

THE MATERIAL CULTURE OF  
S L E W A P s:  
SIGNED LIMITED EDITION WILDLIFE ART PHOTOLITHOGRAPHS

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**Excerpt, Chapter 3, pp. 254 - 264**

Because SLEWAPs are merchandised by publishers and dealers who often "place whatever labels or tags they feel are appropriate on the art [prints] they sell,"<sup>187</sup> and because SLEWAPs are marketed along with accumulations of other printed matter that embody concomitant as well as divergent values, ideas, attitudes, and assumptions, not to mention behaviors, processes, and thoughts, the marketplace has not only become extremely complex and confusing, but SLEWAPs and their publishers have also become the targets of attempts to legally bifurcate them from the so-called "original" or, in other words, real art prints and print enterprise.

#### SLEWAP Publishing and the Law

As was explained earlier in this chapter, bifurcation is nothing new to American wildlife art prints for collecting, framing, and display or their publishers. Beginning with criticism from high-minded critics like Joseph Pennell, who opposed chromolithography because it commercialized art during the Industrial Revolution, and continuing during the first half of the twentieth century because publishers had failed to develop merchandising strategies and tactics that revalued prints that were printed by even more effective and efficient photomechanical printing technologies, the bifurcation of American wildlife art prints for collecting, framing, and display continued

until Wood Hannah, Ray Harm, and their colleagues systematically and revaluatively published wildlife art photolithographs that were signed and numbered, not to mention, heavily promoted.

In response to this revaluation and, more importantly, in response to the proliferation of signed limited edition photolithographs that followed, certain print dealers who clung, like Joseph Pennell had at the turn of the century and Eugene V. Connett, III (founder of Derrydale Press) had in the 1920's, to the tradition of peintre-graveur printmaking, joined forces to form organized opposition. As if they could foresee the future, some dealers had already joined forces in 1961 to form the Print Council of America in order to establish guidelines to regulate the industry. Instead of self-regulating the industry, however, the Print Council of America actually only caused more confusion.

As suggested by the title of their guideline publication, What is an Original Print?,<sup>188</sup> the Print Council of America merely substituted the term "original" for the term peintre-graveur in an attempt to distinguish between prints which conformed to the codes and conventions of peintre-graveur printing, and photomechanical or, as they were called at the turn of the century, "practical" prints. To qualify as an original print, the Print Council of America gave three requirements: "1. The artist alone has

made the image in or upon the plate, stone, wood block or other material, for the purpose of creating a work of graphic art. 2. The impression is made directly from that original material, by the artist or pursuant to his directions. 3. The finished print is approved by the artist."<sup>189</sup> The Print Council of America further revealed its bias when it explained its position about photomechanical prints. "In recent years there have appeared reproductions made by photomechanical and other processes . . . which may seem to the uninformed to be original prints. They may be good reproductions but they are not original prints and they do not convey the aesthetic qualities of the original."<sup>190</sup>

In addition, the Print Council of America used What is an Original Print? to complain about signed and numbered photomechanical prints. To some extent, their complaints were justified. As explained earlier, whereas peintre-graveur printmakers like Joseph Pennell numbered their prints to show the order and limited quantity that were made, numbering became skewed with photomechanical prints because "In the world of . . . [photomechanical] prints, whether your print is number 1/999 or 998/999 makes absolutely no difference in quality . . . [because] . . . each print is exactly the same . . . [and] numbering takes place [randomly] only after the whole printing process is



complete."<sup>191</sup>

Rebuked in 1974 by critics who confronted the Print Council of America in a series of articles which were featured in Print Collector's Newsletter,<sup>192</sup> publishers, dealers, and aficionados of SLEWAPs soon found themselves on the offensive, too, asking questions like

" . . . What about . . . consumer choice, and accessibility to one of a kind artworks through affordable prints? Doesn't the artist in fact participate in the offset lithography process by approving the artist's proof before final printing? Haven't artists throughout history adopted the latest technology to produce better and better images? Haven't master artists traditionally worked with apprentices and assistants in a corporate effort to produce multiples? . . . Regarding the notion of aura, don't wildlife art prints have an aura of their own? Aren't they a form of material culture that communicate through discourse? . . . <sup>193</sup>

Not to be outdone, however, printmakers and dealers who clung to the tradition of peintre-graveur printmaking and who, therefore, opposed SLEWAPs, took their case next to legislators in states where print markets flourished.

Beginning in 1970 with California, and continuing with Illinois in 1971, New York in 1982, and Georgia, Arkansas, Hawaii, Maryland, Michigan, Minnesota, Oregon, and Iowa thereafter, state legislators enacted legislation which not only regulated the publication and sale of SLEWAPs, but which also legally distinguished them from so-called original or, in the eyes of the Print Council of America, real prints. Generally speaking, this legislation required

"the disclosure of certain information to accompany the item when sold, either on a certificate, invoice or receipt."<sup>194</sup>

As explained by Leonard D. DuBoff in Art Law in a Nutshell,

The information to be disclosed is specifically stated in each statute, and generally includes the following: (1) the name of the artist, and the year printed; (2) whether the edition is limited (although the term "limited" usually is not defined); (3) the present status of the plate; (4) if the print has more than one edition, the edition of this print must be noted, as well as sizes of the edition; (5) whether the edition is posthumous or a restrike, and if so, whether the plate has been reworked; and (6) the name of the workshop (if any) where the edition was printed. [Importantly], the Illinois and New York statutes also require information on the medium or process used, such as whether the print is an etching, engraving, woodcut, lithograph, or whether the seller does not know. . .

If the edition is limited, further disclosures are required in California, Hawaii, Maryland and Oregon: (a) the maximum number of releases, broken down into signed and unsigned; (b) the number of proofs . . . allowed; and (c) the total edition size. The New York statute defines "limited edition" as follows:

Visual art multiples produced from a master, all of which are the same image and bear numbers or other markings to denote the limited production thereof to a stated maximum number of multiples, or are otherwise held out as limited to a maximum number of multiples.

This definition is broad enough to subject other forms of art multiples . . . but the statutes provide that describing the edition as an edition of "reproductions" eliminates the need to furnish further informational details. . . .

All the statutes provide that a person violating the disclosure requirements shall be liable for the amount of consideration the purchaser paid. All except Hawaii allow for interest from the date of purchase. In the case of a willful violation, the purchaser can recover three times the purchase price, or \$1,000, whichever is greater.<sup>195</sup>

While the state regulatory statutes described above distinguish SLEWAPs from so-called "original" prints by requiring disclosure of the fact that they are

photolithographs, the intent of the lawmakers who enacted these statutes was not, in any way that I can determine, to degrade SLEWAPs, but rather, merely to provide consumers with factual information which would enable them to make informed choices. In Wisconsin, however, there is now proposed legislation before the state legislature that, if enacted, would do much more than distinguish SLEWAPs from so-called "original" prints, having been drafted in such a way as to be a clear attack on signed limited edition photomechanical prints for collecting, framing, and display, including SLEWAPs.

An outgrowth of print law as well as consumer protection advocacy, the proposed Wisconsin Department of Agriculture, Trade and Consumer Protection Order 135 would, if enacted, require publishers and dealers of SLEWAPs to identify SLEWAPs as "photomechanical **reproductions**" (my emphasis) and to warranty any claims of investment value with a warranty statement. These requirements were summarized by the Wisconsin Department of Agriculture, Trade and Consumer Protection for state legislators in the following "Analysis":

Works of art, especially expensive prints, have become an increasingly popular form of investment. Investors frequently choose art as an alternative to securities, precious metals, coins and stamps when deciding where to invest their savings, making sales of art for investment purposes a burgeoning business.

High quality prints can now be produced at marginal cost but sold as originals at exorbitant prices. It is not



uncommon for unscrupulous merchants to sell a non-original print, with a nominal value of \$25 to \$50, for thousands of dollars. State and federal prosecutors have been stymied in their attempts to convict sales of fraud, because proving the seller knew the work of art was not original and intended to deceive the purchaser is extremely difficult. As a result, investment art fraud is now being committed by mail, by telecommunications and by galleries, to the detriment of purchasers who mistakenly rely on the representations of the seller. These practices also injure competition, diverting trade from legitimate art dealers and casting doubt on the integrity of these dealers.

The department of agriculture, trade and consumer protection proposes to adopt a rule regulating the sale of art prints and other works of multiple art under its authority to prescribe methods of competition and fair trade practices in business. General provisions of the proposed rule apply to sales or offers to sell a work of "multiple art"--a print, sculpture, bas relief, etching or other work of visual art (excluding motion pictures or video) that is produced from a master in quantities. The proposed rule covers sales and offers to sell between an art supplier and an art dealer or between an art dealer and a buyer. The proposed rule extends to all transactions occurring in whole or in part in Wisconsin, including deliveries into the state and solicitor solicitations by mail or telephone, where the buyer or solicitor is in Wisconsin.

The proposed rule prohibits misrepresentations about a particular work of multiple art being offered for sale, such as the work's originality, the artist's identity, the authenticity of the artist's signature, the artist's involvement in creating the work, the use of photomechanical procedures to create the work, the work's prior sales or ownership history or the number of editions of a particular print. Since "originality" is a term subject to multiple interpretations, the proposed rule incorporates a definition of "original" that comports with the general understanding of the term in the art trade: the work's master must have been created by or under the supervision and direction of the artist, for the purpose of producing the work of multiple art; the work must have been produced by or under the supervision and direction of the artist; and the work must have been approved by the artist after its completion.

The proposed rule prohibits misrepresentations about the availability of information concerning a work of multiple art from normal trade sources and about the market value of a work. If a seller states a work's market value and the representation exceeds its actual market value by 30% or more, the proposed rule declares the seller to have misrepresented the work.



The proposed rule focuses particularly on "investment art", which is defined as a work of multiple art whose price exceeds \$800. "Price" is calculated as the greater of the amount charged for a work of multiple art, or of price representations made about the work. Under the proposed rule, an art dealer who sells investment art must, before receiving any payment for the sale, provide the prospective buyer with a completed disclosure and warranty statements. The proposed rule sets forth the disclosure and warranty form that must be used. It requires that the form be completely and accurately filled out, unless the art dealer affirms in writing on the form that a particular item of information is both unknown to the dealer and cannot be determined from generally accepted trade literature or the general consensus of expert members of the art trade.

In the disclosure and warranty form, the art dealer warrants the accuracy of certain information about the work of investment art. If the buyer ever determines that any statement on the form is incorrect, the art dealer must return the full purchase price of the work on demand. The form requires the art dealer to disclose whether the artist personally signed the work, whether the work is an original, how the work was created, whether photomechanical procedures were involved in the work's production, where and when the work was produced, the work's prior ownership history, the number of editions of the work and the number of copies in each edition. The form also gives the prospective buyer the right to inspect the work of art prior to its purchase. The proposed rule requires an art dealer who is soliciting purchases of investment art by mail or telephone to make the work available for inspection by delivering it to a place within 60 miles of the potential buyer's residence. The art dealer may charge a fee not to exceed \$25 for delivery.

The proposed rule allows prospective buyers to waive their rights to inspect the work and to receive a completed disclosure and warranty form, by signing a disclaimer at the end of the form.

An art dealer who sells investment art acquired on or after the proposed rule takes effect will be required to retain a completed declaration from the person who supplied the work to the dealer. The supplier's declaration indicates, in writing, how the supplier has represented the work of multiple art to the art dealer and prevents dealers from alleging that they unwittingly misrepresented a work because they were relying on mis-statements made by the supplier. The proposed rule prescribes the form of these supplier's declarations, requiring suppliers to identify the work of art, state whether the work is an original and provide information as to whether the artist signed the

work and whether the work displays edition numbers or letters. A supplier may choose not to certify the accuracy of certain information by writing "not certified" after specified items on the supplier's declaration.

The proposed rule requires art dealers to keep records on all works of multiple art sold for more than \$300. These records must identify the work, the date of sale, the sale price and the buyer's name and address. If an art dealer purchases such a work after the proposed rule takes effect, the dealer is also required to keep records on the date of purchase from the supplier, the supplier's name and address and the purchase price. For sales of investment art, an art dealer must also keep copies of the disclosure and warranty statement and invoice records. An art dealer who purchases investment art after the proposed rule takes effect must also retain a copy of the supplier's declaration. Art dealers must keep disclosure and warranty statements and supplier's declarations for 5 years; other records must be retained for 2 years. Suppliers must keep supplier's declarations for 5 years.

Under s. 100.20 (5), Stats., private persons suffering loss because of the violation of a rule adopted under this statute may sue for double damages and for the recovery of attorney fees. Parties violating such a rule may also be required to forfeit from \$100 to \$10,000 under s. 100.26 (6), Stats.<sup>196</sup>

Because SLEWAPs are, in fact, "produced at marginal cost," and because SLEWAP enterprise is based, as I have explained, on the insinuation of secondary market value, proposed Department of Agriculture, Trade and Consumer Protection Order 135 could, if enacted, have devastating consequences for SLEWAP publishers, not to mention the many others who rely upon and benefit from SLEWAPs. Moreover, because this legislation has been introduced in Wisconsin, a state which, according to the presidents of Mill Pond Press and Wild Wings (two of the largest SLEWAP publishers), is among the nation's top five in SLEWAP sales,<sup>197</sup> it would almost certainly lead to a legal test of the fundamental premises



and percepts of the enterprise of publishing SLEWAPs, which, in turn, would most certainly result in new meaning and value for SLEWAPs as material culture of American wildlife art.

Interestingly, as explained in the "Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection," the focus of this proposed order stems from the same questions that caused me, as director of the nation's leading wildlife art museum, an art museum which is located, in fact, in the heart of Wisconsin, to propose to the University of Minnesota Graduate School that I be permitted to undertake this dissertation to fulfil the requirements for a Ph.D. in the university's Program in American Studies. As I stated in the preface, those questions are, Why are SLEWAPs valuable, what do they mean materially and culturally, and how did they get to be that way?

While the objective of State of Wisconsin Department of Agriculture, Trade, and Consumer Protection is, ostensibly, to prevent injury to consumers caused by fraud, my larger objective in studying SLEWAPs has of course been, to understand "belief systems--values, ideas, attitudes, and assumptions--of a particular community or society . . . across time . . . [under] the common assumption . . . that objects made or modified by humans, consciously or unconsciously, directly or indirectly, reflect the belief



patterns of individuals who made, commissioned, purchased, or used them, and by extension, the belief patterns of the larger society of which they are a part."<sup>198</sup> To accomplish this objective, I have relied largely on the paradigm of material culture studies, or what Thomas Schlereth has described as "a truly interdisciplinary focus, conceptually and methodologically, in the concern to analyze the artifact as a concrete manifestation of cultural history."<sup>199</sup>

Considering, as I explained in my preface, that over three billion SLEWAPs are estimated to have been published since 1963, and that an average SLEWAP which costs from \$4.00 to \$5.00 to print is sold for about \$200.00 today, proposed Wisconsin Department of Agriculture, Trade and Consumer Protection order 135 will, if enacted, become the beginning of the next chapter of SLEWAP history, and a good context for continued American Studies scholarship.

## Conclusion

When I began this dissertation, I set out to understand and articulate why signed limited edition wildlife art photolithographs, or SLEWAPs, are valuable and how they got to be that way. In order to accomplish this, I went back in history to analyze other material culture that embodied thought and action, conduct and communication, and motivation and meaning associated with American wildlife art imagery, ecological ideology, and publishing enterprise, while I also analyzed SLEWAPs. What I have concluded is this.

SLEWAPs are valuable because they contain images which evolved out of a rich legacy of image making. SLEWAP imagery consists, fundamentally, of (1) didactic natural history images which enlighten and entertain collectors, (2) images that, through their painterly brush strokes or their photo-realism commemorate consumptive sport, and (3) images that, as in Robert Bateman's case, go beyond these aesthetics into the realm of allegory. Because these images, and the enterprise of publishing have shaped and fulfilled pluralistic ecological needs and aspirations, including, most recently, the conservation and preservation of classic game as well as non-game wildlife species and their habitat, SLEWAPs possess added value.

Ever since Mark Catesby printed his first etching in 1726, printers of American wildlife paintings have striven to improve the fidelity of the genre's material culture. Inasmuch as SLEWAPs are printed photolithographically, part of their allure is that they achieve high fidelity by sublimating visual coding. Conversely, because American printers have developed the capability of printing high quality photolithographs at low cost, while wildlife art publishers, on the other hand, have developed merchandising tactics and strategies that valuatively satisfy autograph seekers and that invoke economic principles of supply and demand, SLEWAPs are understood to possess primary as well as secondary market value. That is, they are often thought of as good investments.

Of course, this economic meaning and these economic values did not evolve haphazardly or in a vacuum of time. Rather, as I have explained above, economic meaning and value evolved along with other processes, thoughts, and behaviors which were integrated in SLEWAPs as well as in precusory material culture of American wildlife art. Consequently, if there is a reason why a SLEWAP, which costs from \$4.00 to \$5.00 to print, may be sold for \$200.00 or more, or why over three billion SLEWAPs are estimated to have been published since 1963, it is that wildlife art imagery, ecological ideology, and publishing enterprise have



been purposefully integrated in SLEWAPs, and that SLEWAPs evolved as material culture which symbiotically accommodated wildlife art image makers, enterprising publishers, and, of course, collectors, many of whom were ecological ideologues.

Finally, although, as I explained in the preface, I was unable to include or analyze extensive data that I gathered in surveys of 193 Mill Pond Press and Wild Wings collectors nationwide, 116 of the nation's leading wildlife artists, and 64 publishers and entrepreneurs (because to do so would have been beyond the scope of a single dissertation), this data not only provides a fertile opportunity for continued American Studies scholarship, but it also demands further investigation for the purpose of understanding meaning and value in SLEWAPs. In addition, if enacted, new statutory consumer protection print law will require further study and analysis, as will pending changes in laws designed to protect endangered wildlife species such as the spotted owl.