

NATIVE AMERICAN peoples and their products have been objects of European curiosity and desire since first contact. As America's only indigenous Other, Indians are desired as they were, or as they might have been, had they not been colonized. America's tribal people are best known, in fact, in imaginary or historical forms. They are conjured as relics of a primitive race, alternately more savage, more simple, or closer to nature than their imaginers. Images of these Indians abound in advertisements, movies, and books, while their living descendants remain hidden from public view, surviving quietly on reservations or in urban enclaves.

Indian arts and crafts are one of the most visible indications of tribal survival in contemporary America. As such, they serve an important function within their makers' communities, encouraging tribal solidarity in the present by providing evidence of continuity with a sovereign past. This holds true even for objects made in borrowed or

invented traditions. For consumers, however, Native-made objects often serve an opposite purpose. Where the marketplace separates producers from consumers, and attaches essentializing rhetoric to objects traveling across this divide, Indian products have come to represent and even replace their makers in the American consciousness. Objects replace people, just as the material culture removed from reservations has replaced its creators. Museums are full of objects created by eighteenth- and nineteenth-century Indians who have long since passed away. Likewise, art galleries and museum shops are full of objects created by living Indians who remain hidden, on view only occasionally as performers of culture, containers of race.

In this chapter, I discuss how Western desire for Native American products sprang from the union of America's imagined Indian¹ and the West's historical fascination with non-Western, or "primitive," objects. The material

consequence of this desire was a massive displacement of objects, an international dispersal of Native American material culture. In tracing the nature and effects of displacement, this chapter also provides a brief history of collecting.

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The concept of Indians as imagined or socially constructed is not new. In 1953, historian Roy Harvey Pearce outlined the national discourse on Native Americans in a brilliant book, *Savagism and Civilization: A Study of the Indian and the American Mind*. Prescient of the late-twentieth-century academic preoccupation with hegemonic discourse and ideology, Pearce's study was founded on the belief that ideas "could be separated out of texts and discourses and studied logically and analytically in historical context" (Krupat in Pearce 1988 [1953]). Pearce drew on a wide variety of literary sources to illustrate how the social and racial category "Indian" was constructed according to ideologies that required meek or hostile foils to the manifest destiny of American civilization.

At the time of its publication, Pearce's book was virtually ignored. Today, reprinted in paperback by the University of California Press, it is a gold mine for students of Native American Studies, for whom it is no surprise that Indians are still imagined by the American

public, and that this imagination hinders the progress toward tribal sovereignty.²

Robert Berkhofer expanded on Pearce's work in *The White Man's Indian: Images of the American Indian from Columbus to the Present* (1979), in which he historicized the imagined Indian in a structural framework. "Since Whites primarily understood the Indian as an antithesis to themselves, then civilization and Indianness as they defined them would forever be opposites" (Berkhofer 1979:29). Berkhofer analyzed images in literature, art, and science to show how successive configurations of the Indian functioned to validate specific Western ideas. This correlation is clearly found in the New England Puritan world view, for example, that perceived "Indians as well as English sinners as an inverted expression of [the Puritans'] cultural ideal" (Simmons 1981:58).

Throughout American history, perceptions of the West have remained relatively stable, by putting in the foreground civilization, progress, and culture. Meanwhile, key elements of the imagined Indian have varied, at times highlighting the savage, the primitive, the childlike, or the natural. In the early days of anthropology, the classical evolutionism of Lewis Henry Morgan relied on the "current savagery" of American Indians to "fill in the gaps in the evidence of the historical record" (Berkhofer 1979:47). As successive removals of tribal groups reduced the physical threat to American

civilization, a more nostalgic attitude arose that claimed the Indian as a symbol of history and nationhood. "[Native American] history is, to some extent, our history," lectured the nineteenth-century ethnographer Henry Rowe Schoolcraft. "The tomb that holds a man derives all its moral interest *from* the man, and would be destitute of it without him. America is the tomb of the Red man" (Schoolcraft in Hinsley 1981:20).

The imagining of Indians has continued up to the present day, generating a stock repertoire of representations for the mass media to broadcast in a variety of formats (e.g., the feature movies *Dances With Wolves*, *Pocahontas*, *Indian in the Cupboard*). Mainstream institutions and corporations use images of Native Americans and Native American products to convey to the public their patriotism, longevity, or affinity to nature. When Walt Disney World built its Wilderness Lodge in Orlando, Florida, in 1994, the company commissioned a pair of fifty-five-foot totem poles from Anglo artist Duane Pasco to serve as a modern interpretation of the turn-of-the-century West. The situation was ironic but somehow appropriate: a non-Native American hired to carve Northwest-style totem poles to commemorate the time period in which Native American communities were closest to extinction.

Contemporary tribal artists sometimes em-

ploy familiar images of Indians in ironic or sarcastic ways for subversive purposes (see fig. 1.1). The commercial value of widely recognized representations is not ignored, however, and despite their disfavor among Native American intellectuals, popular representations are often employed to promote tourism to Indian reservations and casinos. Stereotypical images are also used by Native American political leaders to support specific causes, as Sam Gill noted in his controversial book, *Mother Earth* (1987).³

Ironically, reliance on familiar images in the political arena can have the effect of desensitizing the public to real problems. As tribes seek the restitution of their legal sovereignty, complex and potentially violent political situations have erupted throughout Indian country. These conflicts occur "beyond the ken of most Americans, for whom Indians largely remain a people of myth and fantasy" (Bordewich 1996:40). During the summer of 1996, for example, collectors lined up on the plaza in Santa Fe, New Mexico, to buy Indian art, ignorant of the nearby protest march organized by Pueblo tribes fighting to keep their casinos open. In this way contemporary collecting inscribes an imagined Indian over political subjects.

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The collecting of Native American material culture is part of the larger historical phenomenon



1.1. "Big Chief Series" by Joanna O. Bigfeather (Cherokee), 1992, ceramic, raku glaze. Photograph courtesy of the artist

of Western desire for exotic objects. Mary W. Helms traced the roots of this desire to Europe in the Middle Ages, when alien objects were coveted not for their physical forms but for their "cosmological qualities and powers" (1994:357). Objects from foreign lands helped their collectors to organize and understand the "wilderness" that stretched beyond their physical and cultural boundaries. Susan Stewart (1993) saw the same phenomenon in modern "longings" for souvenirs of the exotic. Human difference once conceptualized in terms of space is now conceived in terms of time, with authentic "others" existing only in the past. In Stewart's paraphrasing of Jean Baudrillard, "the exotic object, like the antique, functions to lend authenticity to the abstract system of modern objects, and . . . the indigenous object fascinates by means of its anteriority" (1993:146). Stewart's emphasis on the appeal of cultural antiquity—an object's putative association with evolutionary anteriority—is useful in understanding the value accorded to the racial authenticity of Native American objects.

Desire for exotic objects persisted through the Age of Enlightenment into the early years of social science and the twentieth century. The first non-Native American collectors of Native American objects were European explorers, who returned from the New World with ships filled with curiosities both "natural" and "artificial." Explorers who docked on the East and

West coasts of North America often acquired goods from local tribes through trade or sale. Museum curators have considered the goods gathered upon "first contact" to constitute a "baseline for the ethnological study of material culture" (King 1981:7), a measure of authenticity by which all subsequent collected objects can be judged.

Early travelers deposited their souvenirs in curiosity cabinets, a common feature of royal and noble households throughout Europe at the time (Ames 1992:50). These cabinets became the foundations of Europe's major museum collections, many of which are older and more comprehensive than those of American museums (Lanford 1994). For example, the British Museum's Northwest Coast collection contains objects acquired in the late eighteenth century by James Cook and George Vancouver. Most of the Northwest Coast objects in American museums, such as the Yale Peabody Museum and Chicago's Field Museum of Natural History, were collected in the late nineteenth and early twentieth centuries (Wyatt 1984), by which time the engines of patriotic, scientific, and touristic collecting had nearly exhausted the supply of historic goods.

The history of American collecting of Native American objects has been well documented, especially in the context of museums (see Fane 1991 on Stewart Culin's collecting for

the Brooklyn Museum and Fienup-Riordan 1996 on the collecting of Yup'ik masks). A more general and comprehensive report on collecting is Beverly Gordon's *American Indian Art: The Collecting Experience* (1988), which traces the shifting intellectual frameworks for interpreting objects, as well as the ebb and flow of the commercial marketplace for Native American goods.

Initial American collecting followed the acquisition and exploration of Western territories, most notably the Louisiana Purchase of 1803, which annexed the great expanse of land between the Mississippi River and the Rocky Mountains. This acquisition unleashed a "tide of instant emigration," as James Fenimore Cooper wrote in *The Prairie* (1980 [1827]). The famous explorers Lewis and Clark were among the first to cross this territory. When they reached the Pacific Coast they collected a Chinook basketry whaler's hat and a Wasco twined bag that now reside in Harvard University's Peabody Museum of Archaeology and Ethnology (Lanford 1994:62).

Purchases or trades made in the course of early commercial ventures, such as the Russian American Company and the Alaska Commercial Company, yielded valuable—if incidental—collections of ethnographic objects (see Graburn and Lee 1996). Individual entrepreneurs who relocated to Native American communities at the turn of the century often encountered opportu-

nities to obtain rare or important objects. Around the turn of the century, a man named Adams Twitchell moved from Vermont to Bethel, Alaska, where he married a local Yup'ik woman and ran a trading company from 1905 to 1916. In the course of his interactions with local Native Americans, he collected numerous natural and artificial "specimens," including the lyrical Yup'ik masks carved for dances he had witnessed (Fienup-Riordan 1996:257).

The rise of the science of anthropology initiated a new era of collecting. Early ethnologists saw Native American material culture as evidence of a prior phase of human history. Side by side, objects from "primitive" and "civilized" societies could be used to illustrate the stages of human evolution. Convinced that Indian cultures were on the verge of vanishing, early ethnologists sought "genuine" cultural artifacts. They were dismayed, however, by the slim pickings in turn-of-the-century Native American communities, the result of loss to wars and early curio hunters. This only heightened the urgency of their mission to salvage and preserve the culture of America's indigenous peoples.

Anthropologists had just cause to fear that American Indians were "vanishing." By 1900, tribal populations had declined from the estimated pre-contact high of 1,000,000 to the historic low of 237,000 (Russell 1992). While no hope was held out for the tribes whose cultures

had already decayed irreversibly, objects plucked from tribal environments could be saved from a similar fate. Western collectors disapproved of tribal approaches to art history and preservation: Yup'ik masks discarded after the ceremony for which they were carved, fallen totem poles left to rot on the ground, Zuni war gods abandoned to the elements. While these practices were purposeful and in accord with tribal philosophies, anthropologists and other collectors considered them neglectful and irresponsible, which further justified the removal of objects from Native American communities.⁴

Adhering to the tenets of salvage ethnography, anthropologists sought objects that represented authentic, pre-contact lifestyles. Where there were none, they commissioned replicas, as Stewart Culin did for the Brooklyn Museum (Fane 1991:26).⁵ Turn-of-the-century scientific collectors had no interest in contemporary items because their forms were "contaminated," in the words of Franz Boas, "by the pernicious effects of our civilization and its machine-made wares" (1955 [1927]:19).

Distaste for contemporary products was rooted in the same evolutionary theory that underpinned such racist studies as anthropometry. Just as scientists "wanted to study the bone structures of the Natives before the 'pure' racial characteristics became adulterated by intermarriage," ethnologists "sought to collect the material culture before assimilation ren-

dered 'authentic' traditional items impossible to obtain" (Wyatt 1984:23).

Franz Boas was the first anthropologist to pay attention to the aesthetic qualities of Native American objects. In his seminal work *Primitive Art* (1927), Boas emphasized the universal proclivity of human beings to create aesthetically pleasing objects. Even if these objects were not "beautiful" to the Western eye, they were nonetheless products of an aesthetic vision that was as valid as that of any other culture. Hidden in the valorizing discourse of cultural relativism, however, was the disturbing double standard of cultural primitivism, revealed in the persistent anthropological critique of commodified forms. In her *Social Life of the Navajo Indians*, anthropologist Gladys Reichard declared that the Navajo art of weaving had been destroyed by the demands of the marketplace. "[D]esigns have become so complex as to be distinctly ugly. The so-called *yeibitcai* blankets, that is, those imitating sand-paintings, are . . . the lowest in the process of degeneration" (1928:8). Unfortunately, she noted, commercial demand for the *yeibitcai* rugs was so great that traders encouraged their manufacture (1928:9).

The marketplace demands Reichard and Boas disdained were a consequence of increased contact between Native and non-Native peoples, primarily through tourism. As early as 1880, Native Americans took

advantage of the otherwise bleak colonial situation by making replicas and miniature versions of traditional arts for sale to non-scientific, or "amateur," collectors (see Howard and Pardue 1996 on Fred Harvey and tourist arts in the Southwest, Lee 1991 on Native Alaskan arts, Linn 1990 on California Native American basketry, and Wyatt 1984 on Northwest Coast arts). For ease of manufacture and increased cross-cultural appeal, many of the objects made for tourists departed from traditional designs and forms (see fig. 7.2). While these changes posed a problem for anthropologists, they were welcomed by tourists. In most cases, tourists sought a different kind of authenticity from ethnologists, one that provided proof (and remembrance) of interracial contact, rather than continuity with pre-contact aesthetic standards. As Molly Lee reports, late-nineteenth- and early-twentieth-century tourists were satisfied with replicas of totem poles, as long as they were made by genuine Natives of the region (1991:8).

Academic disdain for tourist art was supported to some extent by the circumstances of production and consumption. As Wyatt points out for the Northwest Coast region, tourism tended to encourage art of inferior quality because tourists were "less sophisticated and much less discriminating" than museums or local tribal patrons. Tourists expected to find

objects that were primitive, even "grotesque," especially after reading the hyperbolic travel literature. In a 1912 Alaska Steamship Company brochure, potential customers were lured with the opportunity to purchase "crude gropings toward art by a primitive people" (in Wyatt 1984:23).

The history of collecting bears witness to centuries of American (and European) imagining, especially in the overwhelming professional and popular preference for racially or culturally authentic goods. Desire to collect Indian objects arose in part from the assumption that Indians were a dying race. Ironically, the profusion of new Indian products generated by increased public demand contradicted this assumption. Most early-twentieth-century collectors failed to notice this irony, the "discrepancy between their assumption and the burgeoning number of Indian goods being handled by traders and curio dealers" (Gordon 1988:8).

Around the turn of the century, the Arts and Crafts Movement intensified demand for Native American products with its rejection of mass-produced objects in favor of handmade goods, especially American Indian crafts. Dealers wanting to capitalize on the rapidly growing anti-industrial movement claimed that "by procuring the work of these 'more simple' folk, one could become closer to nature" (Linn 1990:128). But, as anthropologists pointed out,

much of the work was already being transformed by the demands of the marketplace. Dealers resolved this problem by employing a rhetoric that assured the racial purity of objects while encouraging select stylistic and materialistic innovations (see Cohodas 1992). As long as essential semantic qualities persisted, innovations that made a product more marketable were encouraged. At the 1931 Exposition of Indian Tribal Art in New York City, for example, patrons praised the "new bright colors of Hopi and Jicarilla basketry" but discouraged the use of invented symbols (Mullin 1992:405).

This expansion of the market to include made-for-market items of various qualities raised the status and price of pre-contact objects, which by the early twentieth century were collected primarily by museums and wealthy connoisseurs. It was in this rarefied area of pre-contact and early contact-era objects that museum and ethnological collecting converged with private collecting. Despite the competition for pre-contact objects, a limited cooperation ensued, with dealers referring to anthropologists as the experts on cultural authenticity and ethnologists relying on dealers for access to rare objects (Graburn and Lee 1996).⁶ Even though scholars maintained an attitude of elitism toward unscientific and/or for-profit collecting, their cooperation with commercial collectors fostered a dialogue that institutionalized the privileging of cultural authenticity over other qualities.⁷

Intense scientific and private collecting resulted in a massive displacement of objects from Native American communities. "As for blankets with old designs," wrote Reichard, "more can be found in New York than on the reservation" (1928:8). In 1930, Boas noted that while potlatch speeches were still being delivered in Fort Rupert, the carved wooden bowls he had seen there forty-five years earlier were gone: "They are in the museums in New York and Berlin!" (in Cole 1985:xiii). These absences further justified prior displacements because they provided "proof" of the death of Native American cultures.⁸ They also moved the locus of collecting from the field to the foyers of upscale galleries and auction houses. Art historian Ruth Phillips accurately summed up the situation when she commented that collecting no longer meant a "trip through the wilds of frontier America, but a trip to New York City, to Sotheby's or Christie's" (1995b).

In the wake of this displacement, especially as tribal souvenirs reached wider audiences and objects originally collected for scientific purposes moved into the marketplace, the discourse on Native American material culture underwent a fundamental shift. Once strictly "about" artifacts and specimens, it began to be "about" art. A number of factors contributed to this change, including Boasian universalism, which expanded Western art connoisseurship

to include objects produced by “ethnic” or “primitive” peoples, and the unforeseen interest of elite Western artists in “primitive” objects. Edmund Carpenter recalled how George Gustav Heye sold some Yup’ik masks (which he had acquired from the above-mentioned Adams Twitchell) to the surrealist artists André Breton and Max Ernst, primarily through the New York City dealer Julius Carlebach (Carpenter 1991). The surrealists were struck by the raw, expressive qualities of the masks. They referred to the masks as “primitive art,” and they denied harboring any of the more banal nostalgic or romantic feelings toward American Indians. As Adolph Gottlieb wrote in 1943,

That these demonic and brutal images fascinate us today is not because they are exotic nor do they make us nostalgic for a past which seems enchanting because of its remoteness. On the contrary, it is the immediacy of their images that draws us irresistibly to the fancies and superstitions, the fables of savages and the strange beliefs that were so vividly articulated by primitive man. (in Varndoe 1984:624)

But attention from elite Western artists failed to rupture the primitivist narrative. Nor did the classificatory shift from artifact to art elevate the status of impure products, which

were even more sternly relegated to the category of tourist art.⁹ As art historians entered the discourse on Native American material culture, scientific preferences were translated into aesthetic preferences, with objects still the center of attention and cultural authenticity still the criterion of value. As *objets d’art*, worthy of display in the studios of famous artists (see the photograph of Yup’ik masks in André Breton’s Paris home, reprinted in Fienup-Riordan 1996:270), Native American objects were still the containers of race. Picasso’s declaration about African masks and sculptures could just as well have been made about Native American art: “Everything I need to know about Africa is in these objects” (quoted in Halle 1993b:246).

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To collectors of Washo baskets, there is no better provenance than a tag from Abe Cohn’s Emporium in Carson City, Nevada, and if the name on that tag is Dat-so-la-lee, the basket’s price . . . can climb to six figures. . . . During the years between 1895 and 1935, Dat-so-la-lee and her fellow Washo weavers created some of the most important and beautiful baskets in the history of American Indian art. Non-Indians had taken over their tribal lands near Lake Tahoe, and weaving baskets for these Americans seemed to be a good source of

new income. As the years went by, in order to keep pace with the demands of the discriminating collectors who bought these baskets, the work became more sophisticated and intricate . . .

—*Tribal art specialist Jim Haas*
(*Butterfield and Butterfield 1996*)

Throughout this commentary on the collecting of California Indian basketry, a crucial element of the collecting process has been erased, as it has been erased from a century of academic and public discourse: relations of power and their violent consequences. This is not surprising. It is easy to exclude politics when discussing art—the topics have different languages, the former belonging to real relations between people, the latter belonging to the abstract realm of high culture. But there is a practical reason for the exclusion of politics, and this is the impossibility of reconciling American desire for Native American products with the country's institutionalized violence and discrimination against Native American people.

The myopic focus on authenticity as defined by a contact-era “baseline” was accompanied by a marked disinterest in living Indians. Not only were pure products often more “authentic” than their living owners, but they were more portable, scientific souvenirs that could be transported back to the safety of museum basements

for study. Further justification for the exclusion of living peoples from scientific studies was provided by the federal government's policy of assimilation. Heralded by the General Allotment Act of 1887, assimilation policy stressed the timely integration of tribal peoples into mainstream American society (see Pevar 1992). During this process, Native American cultural practices—including arts and crafts—would be discarded in favor of American cultural practices.¹⁰ Working under the assumption that this policy was appropriate and would be effective, many ethnologists ignored living peoples and their contemporary art forms. As Nelson Graburn and Molly Lee pointed out, Boas's collection of Northwest Coast objects for the American Museum of Natural History was more representative of the curator's scientific ideology than of the realities of Northwest Coast people, who were “already well enmeshed in the world system” (1996:16).

But the system that approved of authentic Indian products also firmly rejected Indians. As Martha Menchaca demonstrated in her study of discrimination against Hispanics in the United States, the federal government officially considered Indians an “inferior race” between the years 1848–1947 (Menchaca 1993). In 1913, New Mexico's supreme court denied Pueblo Indians the right to U.S. citizenship, explaining that they were an “inferior people.” Previously Pueblo Indians had enjoyed more legal privileges than

other tribes on the basis of “generations of Spanish cultural indoctrination [that] had uplifted their race” (Menchaca 1993:590). When the court rescinded these privileges, it issued the following statement:

The people of the pueblos, although sedentary rather than nomadic in their inclinations, and disposed to peace and industry, are nevertheless Indians in race, customs, and domestic government. Always . . . adhering to primitive modes of life, largely influenced by superstition and fetishism [*sic*], and chiefly governed according to the crude customs inherited from their ancestors, they are essentially a simple, uninformed and inferior people. (*United States v. Sandoval* 1913 in Menchaca 1993:591)

While all Native Americans were granted citizenship in 1924, discrimination has continued. Within the art world, the mere absence of tribal people from the ranks of tastemakers (Mullin 1992:407, Rushing 1994a:28) indicates a significant imbalance of power. The rise of multiculturalism in the arts has not necessarily aided the cause of living Indian artists; as Cherokee painter Kay WalkingStick explained, “[c]urators have . . . used issues such as gender or ethnicity as an opportunity to show artists who may then be left out of ex-

hibitions dealing with more mainstream themes” (1992:15).

Since the mid-1980s, a new consciousness has emerged among certain Native American and non-Native American scholars and lawmakers regarding the connection between tribal objects and tribal sovereignty. In this consciousness, historical collecting practices that had been viewed as necessary (from a salvage-ethnography point of view), appropriate, or at least harmless, are now deemed hostile and immoral, if not illegal. For example, turn-of-the-century scientific collecting is referred to as a “slaughter of culture” in a manuscript authored by three Native American scholars (Hilden, Huhndorf, and Kalafatic 1995:15). George Gustav Heye’s legendary removal of burial goods from an abandoned scaffold on the Northern Plains is likened to rape (Bear Claw 1995). And the turn-of-the-century removal of Zuni war gods from their open-air shrines without the permission of tribal members is considered theft (Ferguson and Eriacho 1990).

Battlefield provenance is considered most offensive, despite the fact that many public collections can be traced to the so-called “Indian Wars.” Soldiers were notorious for helping themselves to souvenirs from the battlefield, which they later sold to museums or private collectors. In one documented example, a lieutenant “walked the field methodically to gather nearly one hundred objects” after a battle in 1855

that destroyed Lakota and Cheyenne camps in northwestern Nebraska (Lanford 1995:65). These particular objects, as well as those collected by Heye, are now in the collection of the Smithsonian Institution, most of which is housed at the new National Museum of the American Indian (NMAI) in New York City.¹¹

One result of the new consciousness is that tribal groups whose objects were collected under such circumstances are now entitled to compensation under U.S. law. The Native American Graves Protection and Repatriation Act (NAGPRA or PL 101-601), passed by Congress in 1990, bans trade in funerary objects, sacred objects, and objects of cultural patrimony, and requires the repatriation of such objects from federally funded museum collections (see Weiner 1995). The legal justification for this legislation is that certain items belong to the entire tribe and are essential to the continuance of that tribe's traditions. Because these objects are not individually owned, they cannot be bought or sold by individuals.

Federal legislation also restricts trade in prehistoric objects. Under the Archaeological Resources Protection Act of 1979, objects originating from federal or tribal lands cannot be traded or sold. This has fueled an underground market for prehistoric pottery. It has also encouraged the production of fakes. Another federal law that affects the Native American art world is the Migratory Game Bird Act,

which prohibits the trade or sale of any object made with the feathers of protected bird species. This regulation has restricted the trade in Lakota feather headdresses, or war bonnets, most of which are made with eagle feathers.¹²

While many dealers and collectors support this legislation in principle, enforcement is a major source of contention among dealers, many of whom have watched their salable inventories virtually disappear in the past few years. Members of the Antique Tribal Art Dealers Association (ATADA) were horrified when Scottsdale trader Richard Corrow was sentenced to five years probation and 100 hours of community service after being convicted of illegally selling Navajo ceremonial masks. This case, the first prosecution under the criminal provisions of NAGPRA, was tried in Albuquerque in April 1996. Despite its distance from the reservation, the trial was well-attended by Navajo people. During the proceedings, several Navajo medicine men testified that the masks are part of the tribe's cultural patrimony, and that as such they are not individual property and cannot be bought or sold (Sandlin 1996).

According to newspaper reports, Corrow purchased Yei B'Chei masks from the widow of a Navajo medicine man for \$10,000. He later agreed to sell the masks for \$50,000 through a Santa Fe gallery. Unknown to the gallery, the prospective "buyer" was an undercover FBI agent. Corrow repeatedly claimed

his innocence, saying he was offered the masks “without any solicitation on [his] part” (Corrow 1996). According to Corrow, the entire family of the late owner had approved of the sale. From the beginning, Corrow claimed, his goal was preservation. He agreed to sell the masks only after he learned that the prospective buyer had “the same desire to preserve these important objects” (Corrow 1996).

Dealers across the country shuddered at the Corrow verdict, not for the sake of the defendant, necessarily, but out of fear that a broad interpretation of the law would threaten their livelihoods, and perhaps the entire business. As Corrow complained, “Almost anything can be considered an object of ‘cultural patrimony’” (1996).

While all trade in NAGPRA-identified objects is illegal, ownership is a different story. Museums and institutions that receive federal funds are required to compile an inventory of their Native American collections, consult with tribal governments regarding the nature of sensitive items in their collections, and return, upon request, any NAGPRA-identified objects. As a result, many historic objects have found their way back to tribal communities.

Repatriation from private collections, however, is voluntary. In an extraordinary action that has involved museums and private collectors around the world, leaders of the Zuni tribe initiated a campaign to recover all war gods that had

been taken from tribal lands. The war gods, known as Ahayu:da in the Zuni language, are tall, thin figures set in unmarked outdoor shrines, where they are believed to protect the people of Zuni and the entire world. When removed from their shrines and from Zuni land, Ahayu:da are thought to be capable of causing natural disasters as well as military conflicts (Ferguson and Eriacho 1990:7). The tribe’s campaign, initiated in 1978 and enforced by NAGPRA, captured the Native American art-world’s attention.¹³ Several museums initiated the repatriation of war gods in their collections. One private collector voluntarily returned her war god after NAGPRA became law:

It was a very personal choice . . . I feel good about it, but . . . I have ambivalent feelings, because I feel that this beautiful object is lost to history. Although there are photographs of it, the piece is gone . . . You know, they’re set out and let to deteriorate . . . But, how can you deny that this thing was stolen from the tribe? Even though, at the time, nobody cared. (BD)

In a melodramatic incident that occurred before the passage of NAGPRA, representatives of the Zuni tribe seized a war god from the block at a major American auction house. LS, the staff member responsible for accepting the object for auction, recalled being sur-

prised by the attention garnered by this "piece of wood":

You would never really know what it is, except it did have a very subtle area where the face would have been. It had already weathered quite a bit. And so I took it in with an estimate of . . . \$1,500. At the last minute, I thought, well, let me illustrate it, because otherwise nobody's going to buy it. (LS)

This illustration tipped off the Zuni. LS remembers being irked that none of the representatives sent to retrieve the object was a Zuni tribal member: "That was the part that really bothered me . . . It was like, well, I understand, but then where are the Indians?"

Most tribal people view federal regulatory laws as an "important first step toward reversing the cultural depredations visited upon them by European [peoples] over the last 500 years" (Weiner:1995).¹⁴ But while repatriation legislation has been effective in controlling the movement of objects, many times to the benefit of the tribes, it has failed to empower tribes in several respects. First, it removes responsibility from the state, whose violent actions set the scene for the wrongful removal of artifacts. Guilt is shifted to individuals: tribal members who sold items without the proper authority, dealers and collectors who purchased objects they shouldn't have.

Second, it relies on federal definitions of tribal identity to determine who is eligible to make repatriation claims. Third, it perpetuates the discourse of cultural primitivism. By restricting commerce, repatriation legislation forcibly de-commoditizes tribal objects, reinforcing the perception of tribal peoples as premodern, and, thus, incapable of preserving or appreciating their own history. The notion that tribal people aren't capable of protecting their material legacy was one of the principal arguments against the passage of NAGPRA and is now one of the major obstacles to its enforcement.

When an obscure collection of Oglala Sioux objects in the Barre, Massachusetts public library was revealed to have originated on the battlefield of Wounded Knee, library members expressed shock but were reluctant to return the objects. "We've preserved them for 101 years. We're not going to just shove them out the door," the town librarian told a *New York Times* reporter (Sullivan in the *New York Times* 1993). Other library members said they "feared the survivors would bury many of the artifacts if they were returned, causing a part of history to be lost." The attitude revealed by these comments is incomprehensible to members of the Wounded Knee Survivors Association and the Oglala Sioux tribe, who have demanded the return of all the objects. Since the library's collection is private, it is not bound by NAGPRA. But even without the force of law, many people view

repatriation as the only moral action. According to library records, the man who donated the objects bought them “from a contractor in charge of clearing the killing field where hundreds of Indians’ bodies were tossed into mass graves.” Nellie Two Bulls, an Oglala Sioux woman

whose grandfather survived the massacre, traveled from South Dakota to see the collection. As she told the reporter, the objects brought back powerful memories: “I was thinking about the people and how they suffered, and I couldn’t hold back my tears.”

*Commodities Controlled:
Legislating the Trade of Native American Art*

Chapter 2

AS COLONIZER, exterminator, and finally guardian to the survivors, the U.S. government has always had a special legal relationship with Indian tribes. The imperialist nature of this relationship has shaped every aspect of the Native American art world, from the evolution of forms to the public reception of individual artists. It has also allowed the state to regulate the Native American art market in ways that it does not regulate other art markets.¹

Federal regulations currently impact trade in prehistoric, historic, and contemporary Indian objects. Taken as a whole, these controls reflect white America's long-standing ambivalence toward the nation's tribal peoples. Simultaneously hated and loved, feared, and pitied, Indians have refused to slip neatly into nationalist discourse. To confuse matters further, tribal objects have been held to different standards from their makers. Where objects have been expected to remain pure, people have been ex-

pected to assimilate. In this chapter, I discuss federal regulation of the Native American art market as a strategy to reconcile this discrepancy. While the repatriation legislation and historic preservation laws discussed in chapter 1 contribute to this interpretation, I concentrate my analysis on the Indian Arts and Crafts Board Acts of 1935 and 1990 as the most prominent legislation of racial identity. As I see it, the state's focus on objects as the final and essential locus of race is a project inseparable from the imperialist relationships between tribes and the state, and indebted to the discourses of tradition, authenticity, and cultural primitivism.

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The legislation of Indian identity is essential to state control of the Indian art market. In the process of regulating the movement of Indian objects, and consequently the rights and responsibilities of the owners/creators of these

objects, the state has relied on a standard definition of Indian ethnicity. This definition is quantitative, requiring a minimum percentage of "Indian blood," 25 percent in most situations. This means an individual with one "full-blood" grandparent from a federally recognized tribe can qualify for government benefits.²

The state also prescribes identity on the tribal level with its "Procedures for Establishing That an American Indian Group Exists as an Indian Tribe." Administered by the Department of the Interior, these procedures determine whether tribes receive federal recognition, thus, the right of their members to receive benefits. As anthropologist Thomas Johnson observes, the rules for recognition are "very conservative and assume that the group has substantially retained its aboriginal social, genetic and cultural character over 300–400 years" (1997:19). According to Johnson, the losers in this process are those groups with the longest history of contact, thus, the most intermarriage and cultural change. For example, several eastern groups have been denied recognition because they have "changed too much."

Initial identity legislation was the logical outgrowth of treaties that granted tribal members certain rights and privileges. But in an era when ethnic identity itself is a valuable commodity (Castile 1996), the state's intervention can have serious consequences, determining not only material benefits but economic opportunity.

Controversy over tribal recognition and tribal membership has peaked with the rise of lucrative gaming industries on Native American lands. Members of the Saginaw Chippewa tribe in Michigan receive annual payments of \$18,000 in the tribal casino's profit-sharing plan, so, it is not surprising that the 408 individuals were angry when they were recently suspended from the tribal rolls because of "inconsistencies" in their ancestral documentation (Johnson 1997:20). In Johnson's opinion, tribal leaders were simply heeding the economic law of supply and demand when they decided that "only persons who could prove they had an ancestor on tribal enrollment lists from 1883, 1885, 1891, or 1892 could be enrolled" (1997:20), regardless of the quality of their "blood." Suspended tribal member Willard BigJoe agreed: "This is all about greed. This has split the tribe in half, and it's all about greed and money" (BigJoe in Johnson 1997:20).

Contemporary authenticity legislation in the arts is an outgrowth of the 1935 Indian Arts and Crafts Board Act. Part of President Franklin D. Roosevelt's "Indian New Deal," the Act was intended to help generate income on reservations, where wage work was scarce. Concern for the welfare of Native Americans marked a radical change in federal policy. By the late 1920s, politicians acknowledged the failure of the General Allotment Act (1887), which had sought to disperse tribal lands and

governments, abolish reservations, and forcibly assimilate Indians into mainstream society. The subsequent onset of the Great Depression "all but eliminated the desire of whites to obtain additional Indian lands" (Pevar 1992:6). In 1933 President Roosevelt appointed John Collier, an Indian-art enthusiast and a longtime supporter of Indian rights, to serve as Commissioner of Indian Affairs. Collier had already been lobbying Congress for legislation to aid Native American artisans. In written statements Collier stressed "how the native crafts were perishing rapidly over most of Indian country . . . because all connection between production and market was missing" (Schrader 1983:33).

Sponsors of the act hoped it would carve a niche for Native Americans in the competitive environment of twentieth-century capitalism while encouraging "tribes to develop a framework to support the preservation and evolution of tribal cultural activities" (House of Representatives 1990:4).³ The act established a five-member board to promote the development of Native American arts and crafts by teaching artists how to market their work and educating the public about the beauty and utility of Indian-made products. During its initial years the board issued free pamphlets on marketing strategies, published a magazine devoted to Native American art, and sponsored large exhibitions of Native American arts and crafts, most notably "Indian Art of the United States,"

which opened in 1941 at the Museum of Modern Art in New York City. This exhibit marked an important turning point in the market because it acknowledged and authenticated contemporary Indian arts and crafts. Newly crafted baskets, rugs, and pottery were displayed in modern American interiors to demonstrate their suitability as decor in non-Indian homes, while the adjacent exhibits of historic objects displayed in re-creations of their original ethnographic contexts established a continuum of authenticity (see Rushing 1992a).

In the exhibit catalog's corresponding chapter, titled "Indian Art for Modern Living," curators Frederic Douglas and Rene d'Harnoncourt justified their then-radical museology:

Many people think of Indian products as worthless knickknacks or as savage relics that belong in scientific collections or trophy rooms . . . [But Indians] are constantly producing articles that reflect the strength of [their] traditions and fit perfectly into the contemporary scene. . . . Many contemporary tribal products can be used without adaptation in modern homes and as parts of modern dress. (Douglas and d'Harnoncourt 1948 [1941]:181-82)

The act's main effect was to establish a market shaped by the federal government's vision

of a salable Native America. In anticipation of rapidly increasing demand for Indian arts and crafts, Congress strove to reserve this economic opportunity for “real” Indians. The Arts and Crafts Board Act defined “Indian” by the frequently used government standard of one-quarter percent of blood, and it empowered the board to punish artists who represented their work as Indian but did not meet the “blood” standard. For the most part, however, the Indian Arts and Craft Board Act was intended to stimulate the market, not limit it to a racially select group of artists. Passed during a time of severe economic depression and growing public concern over the government’s past mistreatment of Native Americans, the act emphasized aid to Indian artisans over protection for non-Indian consumers. Consequently, the prosecutory powers of the board were weak. In fact, not one case of fraud was prosecuted in the fifty years following the act’s passage.

During this time, Native American painters and sculptors were rapidly establishing a place for themselves in the world of contemporary American art. The Institute of American Indian Arts, established in Santa Fe in 1962, encouraged young artists to explore subjects and styles outside their traditional tribal repertoires, and the Western art world finally started to recognize Native American artists on an individual basis. Artists who achieved commercial success,

in particular, were lauded as stars of a new multicultural era in the arts. Unfortunately, the financial success of artists like Fritz Scholder and Earl Biss spawned multiple imitations, some by non-Indian artists.

Meanwhile, a new version of the imagined Indian emerged, and Indian-style crafts gained popularity as the appropriate accouterments to the environmental and hippie movements. During this boom, the market was flooded with “counterfeit” products, primarily jewelry, pots, and rugs imported from Mexico, Taiwan, or the Philippines. Federal law required imported crafts to carry a label identifying their country of origin, but the label was not required to be permanent. As a result, mass-produced imports sold as handmade Indian crafts were consistently underselling the genuine articles. As a Gallup, New Mexico, trader explained, “Labor in Third World nations is considerably cheaper to produce a . . . product [similar to Native American crafts]” (McKinney in Holmes 1985).⁴ When a group of artisans, traders, and collectors gathered in Albuquerque to form the Indian Arts and Crafts Association in 1974, one of their goals was to protect the authenticity of American Indian products. Their efforts were rewarded in 1988 with the passage of the Omnibus Trade Bill (PL 100-418), which required permanent marking of country-of-origin on imported Indian-style products.⁵

The five-member federal Arts and Crafts Board, working with a small budget and based in Washington, D.C., far from Santa Fe, home of the Institute of American Indian Arts and center of the Native American art world, could not effectively police the market. Several western states passed their own laws against fraudulent representation, but county attorneys showed little interest in investigating violations (House of Representatives 1990:4). Finally, pressured by a small coalition of artists whose mission was to expose "fake" Indians, Congress passed the Indian Arts and Crafts Act of 1990 (Public Law 101-644). This legislation expanded the powers of the Indian Arts and Crafts Board by simplifying the procedures for prosecution and significantly increasing the penalties for misrepresentation. Under the old law, willful misrepresentation could have been punished by fines up to \$500 and six months in prison. The new law punished first-time individual offenders with fines up to \$250,000 and five years in prison. Corporations could be fined up to \$1,000,000.

Perhaps more controversial than the increased penalties was the expansion of the law to include domestically perpetrated fraud, a move calculated to impact the fine arts of painting and sculpture. The original act had primarily focused on crafts, part of the national effort to "industrialize" Indian people and control the authenticity of their products. The

Omnibus Trade Bill addressed the problem of international fakes. But as the House of Representatives report attests, the attention of Congress shifted in the late 1980s to "problems in the domestic market":

In the last ten years, because of the expanding market for Indian arts and crafts, there has been a greater frequency in the number of fraudulent sales. Particular attention has been focused in New Mexico where there is growing concern about misrepresentation . . . of Indian artists by individuals claiming to be members of an Indian tribe. (House of Representatives 1990:5)

Billed by politicians as a merely updated version of the 1935 act, PL 101-644 actually emerged from a different consciousness, one that acknowledged tribal sovereignty on the condition of continued racial segregation. Prior to the act's passage, the United States had been pursuing a policy of tribal self-determination, in which administrative responsibilities were increasingly turned over to tribes. Acknowledgment of tribes as legal entities and of tribal members as individual citizens is evident in the language of the 1990 act. For example, the phrase "Indian wards of the government" is replaced with "Indian individuals." More significantly, the 1990 act expanded the definition

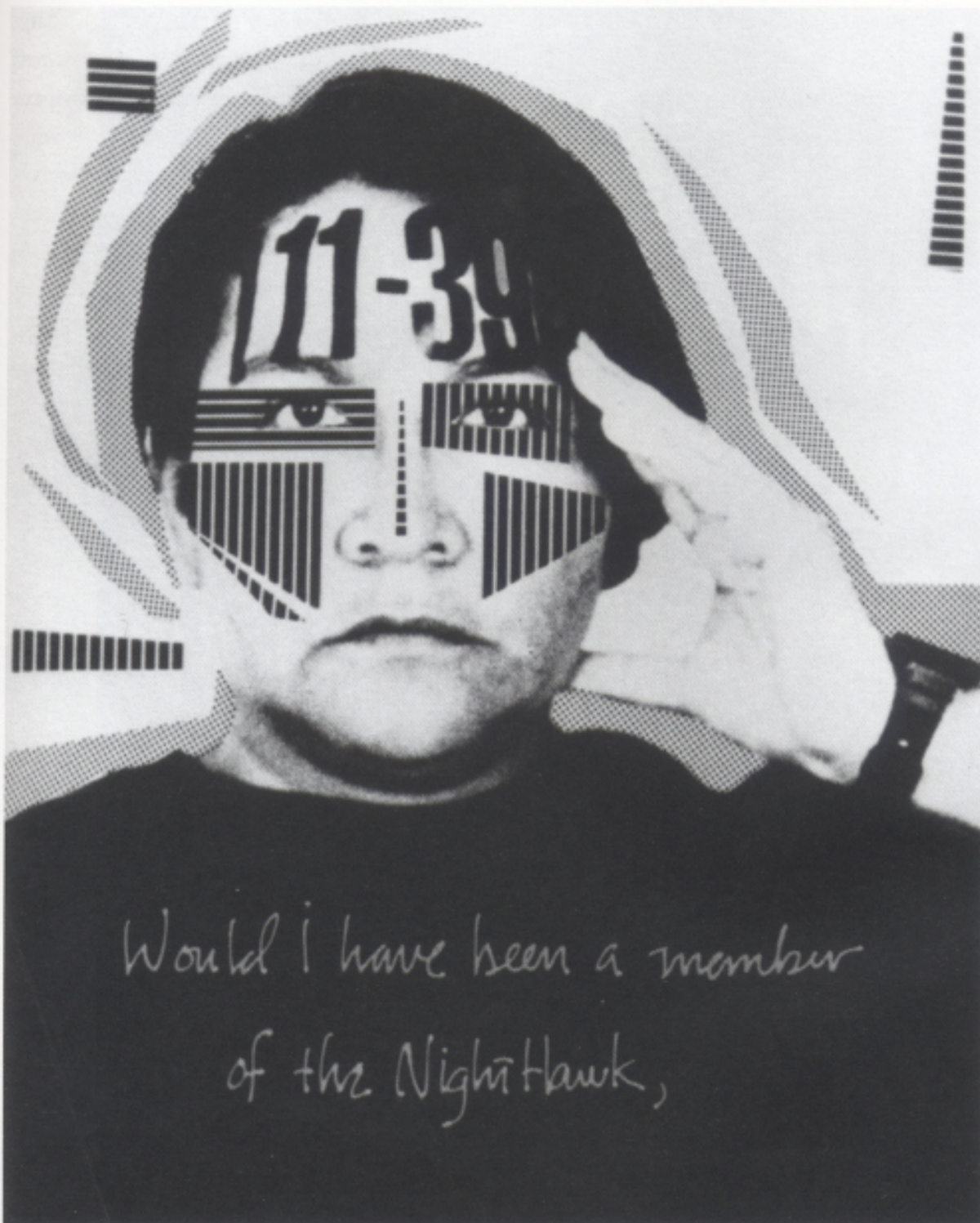
of "Indian" to include "any individual who, although not a member of an Indian tribe, is certified by that tribe to be of the tribe's lineage" (House of Representatives 1990:2), thus shifting responsibility for the determination of membership from the federal government to the tribes.⁶

Theoretically, this could have eliminated the racial component of the act, if tribes deemed culture or social participation more important than ancestry. But this did not happen. Most tribes continue to reject individuals who do not meet the one-quarter blood standard, and even some who do. Individuals without tribal status are prevented by the act from exhibiting or selling their artwork as Indian-made. This is a serious sanction in a \$500-million-a-year market that rewards racial authenticity over all other qualities.

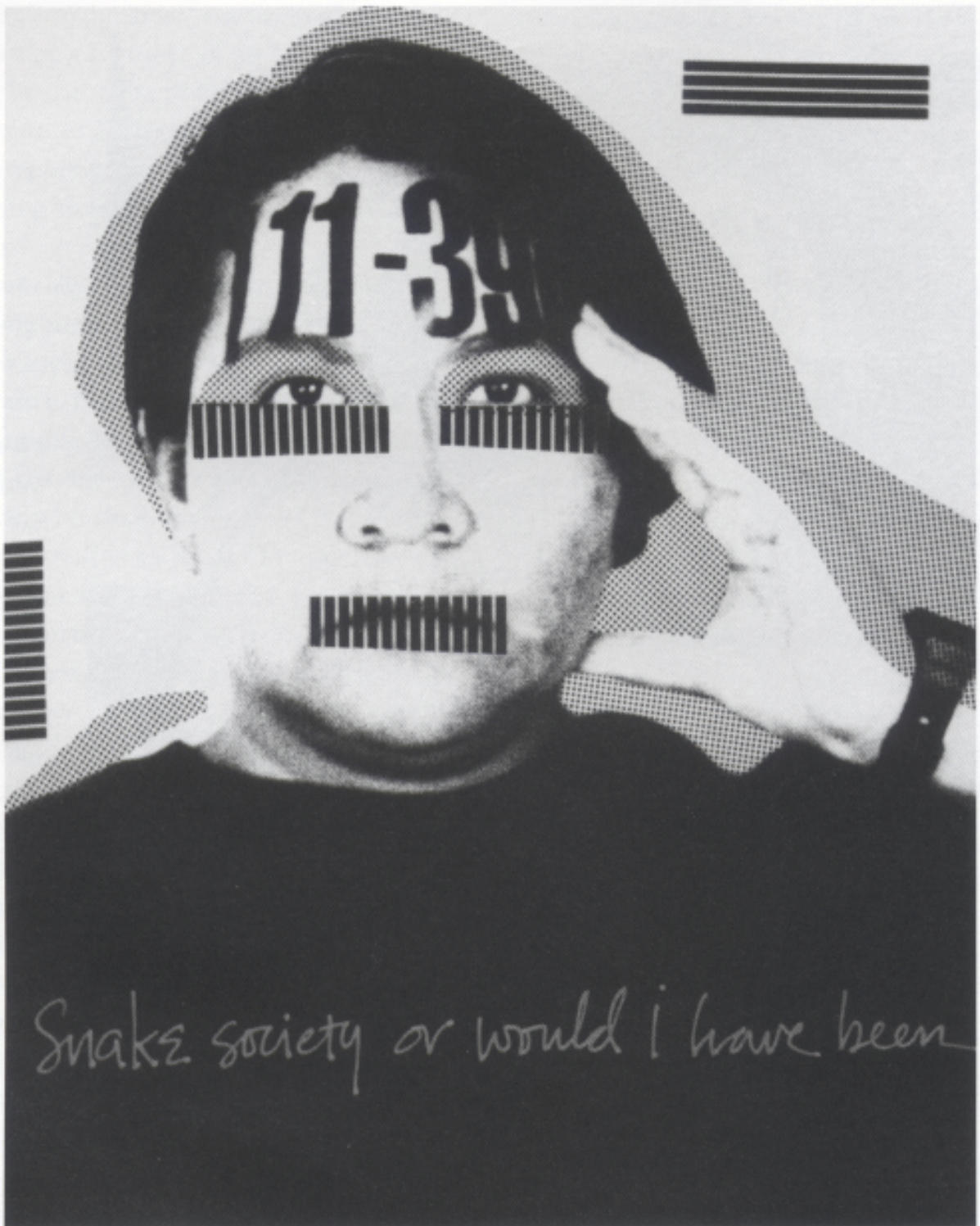
As the controversy over Indian identity legislation unfolded in the public discourse, it proved to be more divisive within the Indian community than without, pitting old friends and colleagues against each other and encouraging public name-calling ("witch-hunters" versus "wannabes") (see figs. 2.1–2.3). As a painter in Santa Fe remarked, the Native American art community was split into "camps," pro and con. This painter claimed he had been blacklisted from a group show at a major mu-

seum because he belonged to the "wrong camp." Some unenrolled artists who had represented themselves as Native American stopped using Native American subject matter, which effectively removed them from the Native American art market. Others blamed the misrepresentation on galleries trying to boost sales. Still other enrolled artists clutched their Certificates of Indian Blood (C.I.B.s) and remained silent, fearful of retribution for defending unenrolled peers.

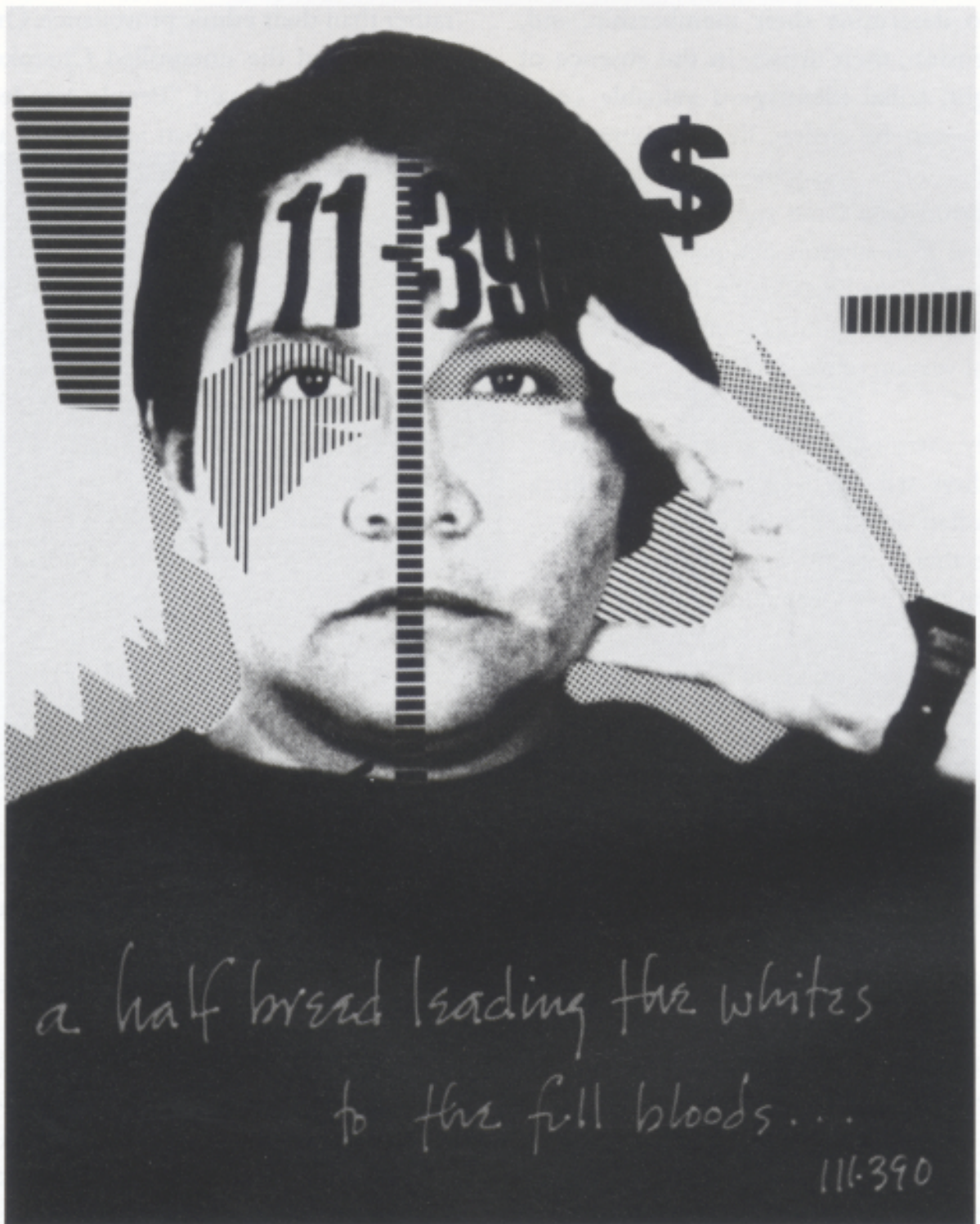
Proponents of the law include select enrolled artists and activists, collectors, and government officials. Geoffrey Stamm of the Indian Arts and Crafts Board defends the law as valid and necessary: "Basically it's a truth in advertising law. . . . The government has a special responsibility to the Indian people. Art is a big economic factor in their lives and it is part of our constitutional duty to regulate commerce among the tribes" (Stamm in Force 1993). Cheyenne/Creek activist Suzan Harjo supports the law, calling it a milestone in civil and human rights (Harjo 1991). Standing Rock Sioux writer Vine Deloria agrees, calling the act "a small step forward in raising the red race to full status as humans under the law" (Deloria in Harjo 1991). The logic behind this interpretation is best expressed by Chippewa artist David Bradley, the act's most vocal supporter: "It's all about sovereignty." As sovereign nations, Indian tribes deserve the



2.1-2.3.
"Would I
have been
a member of
the Nighthawk,
Snake society
or would I
have been a
half breed
leading the
whites to the
full bloods . . ."
by Hulleah
Tsinhnahjinnie
(Seminole/Creek/
Navajo), 1991,
black-and-white
photographs.
Photographs
courtesy of
the artist



Snake society or would i have been



right to determine their membership, and, by extension, their artists. In the absence of this right, tribal identity—a valuable commodity—can be stolen, like so many acres of land.

Unfortunately, some supporters of the act have used it to support antiquated notions of racial purity. One East Coast gallery owner explained how she routinely enforces her own, personal version of the act:

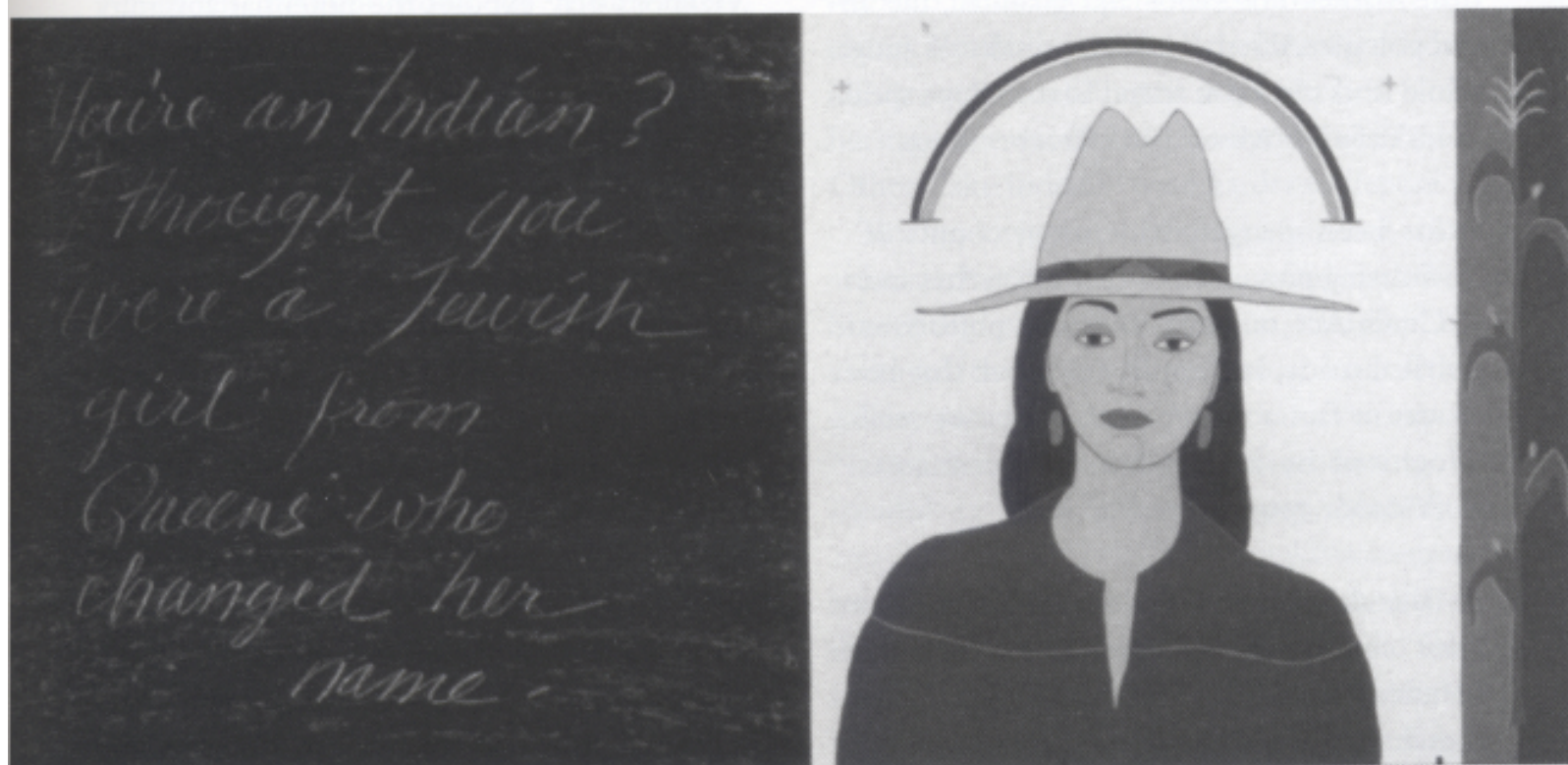
I only carry registered artists, recognized by their tribe. That's harder with the Canadian artists, like the Kwakiutl, because there's so much intermarriage . . . But in the Southwest, and when you research the Lakota, when you dig deep you find out they're full-blooded, pretty close to it. (JL)

Lined up against the act are such diverse entities as galleries, museum curators, Native scholars, and the *Wall Street Journal*, which, in an unsigned editorial, called the act a form of “racial typecasting” that threatens freedom of speech (1992:A14). Gallery owners acknowledge that the popularity of Native American art in the '80s did inspire some “impostors,” but most feel that a federal law is not necessary to protect consumers. This is especially true in the fine-art market, where it is assumed that artworks are purchased for their aesthetic merit

rather than their ethnic provenance. One journalist quoted the unenrolled Cherokee artist Jason Stone, who said, “People can decide for themselves ‘who’s Indian and what’s a rubber tomahawk from Taiwan’” (*Wall Street Journal* 1992:A14). Many enrolled tribal artists also oppose the act, outraged that their community should be subject to regulations that aren’t imposed on other ethnic groups. They say the act unfairly punishes individuals who are socially or legally recognized as Native, but, for some reason, cannot or will not participate in tribal enrollment procedures.

In general, enrollment is a good indication of an individual’s tribal heritage. But in some cases it is not. Enrollment standards vary from tribe to tribe, and sometimes seem arbitrary, accepting the descendants of individuals who signed certain government rolls and not others.⁷ Those individuals whose ancestors refused to sign the government rolls for political or other reasons are generally denied tribal citizenship. Some of the unenrolled could apply for membership today, but many refuse on principle.

Outrage over the government’s right to “police” the Indian art market has proven a popular subject matter for contemporary political artists and authors (see fig. 2.4). One particularly eloquent critique of the act is Gerald Vizenor’s fanciful drama *Ishi and the Wood Ducks* (1995), in which the Yahi of anthropological fame is



2.4. "Talking Leaves" (pages 5 and 6) by Kay WalkingStick (Cherokee), 1993, handmade book.
Photograph courtesy of June Kelly Gallery, New York

brought back to life as an artist. In act 4, Ishi appears in federal court after being arrested for falsely representing his wares at the Santa Fe Indian Market. His savior and guardian, the anthropologist Alfred Kroeber, presides as judge, while Ishi's physician friend Saxton Pope speaks in his defense. "Mister Ishi," Kroeber states,

has been charged with seven counts of violating provisions of the Indian Arts and Crafts Act of 1990. He sold objects as tribal made, and could not prove that he was in fact a member of a tribe or recognized by a reservation government. (Vizenor 1995:327)

As the drama unfolds, lawyers argue about what constitutes legal proof of Ishi's Indian identity. Ishi is silent throughout the proceedings. In the end, Pope offers Ishi's knowledge of Yahi oral literature as proof of tribal membership. "Your honor," Pope asks, "have you ever heard the wood duck stories? The wood duck stories are heard in one distinct tribe. No one could ever fake the wood duck stories." The prosecutor interrupts, arguing that stories are "hearsay, not evidence." Pope agrees, but counters that this "hearsay" is better proof of tribal character than the colonial inventions of roll books or blood quantum. In the end Kroeber cannot rule in favor of either party. "Ishi is real and the law is not," he states, and despite the

fact that Ishi cannot satisfy the provisions of the act, he is an "established tribal character."

Thick with irony and multiple meanings, Vizenor's play exposes the potential absurdity of identity legislation. If the most famous California Indian of all time can be brought to trial for fraudulently selling bows and arrows as Indian-made, then no one is safe, no matter how "Indian." Vizenor, himself of Chippewa descent, has loudly denounced anthropologists and missionaries as colonial emissaries whose writings are the "terminal simulations of dominance, not survivance" (1994:13). By casting the anthropologist Kroeber as judge of Ishi's tribal identity, he suggests a convergence of academic and colonial goals. But Vizenor is not above joining in the attacks on other public Indians, as his other writings reveal (1994:13). Clearly he believes that the authentic should be separated from the fraudulent, but that the standards for authenticity should be set by Indians, not the federal government.

This brings us back to the original problem: who among the Indians is eligible to set the standards?

David Bradley, a successful painter who lives and works in New Mexico, is a founding member of the Native American Artists Association, a Santa Fe group "dedicated to unmasking bogus Indians" (Weisberg 1989:29). Bradley, son of a Chippewa mother and Anglo father, cites the racism he encountered as a child as the

inspiration for his present-day political activism. Bradley was born in 1954 and grew up in "Little Earth," a predominantly Native American neighborhood of Minneapolis. When he was five years old, his family was split up by social workers and he "was adopted, along with one of his sisters, by a white couple who made no bones about their feelings toward Indians: They told him to stay out of the sun because they didn't want his skin getting any darker" (Weisberg 1989:29).

As an adult, Bradley has consistently spoken out against racial intolerance. In the 1980s, Bradley turned his anger against "fake" Indian artists:

When Bradley realized . . . that many of the best-selling "Indian" artists in the Southwest actually had little or no provable Indian blood in their veins, he became incensed. After a lifetime of fighting bigotry, he couldn't stomach the idea that non-Indians were posing as Indians to cash in on the demand for their art. (Weisberg 1989:29)

In 1987, Bradley told a Santa Fe reporter that "four or five of the top ten 'Indian' painters now exhibiting [in Santa Fe] may not be able to prove that they're Indians. . . . These are people making hundreds of thousands of dollars per year by marketing the Indian mystique"

(Bradley in Hart 1987). Despite opposition from the Indian art community, Bradley kept the story in the news by pressuring the New Mexico attorney general to investigate his claims. Bradley's primary target was Randy Lee White, a successful artist who claimed Sioux heritage but was ultimately exposed as a Texan. Other "fake Indians" were harder to depose.

Bradley's vigorous campaign angered many artists and art dealers who felt unfairly attacked. Since the passage of the act, Bradley has assumed the role of watchdog, contacting gallery owners and museum curators to expose Native American artists he considers to be fraudulent (Sprenghelmeyer 1993, McMaster 1995). Of Carm Little Turtle, an Albuquerque-based photographer who identifies herself as Apache and Tarahumara, Bradley says: "She's from a large group of Chicanos who decided to masquerade as an Indian and get certain benefits you wouldn't otherwise get. . . . There are a lot of people pulling this scam" (Sprenghelmeyer 1993).

Another favorite target is Jimmie Durham, an internationally exhibited conceptual artist who has been represented as part Cherokee. Durham is one of the few contemporary Native artists who has achieved critical success in the mainstream art world. Throughout his career his works have been political in nature, "mock[ing] conventional art institutions and contest[ing] derogatory stereotypes of Native

Americans" (Lippard 1993:62). For the most part, Durham's work has been shown in non-Indian galleries and institutions. Nevertheless, two galleries canceled or postponed exhibitions of his work immediately after the passage of PL 101-644, fearing that a fine might be imposed because Durham is not an enrolled member of the Cherokee tribe.

Durham responded to the chaos surrounding his identity by composing a cryptic disclaimer for inclusion in subsequent exhibitions of his work:

I am a full-blood contemporary artist, of the sub-group (or clan) called sculptors. I am not an American Indian, nor have I ever seen or sworn loyalty to India. I am not a Native "American," nor do I feel that "America" has any right to either name me or un-name me. I have previously stated that I should be considered a mixed-blood: that is, I claim to be a male but in fact only one of my parents was male. (in Churchill 1992:72)

With careers on the line and large sums of money at stake, it is easy to understand why reactions to PL 101-644 have been so emotional. In the heat of the controversy, however, few have stopped to question the ideological implications of the state's intervention or to ask what it is really about: Is it about protecting con-

sumers? Is it about protecting "real" Indians? Is it part of a larger strategy to keep Native people tribal, separate, and premodern?

Considered in conjunction with federal regulations on historic and prehistoric objects, the Indian Arts and Crafts Board Act can be understood as part of a larger effort to limit Native peoples' engagement with modernity by controlling the commodification of their goods. Where authenticity legislation seeks to limit market opportunities to racially pure artists and artworks, rightful-ownership legislation, such as NAGPRA, seeks to decommo-ditize by repatriating sacred or communally owned objects to their original tribal communities.

The concept of the non-commodity is part of the primitivist discourse, which claims that tribal life is not materialistic.⁸ As literary critic Marianna Torgovnick wrote, primitive people live in a "precapitalist utopia in which only use value, never exchange value, prevails" (1990:8).⁹ By this definition, tribal art should be fetishized, not commoditized, and any object produced for external markets is inauthentic. In the primitivist discourse, commodification implies biological and ideological corruption. This is the logic that excluded tourist art from so many museum collections (see Phillips 1995a). In the remaining pages of this chapter, I step back from the immediate circumstances of PL 101-644 to consider its place in the larger context of the overlapping

discourses of cultural primitivism, authenticity, and tradition.

■

This tag certifies that this product is an authorised facsimile of a carving by Henry Robertson of the Kemano Indian Tribe of British Columbia. Warning: Copies may not be made without the artist's consent.

—*Card attached to a miniature totem pole for sale in a Victoria, B.C. gift shop*

In Walter Benjamin's frequently cited essay "The Work of Art in the Age of Mechanical Reproduction" (1968), authenticity refers to an original that is copied, mechanically or otherwise. "The presence of the original," Benjamin wrote, "is the prerequisite to the concept of authenticity" (1968:222). In this usage, the authentic object is marked by age and experience: "The authenticity of a thing is the essence of all that is transmissible from its beginning, ranging from its substantive duration to its testimony to the history which it has experienced" (1968:223). Copies (e.g., posters that reproduce famous Impressionist paintings) lose the aura of history because they are new, they have no provenance. No longer singular or original, copies are less valuable but more accessible than the original.

In the Western fine-arts market, attribution to a specific artist is a leading component of an object's authenticity, which, along with condi-

tion and rarity, determines value. Because authenticity is often difficult to ascertain, the New York auction houses employ different kinds of attributions to limit their liability for authenticity. Degrees of certainty in attribution are indicated by slight differences in the way works are labeled. At Christie's, for example, the label "Pablo Picasso" means the work is "in Christie's opinion a work by the artist." Information regarding the history of ownership, or provenance, as well as exhibition and publication of the work, supports the attribution. In some cases, an expert is quoted to confirm the authorship of the work. The label "Attributed to Pablo Picasso" is less certain, meaning the piece "may be the work of the artist." The wording here is crucial, because authorship is the primary determinant of value. Works with hesitant attributions are not guaranteed by the auction house and are thus less valuable. "After Pablo Picasso" indicates the work is a copy created by another artist in the style of Picasso (Christie's New York 1995:9).

As former director of the Metropolitan Museum of Art Thomas Hoving wrote in his memoir *False Impressions*, art objects have been copied for centuries, often with honorable intentions. Around the turn of the century, however, increasing demand encouraged the production of artworks whose age, authorship, material, or cultural origin was deliberately forged. Criminal forgery became so prevalent

that in 1924, London's Royal Academy sponsored an exhibition of fakes as a "primer for how not to get stung" (Hoving 1996:84).¹⁰ To this day, fine-art forgery continues to be a profitable industry.

Tribal arts are also forged, but not in the same way as Western fine arts. Because the art-culture system regards tribal arts as the products of cultural or ethnic groups, not individuals, fraudulence in tribal art refers not to forged authorship but to phony age or cultural origin. At the New York City auction houses, tribal objects are warranted not for their authorship but for their age and ethnic origin, which together constitute their "primitiveness," thus, their value. Native American objects are identified as coming from a particular tribe or region of the country. Typical warranty labels in auction catalogs for Native American art are "A Micmac Card Case," "A Great Lakes Bag," and "A Navajo Rug."

In the world of tribal art, Benjamin's "original" is no longer an individual artwork, but a collective tribal style that flourished some time in the past. His "essence" of history and experience becomes an aura of alterity. Authentic tribal objects are old and racially pure, born before the era of colonial intervention and miscegenation. They are pre-capitalist, made for internal use only. And they are endowed with spiritual power because they have been used for premodern purposes—in the romantic termi-

nology of the ethnic art world, they have been "danced."

Collectors of African art are especially concerned about authenticity, as well they should be, because forgery is more prevalent in African art than in any other kind of ethnic art (Lemann 1987:24). According to Nicholas Lemann, a reporter who investigated the African art market in New York City, more than 90 percent of what "runners"¹¹ sell is inauthentic "in the sense that it is made to look as if it had been used in traditional tribal religious ceremonies although it never really was" (ibid.). Here, authenticity has little to do with authorship, and everything to do with use. Susan Vogel, former director of the Museum for African Art in New York City, elaborates:

Authenticity in African art is specially defined; the fact of having been made by Africans is not sufficient to make an object "real;" the consensus is that only a work made for traditional use and actually used can be considered authentic. (1988:4)

Because African objects were initially desired by Western collectors for their spiritual power, evidence of wear is an important component of their authenticity. Masks that have been danced "many, many times will gradually show wear, sweat-staining, and acquire a dark, shiny

patina," explained Frank Norick, an anthropologist who assembled an exhibit of fake and genuine African sculpture at the Phoebe Apperson Hearst Museum of Anthropology in 1995. In this exhibit, fakes were identified by their unnatural patina (indicating forged use), unusually large size (indicating modern production for an external market), or unknown cultural function. In order to be labeled "authentic," objects had to conform to ethnographic standards: they had to be made for internal use, and they had to be "danced," or used.¹²

In the Native American art world, value turns less on use than on fidelity to traditional tribal forms and styles. Replicas, for example, are differentiated from tourist art, the former being valued for their adherence to tradition despite their non-use, the latter devalued for its evidence of external influence. The actual hierarchy of value is complex, of course, tied to age as well as tradition.

Forgery does exist, but it refers less to age and use than to the appropriation of tribal styles by non-tribal artists. Controversy over "fake" kachinas flared in early 1994, after the Hopi tribe learned that five New Mexico factories employing Navajo workers were churning out hundreds of dolls a day for sale to tourists, who in some instances were led to believe they were purchasing "real" Hopi kachinas. The carvings were "fake" on several levels. First, they were largely machine-made,

which according to the Indian Arts and Crafts Board Act makes them inauthentic. Second, they were produced by Navajos in Hopi tribal styles, a practice some Hopis consider "cultural robbery" (Shaffer and Donovan 1994:A11). Transgression of tribal styles or traditions happens frequently, and is not prohibited by any state or federal law. Nevertheless, Hopis consider this the more egregious offense because not only is it "robbery" but it is an appropriation of the sacred for profit. As one Hopi man said, "Our spiritual realm is being tampered with" (Ferrell Secakuku in Shaffer and Donovan 1994:A11). But, as numerous non-Hopis have pointed out, kachinas carved for sale by Hopis are also inauthentic, because they have not been used in ceremonies. In this sense, Hopi carvers are also guilty of appropriation of the sacred for profit.

Appropriation of tribal styles or designs by non-tribal artists is a recurrent phenomenon (as is the appropriation of non-tribal styles by tribal artists). Whether the appropriation is offensive and/or illegal seems to depend on where and how it occurs, and by whom. The most clear-cut case is the non-Indian artist who suggests he has tribal heritage. This is both offensive and illegal.¹³ Many non-Indian artists produce works that refer to tribal aesthetics, however, and do not claim Native heritage. In the Northwest Coast, several Anglos who work in tribal styles are recognized as master carvers by their tribal

peers. "They [the Anglo carvers] are drawn into the tribe, accepted, like blood brothers," explained an employee of Northwest Native Expressions, a small gallery in Port Townsend, Washington, that is owned by the Jamestown S'Klallam tribe. A tribal member who managed another of the tribe's art galleries said she knew some people were offended that the shop carried works by Anglo artists Loren White, Bill Holm, Duane Pasco, and Dale Faulstich, but that these men were recognized as fine artists. Holm, she said, "has an Indian spirit," and Pasco is "more Native than most of the Natives."¹⁴ As David Bradley's aforementioned comments indicate, the Northwest Coast attitude toward transcultural aesthetic appropriation is decidedly more tolerant than the attitude that prevails in other parts of Indian country, especially the Southwest.

At the center of the controversy are a number of questions that are difficult to answer, although many people have tried. Do tribal nations still have recognizable aesthetics in this age of modernization and global homogenization? If so, what are they? Who owns them? And how are they linked to tradition?¹⁵ As James Clifford explains, "We can't assume that cultural change equals cultural death." But "translating tradition . . . is not the same as preserving it in pure form" (1989:86).

Originally a colonialism intended to separate the premodern from the modern, the term

"tradition" quickly joined the rhetoric of anthropology, where it was used to describe the static nature of primitive societies. As anthropological theory changed, and as Native people started to participate in anthropological discourse, the term took on different meanings. No longer confined to colonialist usage, the term was internalized by the colonized, "most often as they themselves struggled with issues of nationalism and independence" (Horner 1990:1-2). As anthropologist Ira Jacknis explained about Northwest Coast carving, fidelity to older designs makes a political statement about sovereignty and survival: "We are the rightful heirs of this tribal group. We are still here" (1995).¹⁶ Traditions are even invented to serve this purpose, using history as a "legitimator of action and cement of group cohesion" (Hobsbawm 1983:12).¹⁷ In the realm of Native American material culture, "tradition" has consistently referred to an object's adherence to supposedly "primitive" or racially pure styles and forms. Objects that stray beyond the boundaries of tradition are alternately seen as poor quality or ideologically corrupt, showing evidence of contact with external ethnic and economic systems.

Scientifically and/or aesthetically corrupt objects were (and still are, for the most part) excluded from the canonical purviews of anthropology and art history. Ruth Phillips, a leading scholar of northeastern Native American tourist

arts, wrote about her initial transgression of art history's conservative boundaries. In her early studies, she adhered to the "standard prejudices" of art history: "I sought out the rare and the old, the 'authentic' and the unacculturated" (1995a:99). As she explored museum collections, however, she was drawn to other, more eccentric objects, such as "the beaded tea cosies, the pin-cushions inscribed 'Toronto Exhibition 1905,' the glove boxes of birchbark and porcupine quills, or the Hiawatha and Minnehaha dolls in fringed buckskin." These objects were intriguing because they "seemed to . . . illuminate briefly the private lives of unknown strangers, to witness innumerable small meetings across cultural boundaries." In many ways, these "untraditional" objects represented Native reality more honestly than the coveted traditional objects. And yet, they were routinely excluded from formal museum collections and exhibitions (see also Graburn and Lee 1996). Phillips argues that this exclusion was not aesthetic but social and political: "objects that displayed the traces of aboriginal peoples' negotiation of Western artistic and economic systems had to be excluded" (Phillips 1995a:100) in order to support the dual projects of cultural primitivism and colonial expansion.¹⁸

The value system that rewarded tradition conflicted with the commercial interests of traders, who profited from the manufacture of contemporary goods. This conflict produced

two distinct narratives of culture contact and change. The first set up the "white man," particularly the unsophisticated tourist-consumer, as an unwitting villain in the tragic degeneration of Indian culture and goods. This story commonly starts with the "coming of the white man," an event whose date varies, depending on the region under consideration. Some authors discuss the impact of Spanish contact on Native products, the most common example being the introduction of silverwork and wool to the Navajo and Pueblo peoples of the Southwest (Deitch 1989). More frequently, the narrative starts with the expansion of the railroad in the late 1880s, and the subsequent influx of white settlers and tourists. "For most Indians in the United States, the coming of the white man spelled certain doom for traditional ways" (Deitch 1989:225). As anthropologist Clara Lee Tanner wrote, "How much was lost in art . . . cannot be measured" (1960:137). Arts that were not lost turned mawkish from the "poor taste of the buying public" (Tanner 1960:145).

The second narrative cast the white man, particularly traders and sympathetic patrons, as saviors of traditional Native American culture and arts.

It was fortuitous that the early twentieth-century settlers and health-seekers became interested in the indigenous cultures and historic traditions of the Southwest, and



2.5. "Mass Producing a Tradition" by Nora Naranjo-Morse (Santa Clara), 1993, installation at American Indian Contemporary Arts, San Francisco. Photograph courtesy of American Indian Contemporary Arts

that the prime entrepreneur recognized their marketability as a tourist attraction. Otherwise, the decline of Indian arts and crafts would have paralleled other elements of their culture, as was true in other parts of the United States where white settlers paid little or no attention to the existing culture or to their aesthetics. (Deitch 1989:227)

Basketry technology survived, according to dealer Natalie Fay Linn, because of the efforts of discriminating dealers and collectors (1990: 130). Tanner claimed pottery "fared [even] better than basketry, for there has been greater interest in and encouragement of this craft from White men" (1960:142). As for silverwork, "[c]ritical judging by Whites at the Gallup Ceremonials and other exhibits has helped to educate the public and to keep the craft at a higher level" (Tanner 1960:144).

Juxtaposed as they frequently are, these conflicting narratives reveal a fault line in colonial logic: objects were expected to remain pure, untainted by Western civilization, while people were expected to assimilate. In terms of the social economy of the Native American art world, market demand for consistency and quantity in production came into conflict with consumer desire for authentic, hand-made products (see fig. 2.5).

The persistence of this ill-logic testifies to the tremendous inequity between the colonizer and the colonized. The "white man," according to Deitch, had the power to destroy, and then to selectively restore. As God created human beings, the "white man" created the twentieth-century Indian, and then he created their art, through selective patronage tied to a profoundly racist framework.