II. Panel Discussion: Art as a Public Good

Professor Judith Thomson, Moderator*

The members of the panel divide into two groups: Ronald Dworkin and Frank Michelman are professors of law, Professor Dworkin at Oxford and New York University, Professor Michelman at Harvard, and Robert Nozick and Thomas Scanlon are professors of philosophy, Professor Nozick at Harvard and Professor Scanlon, at Princeton. They have all taken the view that the two sandboxes adjoin each other and, in fact, that they really run into each other. So, in addition to their work in law and legal theory, Professors Dworkin and Michelman have made major contributions to moral and political philosophy and, in addition to their work in philosophy, Professors Nozick and Scanlon have made major contributions to legal theory. It might be worth mentioning also at the outset that they are old friends and that they have been arguing matters legal and philosophical with each other for years.

*Professor Ronald Dworkin***

Our topic is art and the humanities and how far the public should support these to make them excellent and fecund. People have discussed this endlessly, and discussion always begins by opposing two methods of study: the economic and the lofty approaches to the matter.

The economic approach—I use a rather generous definition—takes as its premise that a community should have the character and quality of art that it wishes to buy at the price necessary to secure it. The lofty approach, in contrast, turns its back on what the people think they want; it concentrates instead on what is good for people to have. It insists that art and culture must reach a certain degree of sophistication, richness, and excellence in order for human nature to flourish, and that the state must provide this excellence if the people will not or cannot provide it for themselves.

These two approaches are generally thought to be opposed as well

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as different, because it seems, at first blush, that the economic approach would commend either no public support for the arts, or very little. The argument goes this way. The *market* is the most effective instrument for deciding how much and what kind of culture people want at the necessary price. Would people contemplate Aristotle contemplating Homer if they had to pay the full cost of that opportunity, including their share of the cost of maintaining a museum, buying that painting from foreign owners, insuring and guarding it, and paying taxes on the property on which the museum sits? There is only one way to discover this. Let a museum charge people an admission price that reflects all these costs; then we shall see whether the museum was right in thinking this is what enough of the people wanted badly enough. If art is left to the market in this way—and the same holds for universities providing courses in the humanities —then the public will *automatically* have exactly the art it really does want at the price it is willing to pay. But if public support enters this picture—if the public treasury subsidizes part of the true cost of space in front of a Rembrandt so that the museum's admission charges do not reflect the true cost— then this means that the public as a whole is spending more on art than it wishes to spend, at the expense of whatever the funds would otherwise have provided. The economic approach seems to rule out public subsidy, at first blush, almost by definition.

The lofty approach seems a much more promising avenue to pursue if we begin—as many of us do—by wanting to find some justification for a generous level of state support. Anyway, the lofty approach seems better suited to the matter in hand. We should decide how much collectively to spend on art by asking how much is necessary to make our culture excellent. The economic approach seems too mundane, almost Philistine, in contrast.

But we must at least pause, before embracing the lofty approach, to notice its warts. Its embarrassments seem to be two. First, experience teaches that those who would benefit most from subsidies to universities and museums and other cultural institutions are, on the whole, people who are already very well off, because they have been taught how to use and enjoy art. It seems unfair to provide, under the cover of some ideal of human flourishing, further and special benefits to those who already flourish more than most. Would it not be better to divert funds from rich museums to poor clinics and subsidized medical care? Second, the lofty approach seems haughtily paternalistic. Orthodox liberalism holds that no government should rely, to justify its use of public funds, on the assumption that some ways of leading one's life are more worthy than others, that it is more

worthwhile to look at Titian on the wall than Herschel Walker and the New Jersey Generals on television. Of course it *is* more worthwhile to look at Titian, or so most of us here think. But that is not the point. More people disagree with our judgment than agree with it, and it must be wrong for the state, which is supposed to be democratic, to use its monopoly of taxing and police power to enforce judgments only a minority accepts.

These difficulties in the lofty approach send us back to the economic approach, this time to study it more sympathetically and carefully. Perhaps it can furnish some support for state aid to the arts after all. I said tentatively, a moment ago, that the economic approach must reject subsidy because only a market uncontaminated by subsidy can discover the public's true preferences about how its funds should be spent. But that was a simplification: in fact the connection between market prices and people's true preferences are not always so tight. For one thing, what someone is willing and able to spend on something depends on how much he has to spend altogether. If wealth is very unequally distributed in a community, as it is in ours, then the fact that a rich man buys caviar while a poor man does without bread does not mean that the community as a whole values the caviar more than the bread. So, for this reason, market prices and transactions will not always be a fair measure of what the community, as a whole, really wants.

I offer this only as a reasonably clear qualification of my original dictum about the market: unfortunately, it offers no help in using the economic approach to justify subsidy to the arts. It can furnish an argument for a subsidy—for bread for example—only if those who lack what is to be subsidized are relatively poor. But this is not true (or so it seems) of those who could not afford to go to the opera unless the opera were subsidized but could afford it and would go if it were. They belong, for the most part, to the middle classes; indeed, that was the heart of one of our initial objections to the lofty approach.

There is, however, another well-known qualification to the dictum that the market is a fair test of what the community wants for what it has to spend; this is much more promising and will occupy us for much of these remarks. The argument we shall explore is this: that art and the humanities, properly understood, are what the economists call "public goods" and for that reason must be supported from the public treasury rather than only from private purses. I must begin by explaining what a public good is.

I will use this somewhat crude definition, which will be adequate

for our purposes. Public goods are those whose production cannot efficiently be left to the market because it is impossible (or very difficult or expensive) to exclude those who do not pay from receiving the benefit anyway and so riding free. People have no incentive to pay for what they will receive anyway if others buy it. Military defense is a common and useful example. Suppose an army could only be raised by private subscription. If I think my neighbors will purchase, together, an army large enough to repel an invasion, then I have no incentive to pay my share, because they cannot exclude me from the benefit they have bought. There is no way their army can protect them without also protecting me. Environmental benefits provide another example. If my neighbors spend enough to purify the air they breathe they will also purify the air I breathe, and they cannot exclude me from that benefit even though I have not paid my share. So even if I would be anxious to pay my fair share of the cost of an army or of clean air if this were necessary for me to have these benefits, I nevertheless have a strong reason *not* to pay my share in the hope that others will buy the army or clean the air anyway. But since everyone else will have that reason as well, there is a lively danger that we will not, collectively, spend the sum we would be willing to spend if we each thought this necessary, and so we will, perversely, end by not spending what we collectively want to spend.

In these circumstances, according to orthodox economic theory, the best remedy is for the *state* to calculate what the public would be willing to spend if necessary, and to spend that sum itself, gathered from taxes which the public is required by law to pay. Notice that the lofty approach plays no role in this kind of argument for state support. There is no assumption that the people should have military security or fresh air whether they want it or not; but just the very different assumption that they do want it, at the price that will provide it, so that state intervention is merely a tactical solution to a technical problem.

Of course this analysis assumes that public officials can know, or at least have a respectable opinion about, how much the people would spend collectively if this were necessary. Economists have puzzled a great deal, not only about how the state could discover this information, but also about the more fundamental question of what exactly it means to say, of someone, that he would pay a particular price for something under circumstances that never in fact arise. They have offered various theories of what this should be taken to mean, and how the state can form some decent idea of what that hypothetical price is. All these theories are complex, and several are ingenious.

We cannot inspect any of them; for us the important point is that the usefulness of the public goods approach depends on the availability of some reasonably plausible device for deciding what the public really wants to pay for whatever it is that the market, for technical reasons, cannot provide.

Particular cultural experiences—like the opportunity to hear a particular performance of a particular opera—are not public goods, because it is easy to exclude those who will not pay. But the public good problem can arise in a partial or mixed way, when private transactions have spillover effects which others value and from which they cannot be excluded. Consider, for example, vaccination. If someone pays the price necessary to be vaccinated, he secures for himself a special kind of protection from which those who do not pay are indeed excluded; but if enough people are vaccinated then even those who are not themselves vaccinated will benefit to a smaller degree because the risk of disease will be reduced for them. This "free-clinger" problem may also produce the perverse result, if production were left to the market, that society will not have what it wants, at the price it would be willing to pay. For enough people might decide not to buy vaccination, in the hope of having much of the benefit anyway, that total protection falls below the level the community as a whole really wants. Once again, state provision of vaccination, in one form or another, in place of leaving vaccination to the market, would be justified on that ground, as wholly compatible with the economic approach to that matter.

Perhaps art should be regarded as at least a mixed public good, like vaccination, and some state subsidy justified on that ground. This suggestion assumes that when some people buy art and culture—by buying books or visiting fee-charging museums and/or attending concerts or studying in universities—other people, who do not engage in these transactions, benefit to a significant degree anyway. Plainly that assumption is justified to some degree, but the power of the suggestion turns on the character and significance of this free-rider benefit. How, in fact, do transactions in culture benefit those who are not parties? A sizeable economic literature has been devoted to that question: most of it considers a kind of free-rider benefit we might call "extrinsic" because it is not of the same aesthetic or intellectual character as the benefits those who are parties to the transactions receive. For example, New Yorkers who never use the Metropolitan Museum benefit financially when tourists come to New York to visit it and remain to spend money elsewhere. And these New Yorkers may benefit in another way: through the glow of pride they

may feel when their community's culture is celebrated and renowned. Professor Baumol, I believe, will discuss these various extrinsic benefits at much greater length later in this meeting. I must not anticipate his discussion: but my sense of the literature is that the sum of the extrinsic benefits of this sort, even generously defined, would not be enough to justify any substantial level of public support for that reason alone. I also have a sense—do you share it?—that any attempt to justify art as a public good by appealing to this extrinsic kind of benefit demeans the suggestion that art is a public good. The initial appeal of that suggestion, I believe, lies in our sense that art makes a general contribution to the community as a whole, and not just to those who enter into special commercial transactions to enjoy it, a contribution that is not extrinsic to aesthetic and intellectual experience but, on the contrary, is exactly of that character.

The sense I report—that art and culture have intrinsic benefits for the public as a whole—rests on an assumption that is familiar enough and I believe thoroughly sound—namely, that culture is a seamless web, that high culture and popular culture are not distinct but exert reciprocal influence on one another. By general culture I don't just mean, though I mean to include, popular novels and plays and music. I mean also the whole range of diction and trope and style available within a community, as these are displayed in every aspect of communication from reporting and televising public and athletic events to advertising campaigns. I mean, in short, the general intellectual environment in which everyone lives.

Of course, as I just said, the influence of high on general or popular culture is reciprocated; but we ought to concentrate, now, on the influence the former exerts on the latter, and to notice the various dimensions of that influence. High culture provides popular culture, first, with form: musical comedy and television thrillers alike exploit genres first developed in opera and novel. It provides popular culture with reference: the working vocabulary of our community is saturated with specific references to Oedipus, Hamlet, Carmen. (Hair-curling equipment is called Carmen, for example, and decorated with a rose and advertised on television through the Toreador Song.) Third, and as a complement, high culture provides general culture with resonance. Specific references, like the reference to Carmen, supply not just a convenient set of ideas easily invoked, but a set of ideas valuable exactly because they are identified as belonging to high culture and therefore as having a distinct aesthetic value.

All this might be summarized in the familiar phrase: spillover. It seems an encouraging start to an argument whose end, we may hope,

will be the justification of state support for high culture. Since high culture like vaccination provides spillover benefits to the public at large, most of whom do not engage in the specific commercial transactions that finance it, state support is necessary to prevent the community having less than it really wants of high culture because of the free-rider (or free-clinger) problem. There is the argument we have been seeking. Sadly, there are grave flaws in this argument, and they are, taken together, fatal to it in this original form.

The first is the problem of lag. In the standard examples of public goods, like clean air and military defense, the people who will pay for these goods through their taxes, if the state supplies them, are for the most part the very people who will benefit. If the state supports high culture in order to secure spillover benefits for the general intellectual culture of the community as a whole, on the other hand, we cannot be confident that those who will pay the cost will reap the benefit, for the impact may be long-enough delayed so that the main beneficiaries belong to a different generation of taxpayers. This objection, by itself, would not be fatal to our argument, however. It might be met by using the public good argument to support, not a one-time state contribution to art, paid for by those who do not receive the major benefit, but a continuing program of contribution, so that each generation might be said to pay for benefits to the next, and each will both give and receive.

The second problem compounds the first, however. This is the problem of indeterminacy. Public officials can predict, perhaps with some confidence, how any particular level of public expense on military defense will improve security and so give the public what collectively it wants, and how any particular device or program for combating pollution will affect the quality of the air people breathe. But though we know that a decision to have a great many more productions of grand opera or larger collections of Renaissance paintings or more advanced university courses in classical literature will affect the general intellectual climate a generation hence, we have no way of predicting, even roughly, what genres or tropes or references it will add to that climate. It is in the nature of the transfer from high to general culture that such effects depend on judgments and reactions and developments that would be worthless because mechanical if they could be predicted. This fact weakens our original public-good argument for state support for the arts in a fundamental way. If we cannot predict what impact a public program will have on people's lives in the future, how can we justify that program as helping to give them what they really want?

The third difficulty I see is more fundamental yet. Any public good argument requires, as we saw, some degree of information about what the public would be willing to spend to secure the benefit in question if necessary. In the conventional examples—military defense and clean air—economists have, as I said, difficulty devising techniques for identifying this sum once the market has been dismissed as inaccurate. But they are encouraged to search for these techniques because they assume, reasonably enough, that the community as a whole does want military security and clean air at *some* substantial price. The difficulty is only one of accuracy and refinement. The parallel assumption we need for our public good argument for art—that the community wants a popular or general culture of a certain character—is not only problematical. It may well be incoherent.

For the intellectual culture of a community exerts such a profound influence over the preferences and values of its members that the question, whether and how much they would prefer a different culture to the one they have, becomes at best deeply mysterious. I can best explain why, I think, by beginning with a dramatic and improbable example of the problem I have in mind. Imagine some cultural tragedy in which whole types of aesthetic experience familiar to us have wholly disappeared: no one then has any idea, for example, of combining music and drama in the form we call opera. We could not say that people living in that culturally impoverished state would *mind*. They could not, after all, miss opera or regret not having it. Part of their situation, an aspect of their impoverished culture, would exactly be that they would not have the capacity to mind, miss or regret. What sense does it make, then, to say that if we do not preserve opera for them we would be denying them something they want?

We would certainly want to say that they are missing something, that their lives are impoverished in some way compared to ours. But that is very different; it is not their judgment about their lives, which is what the economic approach in general and the public goods argument in particular requires, but rather *our* judgment about their lives. We might want to say: if they knew what they were missing, they would miss it. But that is really only saying that if they did want it they would want it, which is true but unhelpful. Someone may say: they would in any case want pleasure, and they would have more pleasure if they had opera. But this won't do. Set aside the thorny question whether it is always (or even ever) right to say that people want pleasure. Set aside the question whether we can measure pleasure in the way this suggestion assumes. How can we say that people

whose culture has developed without opera, and is therefore different from ours in countless other ways, would have less pleasure from what their culture does provide than we have from our own? We, who know opera, take pleasure in it—or some of us do—and we would be pained at finding it suddenly unavailable. But this is because the structure of our culture has that consequence for people fully immersed in it, and we can draw no conclusions about the hedonic states of people whose culture is entirely different. A taste for opera is in this way unlike some raw material—oil—future generations might have to do without. If we assume their desires are much like our own—they want heat and light and transportation—we can say that not having oil gives them less of what they want, even if they have never heard of oil. But we cannot make a parallel assumption about people whose culture is unlike ours: we cannot say their desires are otherwise like our own, because the desires now in question are those produced by and bound up in the culture we assume they do not have.

Nor does it help if we abandon speculating about future generations and simply ask whether we, ourselves, would be willing collectively to pay any particular price to retain some valued part of our culture. For very much the same problem arises anyway. Suppose we ask, for example, whether our community would rather have the present richness and diversity of its general culture or more and better public parks. We have no way of approaching this question intelligently. The value public parks have for us, and the ways in which we find value in them, are very much dependent on our culture. Parks would have very different meaning and value for us if we had no cultural tradition of romantic landscape, for example, a tradition that began in high culture though it is now carried largely by general culture including advertising. So the choice just offered is spurious: we would be assuming our present culture in valuing something we could only have, by hypothesis, by giving that culture up. Since our intellectual environment provides the spectacles through which we identify experiences as valuable, it cannot sensibly be put on the scales as one of the experiences it identifies, to be weighed against others and found more or less valuable than they.

These are dramatic examples, but the point also holds when the aspects or features of culture supposedly being valued are less comprehensive, more a matter of tone or degree. Imagine, not opera disappearing entirely without trace, but rather losing its edge and excellence and general seriousness, no longer being performed well or in state, no longer being thought a matter of the highest art worth

enormous sacrifice to perfect, no longer being taken, in short, so seriously. This would be at once a change in the quality of an art and also a change in how much people want quality in that art, and these would not be separate and distinct changes. We are no more able, just because the stakes are not so high, to separate what is being valued from the social and personal apparatus being used to value it. This is the final blow to our efforts to construct a public good argument on the spillover effects of high culture. That argument cannot work without some way to identify, or at least make reasonable judgments about, what people—either present people or future generations—want by way of culture; and culture is too fundamental, too basic to our schemes of value, to make questions of that kind intelligible. Our problem, that is, is not one of discovery, but of sense.

Still, this argument has not wasted our time because if it is right we have learned something important. I began by telling the familiar story of opposition between the economic approach and the lofty approach, as alternate ways to puzzle about public support for the arts. I said that the economic approach, at first blush, seemed to argue against public support; but I undertook to consider whether, on a further look, the economic approach might favor it instead. That hope was encouraged by an apparent analogy between the public benefits of private transactions in art and familiar examples of public goods like military defense and clean air campaigns. The analogy failed but *not* in a way that reinstates the economic approach as the opponent of public support. On the contrary, all the difficulties we discovered in the claim that economics smiles on public support are *equally* difficulties in the opposing claim with which we began, that economics frowns on it. The difficulties are, that is, symmetrical for both the positive and the negative claim. Nothing I said about the three problems of lag, indeterminacy and incoherence indicates that the public *doesn't* want what it would receive through public support. Or that the market, uncontaminated by any subsidy, is the best test of what the public does want at the price. My argument, if sound, justifies a much more radical and interesting conclusion, which is that the economic approach is simply unavailable either way as a test of whether art should be publicly supported or at what level. The issue of public support lies beneath or beyond the kinds of tastes, preferences and values that can sensibly be deployed in an economic analysis.

Where, then, do we stand? We began with two approaches, the economic and the lofty, and the first is now deemed unavailable, so presumably we are left with the second. But our argument—particularly

with respect to the indeterminacy of prediction—seems to challenge the usefulness of the lofty approach as well. Once we acknowledge that the main impact of any program of aid to high culture will be, for the most people and in the long run, its impact on general culture, and also that it is next to impossible to predict the details of that impact, the argument that we must aid culture to make people's lives better lives seems a shot in the dark, an article of faith. It suddenly appears that we have no argument at all, either way, and it is time to regroup. It is time to notice a distinction I have so far left latent in the discussion, which is the distinction between two consequences our culture has for us. It provides the particular paintings, performances and novels, designs, sports and thrillers we value and take delight in; but it also provides the structural frame that makes aesthetic values of that sort possible, that makes them values for us. We can use this distinction to define an approach to the problem of public support for the arts that is not the economic, and yet is different from the more unattractive versions, at least, of the lofty.

My suggestion is this. We should identify the structural aspects of our general culture as themselves worthy of attention. We should try to define a rich cultural structure, one that multiplies distinct possibilities or opportunities of value, and count ourselves trustees for protecting the richness of our culture for those who will live their lives in it after us. We cannot say that in so doing we will give them more pleasure, or provide a world they prefer as against alternative worlds we could otherwise create. That is the language of the economic approach, and it is unavailable here. We can however insist—how can we deny this?—that it is better for people to have complexity and depth in the forms of life open to them, and then pause to see whether, if we act on that principle, we are open to any objection of elitism or paternalism.

Please let me retell my story, now concentrating on the structure of culture—the possibilities it allows—rather than on discrete works or occasions of art. The center of a community's cultural structure is its shared language. A language is neither a private nor a public good as these are technically defined; it is inherently social, as these are not, and, as a whole, it generates our ways of valuing and so is not itself an object of valuation. But language has formal similarities to what we called, earlier, a mixed public good. Someone can exclude others, by relatively inexpensive means, from what he writes or says on any particular occasion. People cannot, however, be excluded from the language as a whole, or at least it would be perverse to exclude them, because from the point of view of those who use a lan-

guage free riders are better than no riders. And the private transactions in language—the occasions of private or controlled speech—collectively determine what the shared language is. The books that we write and read, the education we provide and receive, the millions of other daily transactions in language we conduct, many of them commercial, all of these in the long run determine what language we have. We are all beneficiaries or victims, in the end, of what is done to the language we share.

We know languages can diminish, that some are richer and better than others. It barely makes sense—for the reasons we canvassed—to say that people in later generations would prefer not to have had their language diminished in some particular way, by losing some particular structural opportunity. They would lack the vocabulary in which to express, that is to say have, that regret. Nor does it make much more sense even to say that they would prefer to have a language richer in opportunities than they have. No one can want opportunities who has no idea what these are opportunities *of*. Nevertheless, it is perfectly sensible for us to say that they would be worse off were their language to lack opportunities ours offers. Of course, in saying this, we claim to know what is in their interests, what would make their lives better lives.

Is this paternalism? Now we need more distinctions. Paternalism is primitive when those in charge act in defiance of the preferences of those they govern though supposedly in their interest. The police make people wear seatbelts or avoid unorthodox sexual associations in spite of their driving or sexual tastes. Paternalism is more sophisticated when those in charge try, not to oppose preferences already established, but rather to create preferences they think desirable and avoid those they think harmful. This is the paternalism of much moral education, for example, and the justification of much censorship. Protecting language from structural debasement or decay is paternalism of neither of these sorts. It does not, like primitive paternalism, oppose preferences anyone has. Nor does it, like sophisticated paternalism, aim to create or forestall preferences identified in advance as good or bad. On the contrary, it allows a greater rather than a lesser choice, for that is exactly the respect in which we believe people are better off with a richer than a poorer language. Our dislike of paternalism, then, furnishes a reason for rather than against naming ourselves trustee of the structure of linguistic opportunity.

The connection between these observations about language and our problem about art and the humanities is immediate. For the structural aspect of our artistic culture is nothing more than a lan-

guage, a special part of the language we now share. The possibilities of art, of finding aesthetic value in a particular kind of representation or isolation of objects, depend, that is, on a shared vocabulary of tradition and convention. We know that this part of our language could have been much poorer. Suppose no one had ever found value in narrative invention, that is, in a story. Our language would not then have had the complex resources it does to distinguish between a novel and a lie. Then no one could suddenly, just out of creative inspiration, write a novel (or a play). There would be no resources available for him to recognize value in a false narrative, for others to receive what he offered them in this mode. The same point, obviously enough, can be made about painting and sculpture and music and painting. And, for that matter, about history and philosophy and other humane studies as well.

Though we can barely imagine our culture losing any of the basic vocabulary of art entirely—we can barely imagine losing the power to distinguish fiction from lie—we can all too easily imagine less dramatic adverse change. For example, we now have the conceptual equipment to find aesthetic value in historical and cultural continuity. We can—and do—find various forms of quotation from the history of our culture exciting; we find value in the idea that contemporary art reworks themes or styles of other ages or is rich in allusion to them, that the past is with us, reworked, in the present. But this complex idea is as much dependent on a shared practice as is the idea of narrative fiction. It can be sustained only so long as that practice continues in a lively form, only, that is, so long as the past itself is kept alive among us, in the larger culture that radiates out from the museum and university into concentric circles embracing the experience of a much larger community. The very possibility of finding aesthetic value just in continuity is dependent on our continuing to achieve success and interest in continuity; and this in turn may well require a rich stock of illustrative and comparative collections that can only or best be maintained in museums and explored in universities and other academies. If it is right that the community as a whole, and not just those who use these institutions directly, shares and employs the structural possibilities of continuity and reference, something like the public good argument for state support of such institutions is rehabilitated.

The language of culture can grow impoverished in a second way; not by losing particular dimensions of value, like continuity, but by becoming less innovative, by ceasing to develop or elaborate new dimensions. Our own culture has had moments of particular original-

ity, when a use of language or a kind of presentation is suddenly claimed for art, as valuable in the aesthetic dimension, and the claim succeeds. Our ability to innovate is based on tradition in two ways, or on two levels. We must have a tradition *of* innovation, and we must have particular forms of art sufficiently open-ended and amenable to reinterpretation so that continuity can be preserved *through* innovation, that is, so that people can see what is new as nevertheless sufficiently connected to what they already regard as a mode of art, sufficiently connected, that is, to be embraced as falling within the same overall mode of experience. We know that these traditions can languish into an academic or conventionalist settlement, when the boundaries of what can count as art are drawn too tightly, and art degenerates into what is merely familiar or only pretty or, worse still, what is useful for some non-aesthetic goal. The state of art in tyrannies is a depressing reminder of what is possible by way of degeneration.

We have much less difficulty, then, in imagining changes that count as the decay rather than the extinction of some main branch of culture. Our question was this. Can there be any objection, in principle, to our taking up the postulate and the program I mentioned: that people are better off when the opportunities their culture provides are more complex and diverse, and that we should act as trustees for the future of the complexity of our own culture. We have seen—but it bears repeating—that the economic approach, and the democratic values that approach represents, itself offers no objection. Using state funds in that way does not deny the future public what it wants. We listed, much earlier, two standing objections to the lofty approach to state support for the arts: paternalism and elitism. We have already noticed that if state subsidy has, as its purpose, protecting structure rather than providing particular aesthetic events, the charge of paternalism is defused. So is the charge of elitism, because structure affects almost everyone's life and in such fundamental and unpredictable ways that we lack the conceptual equipment to measure who benefits most from the various possibilities and ideas they generate.

Once, long ago in this argument, it looked black for state support for the arts. Now it suddenly looks too rosy. Can we really end the argument simply by announcing that the point of state support is to protect the structure of our intellectual culture? No, of course not. We must earn, not just claim, the structural description, and then show what kind and level of support that description justifies in the

circumstances. We have changed the terms of the argument, but not won it in advance.

How much state support can be justified in this way? One point needs to be made at once. The argument, at best, justifies public officials taking the protection of culture among their goals; it does not justify their making it their main or most pressing goal. They must still fix priorities, about how much to spend for art and the humanities as against competing claims that will include, for some, military defense and for others, social justice. It goes far beyond our subject today—fortunately—to consider how these priorities should be arranged. But the choice between art and the rest is not, flatly, the choice between luxury and necessity, grandeur and duty. We inherited a cultural structure, and we have some duty, out of simple justice, to leave that structure at least as rich as we found it.

My argument, however, is meant simply to show that art qualifies for state support, not to set floors or ceilings to that support. But art qualifies only on a certain premise—that state support is designed to protect structure rather than to promote any particular content for that structure at any particular time. So the ruling star of state subsidy should be this goal: it should look to the diversity and innovative quality of the culture as a whole rather than to (what public officials take to be) excellence in particular occasions of that culture. The rest is strategy and tactics: maxims and rules-of-thumb made to be broken. In general (I should think), aid should be given in the form of indiscriminate subsidies, like tax exemptions for donations, to cultural institutions as such, rather than as specific subsidies to particular institutions. When discriminations are made, these should favor forms of art that are too expensive to be sustained by wholly private, market transactions. If these include (as I think they do) expensive comprehensive collections of paintings, like the collection of this museum, or comprehensive studies that the market would not support, like much of the programs of great universities like Columbia, then it can be no objection that only a relatively few people who are already privileged in various ways will benefit directly and immediately. I do not mean, of course, that we should be insensitive to the appeal of programs with other aims, in particular programs that try to secure a wider audience for the arts and scholarship. That ambition remains important and urgent. It can be defended in many ways, not only by pointing out how this, too, helps protect the fragile structure of our culture.

public interest. It seems to be the arts and humanities, above all, that keep alive in our civilization, in our lives out of doors, that sense of the possibility of jointness in experience—what the poet calls the "dream of a common language"—which seems the only alternative to tyranny in either the public or the private realm; and if anything is a public good, maybe escape from tyranny is.

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*Professor Robert Nozick**

My two predecessors had relatively straightforward arguments, considering objections to them, that proceeded towards a goal and a conclusion that they hoped to justify or at least wanted to support.

I don't know what I think about this matter although I think it is expected that I will speak against public subsidy.

Given the topic of the public benefits provided by the arts and humanities, there are three notions to focus on: "public," "benefit," and "provided by". The notion of "provided by" has been taken for granted here. It is not just that the arts and the humanities as they exist in the society do and would produce and cause certain benefits. That is not enough for an argument for subsidy or public support. One must add the claim that if these benefits weren't provided in that way, then no other reorganization in the society of its institutions or persons would fill the breach and provide it. One needs, in fact, a rather elaborate theory not only about what is actually provided in our culture by the humanities but a theory holding that this is the only way those benefits could come about, or only at great cost could they come about otherwise.

Second, we turn to the public nature of the benefit. "Public" might mean a benefit to someone who doesn't pay for it, but then gifts would be public benefits. So instead we have the economists' technical notion of non-excludability. In that sense, national defense is a public good for those who want the country defended because it is very difficult to defend only some people and not others living in a geographical territory. But are the arts a public benefit in this sense? Theaters can charge and book stores can charge and bookstores can have people pay for things; it is clear that in various ways one can channel benefits only to those who pay. So we focus on the question of whether there are spillovers, other more general benefits that would provide a case for subsidy. The ambiance of the culture of

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which was mentioned—you can't really charge people for this because there it is and people are living in the culture.

However, every activity has spillover benefits, including many that people don't want to propose as candidates for subsidy. A person who dresses well and pleasingly and walks in public provides benefits for other people in the pleasure of seeing someone looking nice. Is there a case for public subsidy of especially-pleasing clothing to make the already well-dressed even more well-dressed? About this we think that although there might be spillover, the major benefits are had by those who are actually paid for it and those in the immediate environment that that person deals with and there is no general case made by marginal small benefits or spillovers. It is not enough to show just that there are some other benefits; you also have to show that in some important way there is too little of the thing being provided while if everybody paid for the marginal spillover benefits they were getting, much more of it would exist.

Professor Dworkin, in talking about external benefits, mentioned general ambiance. I want to come back to the notion of structure which seems to me to be an important one. However, some of the ways he referred to it seem to be somewhat flimsy. Consider the general cultural resources of references and the resonance that one could have in a culture. It wasn't just that people paid and bought paintings in galleries, went to the theater and bought books, but others knew about Carmen and musical comedies could draw upon it—perfume advertisers could draw upon it. Call this the trickle-down theory of culture; culture seeps everywhere and provides a general milieu that people find useful to have. That is true, but we need to make two points. Many things provide that—the sports world, for example. There are politicians, unfortunately, who are constantly drawing on sports analogies in talking about international relations; other people do so in their personal lives; young people say the game isn't over until the last out and so on. Everybody has some favorite (inappropriate) sports analogy.

I have never heard anyone say that it is so useful when people can refer to sports figures and situations, such a useful resource in the culture, that we should subsidize sports because right now the only people paying for sports events are fans. (To be sure, cities also build stadia, and we might talk about why, but that is not the general cultural spillover that is thought to justify this.) Instead, we think there is enough sports. It is true that it constitutes a cultural resource but we don't need to subsidize it. We don't need any more. We already have that sports ambiance.

Well, we already have the cultural resonances that Ronald Dworkin was referring to when he talked about a rich and complex structure. It may well be that it is providing something very wonderful that we can all move in and draw upon. But we have that. Is there a special case for its subsidy so that we should have even more, or is it in real danger of disappearing? Not particular things disappearing, mind you, but is the general structure of complexity in danger of disappearing so that it will no longer be there as a cultural resource for people? I would like to see some real empirical evidence on this. It is my impression that "ambiance" is a term that people often turn to when their case is flimsy.

Take Professor Dworkin's example of language. Language is complex and wonderful; it provides us with all kinds of resources. I am not sure what I am supposed to conclude from this. Public subsidy of the language? Establishment here of something analogous to the French Academy? So, even to show that something provides a rich, structural resource isn't yet enough to justify public subsidy. You have to show that it is in danger of disappearing; that there won't be other things that will perform its function or an analogous one, that we need a lot more of it than we have, and so on.

To turn more positively to the case for subsidy, I think that we speak about a public realm rather than a sum of private benefits. The public nature of the benefits, as economists talk about it, is its spillover to other private individuals. The question is, can we identify some public realm? That is what Ronald Dworkin meant by structural features of the culture and what Frank Michelman meant by public interest. There clearly are some that are public, such as our process of political decision-making. We think that education in the United States has benefits apart from the private economic benefits to the people who get the education and to their employers and so on. We want an educated electorate to cast intelligent votes on matters and pursue issues carefully; we see an educated electorate as a general public benefit, as is the constitutional arrangement of separation of powers.

There is also the public space we live in together. We might want it to have a certain character, but that at best would provide a role for the arts as marginalia in our public life. Public government buildings would have paintings on the walls, Robert Frost would read a poem at an inauguration and at other ceremonial occasions. Then there is the general character and reputation of our civilization, elsewhere now and also in the future. We want to be proud of it, to live in a cultural that is vibrant and wonderful, that future people will look

back upon and say it had wonderful artistic achievements and cared about things that were important and valuable. Some people see that as the arts and science and the humanities. Other people have thought about the space program like that. Nobel prizes in science. Olympic athletics. There are a lot of different people and different things that make other people proud; eventually, that might expand to encompass just about everything. One wants to be proud to live in a good society, however one defines it, and it will be very hard to draw any boundaries about what those limits are. Is a good society one that has no poverty, oppression of any sort, or mental distress? There could be a lot of nice things that one might be proud about.

However, there is one general notion that the arts do help provide in our culture. That is the notion of objective value—a value that is objective apart from personal preferences. People here wanted an approach other than the economist's, who looks only at personal preferences. They wanted something more objective, what Ronald Dworkin called the lofty approach, that talked about the preferences people ought to have. Frank Michelman said other people ought to be the way he was. This notion of "ought" as distinct from what you want and your personal preferences is an important resource for us to have available in the culture. One place that a notion of objective value is importantly supported is in the arts. At least, it has been provided historically to people who think one can develop taste and standards of judgment. There is some objective notion you can be wrong about it; taste can be educated. The arts and humanities generally provide us with some notion of a standard other than mere personal preference.

However, if this provides a case for subsidy, it is not clear that it can provide a case for the general subsidy of all artistic activities. If anything, that looks like it fits better with a subjective or relativist notion of value. If you care about support of the arts because of some notion of objective value, then if you support all art independently of merit, or support all attempts at art independently of merit, then you undercut your purpose. At the same time that you are supporting the arts to give people the notion of real objective value and not just personal preference, you are refusing to draw lines and establish standards, saying all art is equally good for our purposes; hence, you undercut the very notion of objective value that you want to be supporting through publicly supporting the arts and its general currency in the society.

It looks, then, like you must support only art and artistic endeavors

that are judged to be meritorious by some group; the dangers here are obvious. So it is difficult to make the case for subsidy.

It may be that the arts have to make a harder case than other areas. At this meeting we are asking—and maybe it is the case for all new subsidies—what is the ground for justification? Is it a public good? Is it redistributional? Isn't it paternalistic? For the rest of the society though, everybody is feeding at the subsidy bin. Nobody asks why we subsidize farmers in the ways we do. Is it justified by the public interest, by this, that and the other thing? This society has, from my point of view, though perhaps not from most of yours, run amok with subsidies of all kinds of people without any general principle. How, then, should we think about the current non-subsidy (or very small subsidy) of the arts and the humanities?

Perhaps the correct principles wouldn't yield subsidy of the arts and humanities, but right now in our society, the correct, stringent principles are not being applied to any other area except the arts and the humanities. What kind of public announcement does this society make about valuing the arts and humanities when these are now held to a criterion and a standard that no other arena is held to? For other arenas, nobody is demanding they be shown to be public goods in the strict economist's sense. The arts and humanities stand for, it seems to me, some notion of objective value; by not subsidizing this, in contrast to all the other things that are actually being subsidized sloppily, the society is announcing that that notion of objective value, from its own point of view as a society, isn't valuable. There is a special insult to that. So, at least there is a case for either stopping the rest of the subsidies or starting one here. Moreover, from a general societal interest, we would have fewer alienated intellectuals and people in the arts and humanities, or they would be somewhat less so, if there weren't that public slap of the society's going out of its way *not* to subsidize.

Let me close by making a few further points. Once we talk about structural features, we notice that there might be structural benefits to non-subsidy of the arts. There are benefits to the general realm in there being stringent rules for what should be subsidized and what shouldn't. Just as living in a society in which the arts and humanities are highly valued and presented to people can affect the general culture, so can there be wider or narrower criteria of what gets subsidized. There is, then, a competing structural good in the society, not quite a public good, but a structural one, passed on from generation to generation in American society, at least until recently, about some

limits on what gets subsidized. That, too, is a structural good that one doesn't want to get rid of easily.

Lastly, this panel has talked about intrinsic benefits, about the paternalistic argument that tries to make the society better, about supporting the kinds of activities that ought to take place, about the way individuals ought to be. Once one is engaged in that arena, with government activity and subsidies, of cultural events—not requirements that people go to cultural events—it raises hard questions on the other side. If there is intrinsic value and if there is an objectivity to it and one is making an objective argument about its support, then there is also intrinsic disvalue. There are, then, some activities in the society that are objectively degrading to people or in some way diminishing their range of responsiveness to things—use your favorite evaluative terms. I have worries about the nature of the principle that weights the scales in the public realm. You might say, "No, we want only the good side favored by subsidies. We don't want extra taxes on pornographic books and higher prices for them, or similar things." But once one is engaged in tilting the scales in the culture towards some ways of being and not others (and one is making a general argument for this) then you may have to tilt against as well as tilt for. And I think the people here favoring public subsidy of the arts should be more worried about that prospect, especially in American society now, than they seem to be.

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*Professor Thomas Scanlon**

It seems to me that we have been addressing several different questions at once, and I will begin by trying to distinguish them.

The first question concerns the general argument for leaving all resource allocation decisions to the market. This is an argument against any kind of public subsidy. The first question is whether and how this argument can be rebutted, or shown not to apply, in the cases we are concerned with. This is the question which the discussion has been most concerned with so far.

The second question is: what is the positive case for public support of the arts and humanities? The first question leads to this one, since in order to rebut the economic argument, one needs a positive characterization of the benefit which a policy of subsidy aims to provide. But this question is also of more general interest. Even if the eco-

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nomic argument were shown not to apply, this would merely remove one objection to public subsidy. We would still want to know what good would be served by it.

This question, of the benefits which a policy of subsidy should aim at, needs to be distinguished from a third question, about the aims of the institutions which are candidates for subsidy. What kind of purpose must an institution have in order to qualify for public support? Must it aim at the same public benefit which justifies the policy of public subsidy?

These last two questions can be addressed in a more or a less restricted way. They can be asked as questions about an ideal policy of public subsidy or as questions about some policy actually in force, such as current federal or state tax law. We can inquire, for example, into the question of which organizations count as "charitable" under the meaning of the phrase in current tax law and the law of charitable trusts. I take it from what Peter Swords told us in calling this question to our attention at the outset of the conference that in order to so qualify it is not enough that an organization confer some benefit on the public: it must also have this benefit as its purpose.

These questions are clearly distinct, but they are not unrelated. Professor Dworkin, in looking for a response to the economic argument against public subsidies, is led to inquire into the nature of the benefits which artistic and cultural organizations provide. He aims to show that these benefits go beyond private enjoyment and include "public goods" in the economists' sense: benefits in which all share and which, in order to be provided for some, must be provided for all.

How could one defend a claim that a cultural activity such as the promotion of a particular form of art is a benefit to all? One method would be to argue that that form of art is, in itself, a good and valuable thing, and that its promotion in a society is therefore a good thing for that society, whether individual members of the society appreciate it or not. While Professor Dworkin does not reject this form of argument, which he calls "the lofty approach," he tries to avoid relying on it. A second method would be to show that something is a "benefit to all" by showing that it is in fact desired by all. This is the method underlying the theory of public goods in economics. As Dworkin notes, it is difficult to argue, on this basis, that the development of a particular genre of art is a public good. Almost any form of art is controversial: there will be some people who do not desire that it be developed and perhaps even some who actively desire that it not be developed. His solution to this problem is to employ what might

be called the method of abstraction: faced with disagreement over the relative value of competing and even conflicting goals, we may find a common ground by appealing to a more abstract value of which the particular conflicting goals are more concrete versions. Thus, in the present case, Dworkin observes that there may be no agreement as to whether a particular genre of art or a particular example of a genre is a good thing. But he suggests that even where such questions are controversial, the promotion and protection of the "structural richness of the culture" is something which benefits everyone "in roughly the same way," and which all can agree about.

The method of abstraction is a common form of political argument in situations where we need to find a basis of agreement behind apparent differences. Let me mention a few problems with it in the present case. First, we should note that the idea of "richness of structure" is extremely broad: almost any intellectual or artistic idea or style could count as a contribution to "the structural richness of a culture." But it is not clear that the introduction or preservation of just any idea or style (even if it is novel) is something which "benefits all in roughly the same way." As Dworkin observes, the merits of any particular style or instance of a style are likely to be controversial. Suppose I am one of the people who believes that a particular style is a very bad thing. I might nonetheless agree that its introduction represents an increase in the "structural richness of our culture" in Dworkin's sense. Perhaps I might even agree that such richness is, taken by itself, a good thing. But must I therefore think that the introduction of this style is, on balance, a good thing? Might I not believe that increasing "the structural richness of our culture" *in this particular way* is much to be regretted—that the faults of this particular style more than outweigh the advantages of having the range of artistic possibilities enlarged?

This suggests that it is difficult to argue for the merits of any particular contribution to the structural richness of a culture in a way that avoids the controversies and difficulties of "the lofty approach." But this does not strike me as a surprising conclusion, or one that we should regret. It seems to me that there are broad limits within which it is an entirely appropriate function of government to support institutions which are judged by citizens to be valuable. (At least this is so as long as there is a tolerably fair political process through which such decisions can be made. One objection to public support for the arts and humanities may be that the process is not fair, and that, in particular, the rather small group of citizens that is particu-

larly interested in these pursuits has disproportionate political influence.)

The question of which enterprises to subsidize is a matter for political decision and debate, and it seems appropriate that this debate should, at least in part, follow what Professor Dworkin calls "the lofty approach;" that is, that it should consist at least in part of argument about which enterprises are to be counted as good and valuable. The claim that an activity ought to be subsidized because its products are "intrinsically valuable" may sound objectionably "lofty" when it is understood as a claim of authority telling citizens what is good for them. But there is nothing objectionable about an argument among equal citizens about what is to be recognized as good. The idea that argument in these terms should be avoided—that political argument should refer only to personal preferences—seems to me mistaken. As Professor Michelman says, we may be unaccustomed to debate about values and lack a commonly-accepted terminology in which to carry it out. But I suspect he would agree that more frequent and sustained debate of this kind is the only way to remedy this lack of terminology.

It is possible that I have misinterpreted Professor Dworkin's remarks about "structural richness." Perhaps what he means to claim is not that each particular contribution to the structural richness of a culture is a benefit to everyone, but only that everyone benefits in roughly the same way from a government policy of protecting and fostering the structural richness of a culture, which might otherwise become narrower and more stagnant. This brings up one of the distinctions I mentioned at the outset.

Assume for the moment, that Professor Dworkin's notion of structural richness is a plausible characterization of the benefit which a government policy of subsidy to the arts and humanities might aim to provide. What class of institutions would qualify for support under such a policy? In particular, does this proposal give us any insight into the notion of a "charitable purpose" as it is used in current tax law and the law of charitable trusts?

One answer to the first of these questions is that an institution is a candidate for support if it contributes to the "structural richness" of the culture. The problem with this criterion is that it is too broad: the range of activities which could have the *effect* of increasing the structural richness of a culture, of introducing novel ideas, novel visual forms etc. is extremely wide. It would include many institutions other than not-for profit ones, and many whose primary purposes are not in any sense cultural or artistic. A second answer would be that

institutions are candidates for public support only if their *purpose* is the enlargement or preservation of the structural richness of the culture. But this criterion seems too narrow, and it makes a rather arbitrary division among cultural institutions which could plausibly be claimed to benefit the public. Perhaps some large museums such as this one do have "structural richness" in Dworkin's sense as at least one of their important aims. But this is less obviously true of smaller institutions whose purposes are narrower. It would not seem to be true, for example, of the Swedenborg Foundation, or of a society devoted to promoting the performance of the music of Handel. What about an institution like Asia House? The *effect* of its activities (like those of the other organizations just mentioned) may well be to increase the structural richness of our culture, but is this its aim? Perhaps its aim is not to enlarge our culture but simply to deepen and refine our understanding of Asian cultures. It would be odd if the eligibility of Asia House for tax-exempt status were to depend on this rather subtle question of whether its aim was to enlarge the range of cultural possibilities we are aware of or to deepen our understanding of possibilities already known to us in general terms.

My conclusion, then, is that Professor Dworkin has characterized a rather abstract benefit which a government program of subsidy to the arts might take as its aim. But this benefit does not seem to be the only "charitable purpose" which could make a private institution worthy of public support.

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Questions and Comments

QUESTIONER: Professor Dworkin, I would like to suggest that it is not absolutely necessary for the panel to consider public benefits solely as the aggregation of individual preferences. Indeed, many economists have discussed the mutual ways of the public interest, and social benefits; the richness of structure that is part of the external benefits to which the exclusion principles do not apply, which can, therefore, justify subsidies. I am defending the economists.

PROFESSOR DWORKIN: Yes. Some of my best friends, as it turns out, are economists. I had no intention of attacking them. I was attacking—if that is the right word—an approach, which begins in the idea that one must defend subsidies of various forms by showing that they provide benefits to people overall as judged by their preferences, that is, by showing that subsidies gives them what, collectively, they most want.

III. Panel Discussion: The Arts, The Humanities, and their Institutions

Marshall Cohen, Moderator*

Professor Richard A. Wollheim**

The topic of this afternoon's discussion is two institutions which are, in modern society, the two major transmitters of culture: the museum and the university. We are concerned with these institutions, how, and above all why, they should be maintained and supported.

I shall discuss these topics within the second-best framework for these purposes: the framework of benefit, public and private. I choose this framework for two reasons. One reason is that, though it doesn't provide me with the best framework within which to plead my case, it provides my critic with the best framework within which to dispute it. It is, in other words, the most testing framework, and that is good. The other reason is that the framework that is best for presenting my position—that is the psychology of needs—is not much in favor in the society within which this discussion takes place.

Let us assume that the case has been made for thinking that the museum and the university are, in the technical sense of the term, public goods: or, if we take full account of what Professor Dworkin said, for thinking that they are in the nature of public goods, technically understood. That is to say, if we are to have them on an adequate scale, they must be, either in whole or in part, paid for out of public subsidy. The question that remains for me to raise and for us to discuss is whether the public subsidy that the museum and the university ask for is justified; and if it is, by what, and with what, other kinds of subsidy this may be combined. Given the framework within which I intend to discuss the issue, the question that I shall raise is whether and why the museum and the university are, in the nontechnical sense of the term, public goods. Do they provide the citizens of a society with benefits commensurate with what its representative, the state, is asked to pay?

Museums and universities fill a number of different roles: and if we

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ask whether, how, and to what extent, they confer public benefits, it is necessary for us first to ask: in what role?

The most important single role that museums and universities occupy is not also their most conspicuous role. Their most important role is the direct part they play in generating culture, in generating art and speculation that future ages will return to the museum and the university to study.

That there is this role for museums and universities to play derives from an all-important fact of (I suppose) social psychology, which we just take for granted: that culture derives from culture. It is interesting to recognize that this might not have been the case. The Futurists might have been right, that the only way in each age to release creativity might have been to burn down the museums. There are those who claim that in the sciences this is just how things are. And it would be totally misguided to deny that within the arts and the humanities, the influence of the past is often a source of confusion, anxiety, and oppression. But, however powerful a burden the past may turn out to be, this burden is not external to intellectual and artistic creativity. We could not, by willing it away, erase creativity. With the past obliterated, there just would be no thought and no art to create.

Creativity is a value. That we cannot always recognize creativity when we come across it, or that we might think we have encountered it when we haven't, does not make creativity less of value. Indeed, when we come to think about it, that creativity should be elusive in this way is precisely what we should expect, given what creativity is.

Creativity is a value for society, and it is a value for society collectively, not distributively. A society is better off for having citizens of creative attainment, and no further information is relevant about how this creativity impinges upon or benefits other citizens. Accordingly, insofar as the museum and the university seek to justify the public support they receive by appeal to the way in which they help to make the culture they transmit, this case does not have to be—in fact it cannot be—supported by a consideration of how they distribute this value.

But all this changes radically when we come to consider the museum and the university in their most conspicuous role: as offering access to, or permitting what is inelegantly called the "consumption" of, the creativity of others. For here, questions of distribution, and specifically of fairness of distribution, arise. If I write a novel of genius, that is a value, and a value for society as a whole, no matter what else happens. However, if I go to see a painting of genius, it is a value for me, though its consequences are not expected to stop at

me. We are therefore likely to inquire where the consequences stop once we recognize that my visit to the museum where the painting hangs is in part at least paid for out of the public purse. For until we know where the consequences stop we cannot decide whether the subsidy is justified.

One way of putting the matter would be this: what calls for public subsidy for the museum and the university is the presence of widespread externalities, or benefits that would accrue to non-paying bystanders. However, the fact that those externalities, though widespread, are not universal—combined with the fact that not everyone is likely to go to a museum or university—brings this public subsidy into question. Is the distribution of the good it subsidizes fair?

Again, the question is premature. For we cannot answer this question, we cannot decide whether the distribution is fair, we cannot even decide that it isn't fair, until we have a better grasp what this good is.

Let us for a moment consider the issue not just within a consequentialist framework, but within a framework whose measure for assessing or evaluating consequences is specifically in terms of happiness and unhappiness: that is to say, a Utilitarian framework. The greatest of all Utilitarian thinkers was John Stuart Mill, and it was an originality, and remains a largely unrecognized originality, of his thinking that he saw that Utilitarianism was, or was best thought of as, a two-tier system.

For John Stuart Mill it was impossible to think of morality in any except strictly hedonistic terms. The only entertainable content of obligation was the maximization of utility: the greatest happiness of the greatest number. However, although it was inconceivable that we should think that there was anything else that we ought to do, obligation carried little weight, it must remain a matter of small moment, as long as people conceived of their happiness in rudimentary or primitive terms—simple-mindedly, in terms of agreeable or disagreeable sensations. Obligation gained in cogency only as people's conceptions of happiness grew into sophistication. The leading thought here was this: for any individual person what counts as happiness is mediated by, or (as some would say) is partly constituted by, his conception of happiness. And conceptions of happiness are personal, not just in the anodyne sense that each person needs to acquire one—he does not automatically or by nature have one—but also in the more radical sense that different persons are likely to have, to varying degrees, different conceptions of happiness. Conceptions of happiness,

to be what they are, to offer what they promise, must be appropriate to the psychology of the person to whom they belong.

It was, then, in recognition of these facts—of the dependence both of happiness, and of the importance of happiness, upon conceptions of happiness—that Mill thought that there accrued to Utilitarianism a project that might be called preliminary Utilitarianism. And preliminary Utilitarianism was a commitment upon the members of a society, but, above all, on society itself, on the state, to *create*—first to create, then to *maintain*—those conditions which are most favorable to people forming and developing their own, personal conceptions of happiness or utility. Central to preliminary Utilitarianism would be the establishment of such things as freedom of speech, liberty of opinion, toleration of behavior, the attenuation of prejudice, the spread of psychological understanding, and (as Mill slowly came to see) equality of social and economic circumstance. Mill's two-tiered system consisted therefore in, on the top, Utilitarianism proper, the objective of which was the maximization of utility: and, underneath it, preliminary Utilitarianism, the objective of which was the diffusion of the conception of utility.

Of necessity, preliminary Utilitarianism had to make do without the sanction of obligation. Obligation attached solely to Utilitarianism itself. Furthermore, it is a theme of Mill's great essay, *On Liberty*—once again it must be said, a partly unrecognized theme—that preliminary Utilitarianism and Utilitarianism proper can come into conflict. For instance, preliminary Utilitarianism is likely to argue for the maintenance of conflicting opinions in an area even when truth has been ascertained: whereas Utilitarianism proper will query the benefit of such a use of resources. But Mill thought that where the two projects do come into conflict, then, unless the loss of Utility is likely to be massive, the claims of preliminary Utilitarianism are to be favored over those of Utilitarianism proper. The rationale being that more important than most things, more important even than happiness, are conceptions of happiness. Utilitarianism should be taught procrastination.

I want to stay with this two-tiered Utilitarianism a moment or so longer before I attempt to bring the discussion back on course.

What, we must ask, makes the different conceptions of happiness all conceptions of *happiness* and not something else? I take this to be an important and substantive question. The answer—and I believe this to be the answer that Mill himself favored—is a three-part answer. For a conception to be a conception of happiness it must satisfy three conditions. In the first place, the word "happiness" will be the

word that native speakers of the language naturally reach out for when they try to express just what it is that this conception mediates. Second, the conception will have been arrived at by a distinctive route marked out by trial and error. The conception will have been formed and developed through a variety of what Mill imaginatively called "experiments of living." And, third, the experiences to which any such conception accords privilege, the moments of happiness that it identifies, derive, along a recognizable developmental route, from primitive or infantile sensations of pleasure. No asceticism, or idealization, has crept in to distort or denature the satisfaction that a conception of happiness advocates.

It is at this point that we may, I suggest, go back to the problem of the good that the museum and the university offer to those who consume rather than create culture. My suggestion is that this good is to be looked for in two areas, both of which are closely connected with the formation and development of personal conceptions of happiness.

In the first place, art and speculation provide us with outstanding examples of just how it is that people can come to produce objects or systems of thought which, while undoubtedly serving some social purpose or submitting themselves to some social norm, above all match intimate states of mind or desires, and in this way bring about forms of satisfaction that until then were not imaginable. Every work of art, every speculative idea, records in Mill's phrase an experiment of living. The art and the thought of the past are in this way exemplary for the everyday lives of the present and the future. They show us how others have expressed themselves and they therefore encourage us in all reaches of our lives to make the way we live them expressive of ourselves. Ordinarily we take expression, or the way in which outer things can match and satisfy inner needs, for granted. We don't think that it needs to be accounted for. But that, I think, is only because we also take what in fact the museum and the university purvey—art and speculation—for granted.

But if the consumption of culture acts in this way indirectly upon our conceptions of happiness—it encourages us to form them—it also acts directly upon one important factor that determines the content of such a conception: that is to say, what we get pleasure from. And here I mean pleasure in the straightforward sense: direct, sensuous and absorptive. Again, we take it for granted that what we enjoy will change over the years. But in fact, the instincts are highly and notoriously conservative, and in taking for granted the malleability of pleasure, we show ourselves once again taking for granted what the museum and the university purvey. And if we now ask why it is that

culture is effective in modifying something so resistant to change as pleasure, the answer lies largely in what I have already suggested is the case: that the products of culture—works of art, systems of thought—offer such spectacular examples of the match of outward to inward. They are like parts of ourselves.

If I am right in all of this, the prime claim that the museum and the university have upon public support is as agents of preliminary Utilitarianism, and one way in which preliminary Utilitarianism differs from Utilitarianism proper is that it is extremely difficult to evaluate the effectiveness and the efficiency of policies designed to advance it. We cannot plot the progress people make in elaborating and securing their conceptions of happiness.

And once again recall that conceptions of happiness are personal in a strong sense. There is not one conception of happiness whose diffusion throughout society we are trying to measure. If that were our task, we might be able to do it. We are looking for the progress that each person makes in evolving and sustaining a conception of happiness that is right for him. And that cannot be material for a fine metric.

In a debate that raged some twenty or thirty years ago, key terms were "high culture" and "mass culture." I recall these terms, and revive them for the briefest span, only to make a point that bears directly upon this discussion.

There are tensions between high culture and mass culture, but what is relevant to us is that mass culture in its own way—upon which we can all have views—does something that high culture does; furthermore, it does it because of the example that high culture sets for it. The soap opera stands in for the novel, the strip cartoon stands in for painting — and to some degree, hard to assess and impossible to quantify, this is made possible by literature and the visual arts. In this way the effect of high culture is replicated by mass culture which serves as its surrogate. The general point that I want to make can be brought home by the total impracticality of the following thought-experiment. Imagine this very society as it is, everything else kept constant, but with the museum and the university taken out.

Nevertheless, we can come to feel, in an intuitive way, that the impact of the museum and the university upon the life of the people is narrow enough to challenge their public subsidy. Furthermore, those who are getting little or no return from the system are just those who stand in greatest need of such benefit.

If we do feel this, then it looks as though we should seriously consider one alternative: diverting public money from the museum and

the university to, for example, primary education until the moment when the consequences of these institutions can be universally experienced.

However, this proposal has a fatal flaw to it, even as a way of obtaining its objective. The core of what is wrong with the proposal comes from the essentially historical nature of culture —"culture derives from culture." We cannot declare a moratorium upon culture, and therefore, we cannot place the institutions of culture in cold storage.

However, if we remain committed to the public subsidy of museums and universities, despite the lopsided contribution they make to the development of conceptions of happiness, we have an even greater obligation to see that these institutions do not gratuitously, or for reasons connected with some character that they happen to have acquired, further restrict or constrain access to the benefits they offer.

It is in this context that I turn, in conclusion, to the final question that has to interest us: how is public subsidy to cultural institutions to be supplemented by the private or corporate component that is likely to appear in the budget of the museum or the university?

I do not think that anyone is likely to object to private benefaction to cultural institutions so long as it is genuinely private benefaction or comes out of net resources: resources that remain in the hands of the citizen or the corporation after tax has been fully paid at prevailing levels. Such private benefaction is indeed often regarded as a sign of a highly civilized society. Perhaps it is. Although, if it is, we also do well to reflect that it is an even surer index of a conspicuously inegalitarian society.

More complex problems arise when the so-called private benefaction is not wholly private but is to varying degrees subsidized by tax-exemption. In the first place, such a system gives rise to questions of justice. Is it right that an individual should be able to control the flow of public subsidy, or that he should be able to redirect the money that he would otherwise pay in tax so that its final destination conforms to his conception of charity as well as confirming his reputation for charity. I do not, however, intend to develop this point because I recognize a certain amount of relativism to justice, that justice bends to the norms of the society.

I also do not wish to discuss questions of expediency that would arise under the system of tax-exempt benefaction. If the system were abolished, or attenuated, would the various legislative bodies be able to see that museums and universities got the same amount of money

as they currently receive, but got it in an unlaundered form out of tax-revenue? This is a forum which has been convened to discuss principles and policy in its general consequences. It has always seemed to me unsuitable that intellectuals should show themselves so zealous to do the work of politicians. Intellectuals are neither good nor appropriate judges of the expedient.

Finally, I do not wish to discuss the extended social consequences of the existing system, and whether (as it has been maintained) it unduly ministers to the self-importance of the rich.

I am concerned this afternoon with the system of tax-exempt benefaction only to the extent to which it might indirectly make the university and the museum less rather than more available to the people. The way in which this could happen is, of course, through popular perceptions of these institutions so that they could come to seem reserves of the elite. Insofar as this happens, tax-exempt private money would reduce the burden upon public subsidy, but at the cost of reducing the case for public subsidy.

No one who favors the public subsidy of cultural institutions can afford to overlook the preparations that these institutions make in order to become suitable recipients for private charity. It may be discovered upon investigation that the competing lavishness of museums particularly does actually increase their cultural appeal to a wider public. What I am asking is that the phenomenon should not go unexamined, or that the museum should not unquestioningly take as its end a means that it has chosen. It is, on the face of it, an irony of our "free enterprise system" that it should favor on such a massive scale the collectivization of art, so that every work of art of significance is soon destined to hang on the walls of a museum where it will immortalize the name of its donor. Once again, we do well to ask whether it is a feature of our conception of a museum as an institution of culture—as opposed, that is, to being an ancillary of the market in contemporary art—that it should be omnivorous: that it should, in the words of Paul Valery, be "like a bank at a casino which wins every time."

In these last words I am suggesting that the museum and the university could profitably engage in the very process of self-examination that they are, quite rightly, subsidized to foster in society at large.

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*Professor Thomas Nagel**

Let me begin by quoting a passage from William Baumol's paper: "Why should citizens who do not attend, who derive no pleasure from the arts and many of whom are less affluent than the attendees, be forced by the tax collector to contribute to support of arts activity? The only defensible answer must be that persons who are not in the audience *somehow* benefit as well."

I'm going to try to explain why I think this is not true, and to offer a different defensible answer to the question Professor Baumol asks. Baumol himself shows some uneasiness about the results of trying to make justifications for public support of the arts conform to such a requirement. I believe that the requirement is much too restrictive and that it invites justifications which ignore what is most important and essential about the arts.

What I have to say will connect in obvious ways with Professor Michelman's remarks about the public interest, Professor Nozick's remarks about objective value, and also with the notion of "merit goods" which Baumol has touched upon and which at the end of his remarks Professor Simon endorsed.

A certain assumption underlies the problem with which Baumol presents us, an assumption that I will call ethical atomism. It is the assumption that everything good is good only because it's good for someone—for some person or persons—and that its value is simply the sum of its value for the people it benefits. Essentially, it is the view that value can be identified with benefit to individuals.

This assumption is independent of what is taken to constitute a benefit. It could be combined with the idea that the benefits to be counted in calculating the value of anything consist simply in the satisfaction of people's preferences—their getting what they want. It could also be tied to something more objective—the idea that certain things define as a good life for an individual, and that these provide the standard for measuring benefits. But the essential point of ethical atomism is that the value of anything can be broken down or reduced to its value for all the individuals that it affects—whether that individual value is measured in terms of preferences or more objectively.

This may be held either as a general thesis about value or, more narrowly, as a thesis about what kinds of values we may legitimately

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appeal to in political and judicial argument. Of course the narrower thesis would be very important for our present discussion even if the more general thesis about value were not put forward. But I would deny both of them. I don't believe them and I am inclined to think most people don't either (including, I suspect, from some of his expressions of uneasiness, Professor Baumol). Some things are wonderful and important in a measure quite beyond the value of the experiences or other benefits of those who encounter them.

Such things may be inadequately supported by what their consumers are willing and able to pay for them. If their value is not simply exhausted by the benefit they confer on those individuals who consume them and who are capable of appreciating them, then even if the consumers pay what the experience is worth to them personally, it may not add up to the value of the things themselves.

We all know what kinds of things these are: difficult, rare, creative achievements that realize the highest human possibilities. One could wax eloquent about these treasures of human culture but I'm not going to try to discuss them in detail. They exist not only in the creative arts but also among products of the understanding, in mathematics, the sciences, and historical scholarship.

Everyone has encountered such things and has had the experience of being confronted with something whose value transcends the pleasure he or others get from viewing it or hearing it or understanding it. More importantly, everyone knows that some things of this kind lie beyond his own understanding, and that other individuals have the capacity to experience and in themselves realize their value, even if not everyone has the background, the education or perhaps the imaginative capacity or talent to understand them.

Of course, the more people who are actually capable of appreciating the highest products of civilization, the better. But the value of these products does not depend on how many people can appreciate them nor does the justification for keeping them alive. Because this is so, there are products of our culture and of other cultures whose support should be independent of the level of individual demand.

I am not suggesting that the existence of these things would be valuable even if there were *no one* to appreciate them. We don't have to conclude for example, that if there were a nuclear war and human life were wiped out on earth, but New York hadn't been hit directly, it would still be a good thing that the paintings were hanging in the Metropolitan. These things have to play some role in human experience. What I am denying is that their value is a function of the quantity of such experience.

This position is what was referred to by some speakers yesterday as perfectionism, and it is an argument for admitting perfectionist considerations into political debate. Does that make it anti-democratic? I don't think so. The position is not anti-democratic provided an appeal to the public can be made on perfectionist grounds. Most people, I would guess, believe that there are things whose value does not break down into the sum of benefit for the individuals whom they affect—things whose value also can't be understood by everyone. It is therefore legitimate to appeal to the public for support of what has value above and beyond its benefit to individuals.

William Baumol and others have alluded to pride as a motivation for support of the arts. But pride makes no sense unless value is ascribed to the thing in which we feel pride. Citizens can feel pride that their culture supports accomplishments of scholarship and artistic creation that they themselves do not particularly like. But it makes no sense to feel pride in something that has no independent value.

Is this view paternalistic? No more than it's anti-democratic. Paternalism is forcing people to do things for their own good against their will. I'm not in favor of forcing people to attend concerts of the late Igor Stravinsky and of Milton Babbitt. The subvention of these activities is justified or ought to be justified on the basis of a generally acknowledged independent value, not because they are good for people, like spinach.

This means delegating authority over the distribution of public support, but that is common in a democracy. You have to find someone who understands these activities in order to know whom to support and what to try to keep alive—in other words, in order to know what's good. It's harder where there's less expert consensus than there is in pure mathematics or in scholarship on medieval logic—for which the audience is maybe 250 people. Therefore, support of the arts presents a problem about the delegation of authority, but it's only a problem, it's not a reason to do nothing.

Turning to the question of how policy should be affected by this sort of consideration: if we recognize such values, there are two quite distinct policy goals to adopt. One is to preserve what is threatened by the smallness of its audience, when this is not an adequate indication of its intrinsic value. The other is to widen and to increase the audience for what is accessible: late Stravinsky, on the one hand; Shakespeare in the Park or the Metropolitan on the other.

In each case, the justification for public support depends on how valuable the thing in question is and whether it will happen anyway: you don't need public support for recordings of Beethoven's sympho-

nies. But we mustn't be afraid to ask for support for things for which demand is very small, if they are valuable. The fact that only a small group will be benefitted is not a reason against public subsidy of something whose value does not break down completely without residue into the sum of its benefits to individual consumers. In fact, we ought all the more to support such things if demand for them is limited.

Now, as has been said again and again in this symposium, when you increase access by providing subsidies in order to increase the number of people who will attend certain exhibits and performances, the affluent will tend to take greater advantage of these opportunities than the less affluent. But consider the alternative. Without public support, it would be only the even more affluent who would be able to afford access to these programs—if indeed they existed at all. There is no way to support what has intrinsic value without also spreading benefits to those who appreciate that value.

We have to choose. If we object to the inequity of the system, we should pursue equity by progressive taxation and public support for education—not by skimping on support for the highest achievements of human culture just because it may require some education to appreciate them.

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*Mr. Morton L. Janklow**

I can only assume that my presence here today—in this company of distinguished academics, is occasioned by the idea that somebody said somewhere along the line, maybe we can have someone relate some of the theory that we're going to hear pragmatic experience, and I think since that's all I know, that's what I'll probably talk about.

I sense in all conferences like this, and maybe this one in particular, tremendous defensiveness about art and the contribution art makes to society. I think the very need to rationalize in such detail the economic, sociological, psychological, cultural and other philosophical grounds, the contribution of art to society bespeaks a certain kind of anxiety about what our role really is. I'm going to try to confront that briefly by using some words that people seem to be avoiding all the time: art is a very elitist business.

Contrary to what Mr. Carter thought the whole time he was Presi-

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