

Newsletter

The Catalogue Raisonné Scholars Association

an Affiliated Society of the College Art Association

June 1995

No. 3

IN THIS ISSUE:

Page One In this issue, we feature two articles concerning the catalogue raisonné in France: one reporting on a harsh critique of "experts" (who are not always scholars) and the other reporting on how the U.S. courts have recently dealt with France's droit moral. We appreciate the participation of art historian, and CRSA member, William Camfield, and CAA counsel Barbara Hoffman, and request further contributions from our members.

Regular Research Tips

Features Report on CRSA Sessions
The Catalogue Raisonné: Recent Publications
New Members of CRSA
Notes from Our New Members
CRSA Membership Form

ONE FRENCHMAN'S VIEW OF CATALOGUE RAISONNÉ IN FRANCE. A REPORT BY WILLIAM A. CAMFIELD. Source: François Duret-Robert, "La Dictature des cataloguistes" ("The Dictatorship of the Cataloguers") Connaissance des Arts, Paris, no. 4, June 1989, 131-33.

In his article on "The Dictatorship of the Cataloguers," François Duret-Robert presents a raking critique of the entire phenomena on the catalogue raisonné as it exists in France — the cataloguers, their products, the function of those catalogues and their use/misuse in the art world. He focuses on the commercial use and consequences of the catalogue raisonné, largely neglecting its intellectual and educational value.

He begins by commenting on the proliferation of published catalogues raisonnés and attributes that to the validating function of the publication. If a work is included in a catalogue raisonné, it is considered authentic. If a work does not figure in the catalogue raisonné of an artist, the work is unsaleable. Hence, the fuel for a catalogue raisonné and the clamor by everyone for his work to be in it.

Duret-Robert describes a catalogue raisonné as a publication which catalogues, describes, dates, classifies, and, if possible, reproduces the entire known work of an artist. He observes that this arduous and extremely expensive project requires a team of workers and years of labor. He also acknowledges that catalogues raisonnés honor the artist, alert people to false works in circulation, and facilitate the life of the commissaires-priseurs, the experts and art dealers.¹ These achievements, however, appear as scattered, almost off-hand comments which barely register among Duret-Robert's concern for less admirable motivations and uses for the catalogue raisonné.

He observes that some catalogues raisonnés are not complete, and that, in some exceptional instances, the omissions are deliberate. Two examples are cited which amount to authors accepting censorship imposed by heirs of the artist. In one instance, an heir did not want her father's erotic drawings published. In another instance, heirs wished to exclude insignificant work from their father's youth.

A third example of willed omission is the exclusion of doubtful works. Although their inclusion in a catalogue raisonné could serve a very useful purpose, Duret-Robert records an abuse of that service in publications by Daniel Wildenstein. Catalogues raisonnés for Feter and Lancret included sections of highly disputable works — so identified in the publication. The danger inherent in this practice is clear by the fact that some of those paintings were subsequently put up for auction as works which figured in the catalogue raisonné without specifying their dubious status.

Finally, Duret-Robert points out that cataloguers decide at some point to proceed with publication even though not all of the known works have been located. In effect, then, catalogues raisonnés do not achieve their goal of publishing all the known work of an artist. There is always a need for a supplementary volume, and auctioneers and art dealers rush to secure the author's assurance that works which did not figure in the first volume will appear in the supplement.

Duret-Robert turns his attention next to the cataloguers, observing that the value of a catalogue raisonné depends on who produces it. Daulte's catalogue on Sisley is recognized as an excellent study; Dora Vallier's catalogue on Henri Rousseau is considered poor. Many cataloguers, in the opinion of Duret-Robert, do not have the eye of an expert, but rely on their

¹France has a unique public auction system largely controlled by Commissaires-Priseurs who organize and conduct auctions. The number of Commissaires-Priseurs is strictly limited by law, and their position is akin to that of an owner of a business. Openings in the profession occur only when a Commissaire-Priseur sells his position. Aspiring Commissaires-Priseurs must have a law degree and a lot of money, but not necessarily a background in art. Most Commissaires-Priseurs rely on Experts for data and authentication of objects offered for sale. Certification as an Expert requires proof of professional expertise. Many come with experiences in art galleries. Experts (if there is one) receive 3-7% of the sale price of an object; Commissaires-Priseurs receive 16.6% from the seller, and 10% from the buyer. In addition to their use of Experts, many Commissaires-Priseurs actively seek certificates or validating statements of some kind from heirs, scholars, and catalogue raisonné teams.

documents and are adrift when a work appears which does not figure in their documents. Their motivations are also suspect in his eyes, amounting to a desire for power, prestige, and commercial gain. In response to his question why cataloguers do what they do, he responds, paying almost no attention to the scholar's quest for knowledge:

- 1) To become a specialist to whom everyone must turn in order to sell the work of that artist.
- 2) To be associated with a famous artist.
- 3) To gain access to private collections in order to engage in the commerce of the artist being studied and to look for other saleable works.

Duret-Robert redirects his attention to the catalogue itself, noting that being in the catalogue raisonné does not necessarily guarantee authenticity of a work. He gives two examples, first the inclusion of a work in the first version of the catalogue that is removed from the second edition, and, second, the problem of competing catalogues raisonnés by different authors. Three catalogues raisonnés are available on Modigliani's work, but only the publication by Ceroni-Cachin is highly respected. Works which appear in the other two publications but not in the Ceroni-Cachin catalogue are considered suspect.

Finally, Duret-Robert considers the heirs of the artist. Determining the "official" catalogue is frequently a matter of ascertaining if it has the support of the heirs of the artist (since most catalogues come along after the death of the artist). The heirs have no power in the sense that anyone may undertake a catalogue raisonné with or without their support. However, they have enormous power as possessors of a "droit moral" in France for rights and reproductions. They can seize a publication if they think it includes fakes, and they can prevent publication of a catalogue raisonné until the work of the artist has entered the public domain — fifty-seven years after the death of that artist. Authors do have recourse. Duret-Robert cites two historians — obstructed by Mme. Foujita — who won a trial against her on grounds of "notorious abuse" of her rights by seeking to prevent virtually any publications about her husband.

Duret-Robert concludes his article with a final disparagement of cataloguers who take on the air of dictators and who, in some instances, compound their abuse by making money as an expert who authenticates the works of the artist in question. He fails to make any distinction between cataloguers who charge a flat fee for their time and effort, and those who demand a percentage of the value of authentic works.

William A. Camfield is Professor of the History of Art at Rice University, Houston, Texas and a member of CRSA. He is currently at work on a catalogue raisonné of Francis Picabia.

WHO DETERMINES AUTHENTICITY?

by Barbara Hoffman, Esq. (c) 1995

At the CRSA panel on legal issues at the CAA meeting in February, 1994, I discussed the case of Koven v. Christie, Manson & Woods.

In 1990, Christie's sold a Braque pastel at auction for \$600,000 to Barbaralee Diamonstein. On January 10, 1991, Christie's purportedly concerned about the authenticity of the pastel and potential liability, rescinded the sale and sought to return the proceeds. Koven, the seller, refused to remit the sales proceeds.

The pastel was purchased from A.P. Rosenberg & Co. in the 1940's, owned by the Kovens since that time and authenticated further by Giraud and Michael Findlay of Christie's. Despite the authentication and impeccable provenance, Diamonstein questioned the authentication and Christie's sought the advice of an outside expert, at her request.

That expert was Claude Laurens. Under French law, after the death of an artist, an heir or designee by will is given authority to assert the artist's "moral rights," including the right to authenticate which works are done by the artist. That person is said to hold the droit moral for that artist, and Claude Laurens holds the droit moral for Braque. Christie's contacted Laurens through his son Quentin, and in November 1990, Christie's had the pastel flown to France where it could be examined by Quentin Laurens. On January 10, 1991, Quentin Laurens informed Christie's that he did not believe the pastel to be the work of Braque, and that a certificate of authenticity would not be issued.

The court, in deciding the case in favor of Christie's, stated: "The issue, thus, is not, as Kovens contends, whether it was reasonable to consult the Laurens, whether Claude or Quentin Laurens is the true expert, or whether a holder of the droit moral should have been presumed an expert. Rather, the issue is simply whether Christie's honestly believed it might be subject to liability when it rescinded the sale. Koven's attempt to make the inquiry whether Christie's should have held this belief would limit Christie's to rescinding the sale only when it was reasonable to do so. Such a restriction upon Christie's right to rescind was not bargained for, and the requirement of good faith cannot be construed to create such a restriction. See e.g., Doubleday & Co., v. Curtis 763 P.2d 495. 500 (2d Cir. 1985) (holding, in case where publisher was contractually entitled to reject a manuscript that it found unsatisfactory, that '[a]lthough we hold that publishers must perform honestly, we decline to extend that requirement to include a duty to perform skillfully.')

If the Koven case was decided as a matter of contract law rather than droit moral, another recent case relied on evidentiary rules to determine authenticity. An affidavit from the painter Balthus, asserting that a drawing purported to be his was a fake, was determined by a New York court to be merely hearsay and not sufficient to support a judgment without a trial. The court reasoned that the provenance of the drawing was often the best proof of authenticity and relied on the recent case of Greenberg Gallery v. Bauman where the issue was the

authenticity of a particular mobile structure ascribed to Calder. Provenance, here, was even greater proof of authenticity: Dr. Szabo, of the Metropolitan Museum, who testified that the work was authentic, believes that Balthus was now acting from personal animus against his former wife. The court cites a page or two of history to confirm that it is a false assumption that nothing can be imagined which would induce an artist to repudiate his own genuine work. Thus, on a motion for summary judgment where all facts must be viewed in favor of the opponent of the motion, the court refused to rule out the possibility that the work was authentic. Several other cases concerning authentication involving curators and scholars are in the works - stay tuned.

Barbara Hoffman of Schwartz, Weiss, Steckler & Hoffman, P.C., is CAA Counsel.

ALERT TO MEMBERS!

Pay attention to museums in the U.S. and abroad attempting to charge reproduction or permission fees for works in the public domain or for works where the copyright is held by a third party. Ask questions and consult an attorney who knows property and copyright law. Ask for copyright registration and renewal documents as verification of any copyright claims.

RESEARCH TIP:

Hacker Art Books; Catalogues Raisonnés and Out-of-Print Books, Vol. 29, No. 1, 1995, is a useful resource for obtaining information about published catalogues raisonnés, including price and other specifications. It is available from Hacker Art Books, 45 W. 57th Street, New York, New York 10019. Telephone: 212 688-7600 FAX: 212 754-2554

If you have a research tip that other members would find useful, let us know, and it will be published in the next newsletter.

REPORT ON THE 1995 CRSA SESSION AT THE CAA MEETING IN SAN ANTONIO:

"Scientific Analysis: An Aid to Issues of Authenticity"

Participants:

James Coddington, Painting Conservator, Museum of Modern Art, New York,
"Interpreting Technical Analyses in Modern and Contemporary Art"

John Dennis, Objects Conservator, Dallas Museum of Art,
"Scientific Analysis of Materials Used in Modern Sculpture"

Shelley Fletcher, Paper Conservator, National Gallery of Art, Washington, D.C.,
"Technical Factors as an Aid to Print Scholarship"

Judy Walsh, Paper Conservator, National Gallery of Art, Washington, D.C.,
"Technical Connoisseurship: Is it an Art or a Science"

Session Co-Chairpersons: Art historians Gail Levin, Barbara Buhler Lynes, and Roberta K. Tarbell.

Session Synopsis:

Case studies on authenticity issues encountered in working on catalogue raisonné projects were presented by Gail Levin and Barbara Buhler Lynes. James Coddington and John Dennis described some of the many scientific tests available for analyzing the physical components of paintings and sculpture, and discussed their effectiveness in resolving authenticity problems. Among the tests reviewed were: electromagnetic radiation, microchemical analysis radiographs, and infrared reflectography. The Rembrandt Watermark Project was the subject of Shelley Fletcher's talk. Her study, which has become a book entitled Watermarks in Rembrandt's Prints, will be published this year. It provides specific information about the nature of watermarks, and establishes a methodology for interpreting them that can be applied to the works of other artists. Judy Walsh spoke about the problems encountered in assessing a print attributed to Whistler, and pointed out the limitations of technical analysis as determinants of its authenticity. Roberta Tarbell emphasized the benefits of collaboration between art historians and conservators in the preparation of catalogue raisonné projects. A question and answer period closed the session.

A cassette tape of the session can be ordered through Audio Archives International, Inc., 3043 Foothill Blvd. Suite 2, La Crescenta, CA 91214 (1-800-747-8069; tape #150125-160).

1996 CRSA SESSION. Topic: "Publishing the Catalogue Raisonné: New Technologies." Representatives from various companies and university and trade presses will talk about issues pertaining to the publication of catalogue raisonné projects. The session will be held at the 1996 CAA meetings in Boston.

THE CATALOGUE RAISONNÉ: RECENT PUBLICATIONS

Berhaut, Marie. Gustave Caillebotte: Catalogue raisonné des peintures et pastels. Paris: Wildenstein Institute, 1994. 315 pp., 620 illus., \$350.00.

Corlett, Mary Lee. The Prints of Roy Lichtenstein. A Catalogue Raisonné: 1948-93. New York: Hudson Hills Press in Association with the National Gallery of Art, Washington, D. C., 1994. 328 pp. 325, color illus., 50 b&w illus., \$95.00.

Daulte, François. Auguste Renoir: Catalogue Raisonné de l'Oeuvre Peint, Vol. II: Figures (1891-1905). Paris, 1995, 500 pp.; 40 color illus., 900 b&w illus., \$495.00

Descharnes, Robert and Gilles, Neret. Salvador Dali: The Catalogue Raisonné of Etchings and Mixed-Media Prints, 1924-1980. Munich: Prestel, 1994. 280 pp.; 100 color illus., 900 b&w illus., \$120.00.

Garrould, Ann. Henry Moore: Complete Drawings, Vol. 5: 1977-1981. London: The Henry Moore Foundation in Association with Lund Humphries, 1994. 272 pp., 16 color illus., 1046 b&w illus., \$150.00.

Kuspit, Donald. Karel Appel Sculpture: A Catalogue Raisonné. New York: Harry Abrams, 1995. 191 pp.

O'Connor, Francis Valentine, Ed. Jackson Pollock: A Catalogue Raisonné of Paintings, Drawings, and Other Works, Supplement Number One. In 1978, the four volume catalogue raisonné of the work of Jackson Pollock was published documenting his creative output in painting, drawing, collage, sculpture, printmaking, and mixed media. Over 1100 works were described in detail. Since that time, forty-seven new works by Pollock have been discovered and authenticated by the Pollock-Krasner Authentication Board. The publication of a supplement to the catalogue raisonné has therefore become necessary. It contains entries for: seven paintings, seven drawings, eight mixed media works, six collages, one sculpture, and eighteen prints. Of special interest is a series of black and white serigraphs of circa 1950-51 which anticipate the black poured paintings of 1951-52. There is also a note about Pollock's murals and a small group of unresolved attributions and minor works. A section of additions and corrections contains, along with much new information about the objects in the original four volumes, a number of images on the versos of Pollock's major drawings. Nineteen new letters reveal the artist's trenchant insights into the art world of his day. Several photographs of Pollock and his associates are reproduced here for the first time. New York: Stinehour Press for The Pollock-Krasner Foundation, 1995, 112 pp., 20 color illus., 52 b&w illus., \$150.00.

Saphire, Lawrence and Patrick Cramer. André Masson. The Illustrated Books. A Catalogue Raisonné. Geneva, 1994. 300 pp., many illus., \$195.00.

Wilton-Ely, John. Piranesi: The Complete Etchings. San Francisco: Alan Wofsy, 1994. 1024 pp., 1000 illus., \$350.00.

Please submit additional titles for publication in next newsletter.

NEWSLETTER INFORMATION

The CRSA Newsletter is published twice yearly. It is intended to provide information about topics that interest you, the membership. Please let us know your concerns. For example, if you are aware of a recently published catalogue raisonné, send in its title, publisher, and author for listing in the newsletter. The newsletter may also publish members' questions pertaining to current research problems, provide recommendations about database programs that have proven to be particularly effective for catalogue raisonné projects, or address other issues. If you have insights to the history and value of the CR or concerns about sources of funding to research and write CRs, send them to one of the officers of CRSA (see page 8). Contributions from members are welcome.

NOTE: The CRSA Newsletter is funded by membership dues. Future issues will be sent only to members who have paid in full for the current year. If you have not paid your dues for 1995, this will be your last newsletter.

NEW MEMBERS OF CRSA

Kosme de Barañano
Lersundi 8
48009 Bilbao, Spain

Elizabeth A. Dear
Ferguson Curatorial Chair
C.M. Russell Museum
400 13th Street
Great Falls, Montana 59401-1498
(Charles M. Russell)

Lance Humphries, Dir.
Daniel Garber CR Project
64 University Way #4
Charlottesville VA 22903
(Daniel Garber)

Elizabeth H. Hawkes
715 North Creek Road
West Chester PA 19380

Eugena Ordonez
601 W. 110th Street, Apt. 9R
New York, NY 10025

Dennis Y. Ichiyama
1352 CA-1 Building
Purdue University
West Lafayette IN 47907-1352

Anne-Marie Logan, Head
Reference Library & Photo Archive
British Art Center, Yale University
1080 Chapel Street
P.O. Box 208280
New Haven CT 06520-8280

Sona K. Johnston
Baltimore Museum of Art
Baltimore MD

NOTES FROM OUR NEW MEMBERS:

Kosme de Barañano writes that he is a Professor of Art History at the University of the Basque Country. He has published CRs on Francisco Durrio [who taught ceramics to Picasso], Francisco Iturrino [who in 1901 organized the first Picasso exhibition in Paris and in 1908 took Matisse to Seville and Morocco] and Jose Maria Ucelay [who, as Director of Fine Arts commissioned the painting Guernica by Picasso for the Basque Pavilion]. These catalogues are now out of print. He has organized large exhibitions for two sculptors: Alberto Giacometti [Museo Nacional Reina Sofia, Madrid, ISBN 84-7782-111-9] and Eduardo Chillida [Palacio Miramar, San Sebastian, ISBN 84-7173-196-7].

Elizabeth A. Dear has indexed 3000 works by C.M. Russell on a Microsoft database program, a system which is proving inadequate to accommodate the increasingly detailed data she wishes to include. She and Vance Humphries request information from CRSA members concerning database programs for expanded entries for CRs.

ABOUT THE CRSA:

The Catalogue Raisonné Scholars Association, founded in 1993, currently has a membership of 50. The annual dues are \$10.00; \$15.00 overseas. The purpose of the CRSA is to provide a forum for discussing the catalogue raisonné. Sessions at the CAA annual meeting address funding and publishing possibilities, legal issues, new technologies, and obtaining cooperation from museums, collectors, dealers, estates of artists, conservation scientists, and other scholars.

Officers are:

President: Gail Levin (Baruch College and Graduate Center, City University of New York) Telephone: 212 861-5301
Facsimile: same as above

Vice-President: Barbara Buhler Lynes (Maryland Institute, College of Art, National Gallery of Art, Georgia O'Keeffe Foundation) Telephone: 410 889-1852
Facsimile: 410 889-2057
E-Mail: lynes@jhunix.hcf.jhu.edu

Treasurer: Roberta K. Tarbell (Rutgers, State University of New Jersey, Camden).
Rutgers Office Hours: Tuesday & Thursday, 2:00-5:00 P.M.,
Telephone: 609 225-6242 or 609 225-6176 (leave messages with secretaries) Facsimile: 609 225-6330