major Writers Meeting in New York City in the Year 2000." *Xylene* 1.2 (1995): 18.
- Battin, Margaret P., John Fisher, Ronald Moore, and Anita Silvers. *Puzzles About Art: An Aesthetics Casebook*. Boston: Bedford St. Martin's, 1989.
- Beaty, J. and D. Gray. "Zap! You've Been Tagged." *Time* 10 Sept. 1990: 43.
- Bell, Clive. *Art*. New York: Frederick A. Stokes, 1914. *Project Gutenberg*. <<http://www.gutenberg.org/files/16917/16917-h/16917-h.htm?>>.
- Brewer, Devon. "Hip Hop Graffiti Writers' Evaluation of Strategies to Control Illegal Graffiti." *Human Organization* 51.2 (1992): 188-89.
- Carroll, Noël. "Art, Practice, and Narrative." *The Monist* 71.2 (1988): 140-56.
- Chalfant, Henry. *Spraycan Art*. New York: Thames and Hudson, 1987.
- Davies, Stephen. *Definitions of Art*. Ithaca: Cornell University Press, 1991.
- . "First Art and Art's Definition." *Southern Journal of Philosophy* 35.1 (1997): 19-34.
- Element, Kevin. "Hard Hitting Modern Perspectives on Hip Hop Graffiti." *Art Crimes*. 1996 <<http://www.graffiti.org/faq/element.html>>.
- Haines, Victor Yelverton. "Refining Not Defining Art Historically." *The Journal of Aesthetics and Art Criticism* 48.3 (1990): 237-38.
- Levinson, Jerrold. "A Further Fire: Reply to Haines." *The Journal of Aesthetics and Art Criticism* 49.1 (1991): 76-77.
- . "A Refiner's Fire: Reply to Sartwell and Kolak." *The Journal of Aesthetics and Art Criticism* 48.3 (1990): 231-35.
- . "Art Historically Defined: Reply to Oppy." *The British Journal of Art and Aesthetics* 33.4 (1993): 380-85.
- . "Defining Art Historically." *The Philosophy of Art: Readings Ancient and Modern*. Ed. Alex Neill and Aaron Ridley. Boston: Mcgraw-Hill, 1995. 223-39.
- . "Extending Art Historically." *The Journal of Aesthetics and Art Criticism* 51.3 (1993): 411-23.
- . "Refining Art Historically." *The Journal of Aesthetics and Art Criticism* 47 (1989): 21-33.

- . “The Irreducible Historicality of the Concept of Art.” *The British Journal of Aesthetics* 42.4 (2002): 367–79.
- Mandelbaum, Maurice. “Family Resemblances and Generalizations Concerning the Arts.” *American Philosophical Quarterly* 2.3 (1965): 219–28.
- Tolstoy, Leo. *What Is Art?* Trans. Maude Alymer. London: Penguin, 1995.
- Weitz, Morris. “The Role of Theory in Aesthetics.” *Journal of Aesthetics and Art Criticism* 15.1 (1956): 27–35. Rpt. in *The Philosophy of Art: Readings Ancient and Modern*. Ed. Alex Neill and Aaron Ridley. Boston: McGraw-Hill, 1995. 183–92.
- Wittgenstein, Ludwig. *Philosophical Investigations*. Trans. G. E. M. Anscombe. Oxford: Oxford University Press, 1953.