

## ing Rebel Camera

forbidden him to travel to New York for the opening of the exhibition and to receive one of the center's 1994 Infinity Awards next Monday. But although he underwent heart surgery last year, his energy and alertness suggest he may have other reasons to be absent.

"To meet hundreds of people upsets me very much," he explained, speaking the fluent English he learned from Irish and English nannies as a child. "I spent all my life trying to be unknown, to disappear, to be able to observe. And now... De-

## Henri Cartier-Bresson wants to talk drawing, not photography.

gas said it is wonderful to be famous as long as you are unknown."

Certainly, he was able to take intimate photographs of what have become known as "decisive moments" because he could blend into the crowd or watch a scene as an almost-invisible spectator. And in this way, he said, he was free to move "like a butterfly" between "ministers or presidents and whores or crooks."

Yet there is something about the immediacy of photography that still troubles him. "Photography is a sketchbook," he explained. "Drawing is meditation. Today everyone talks about photography. I spent 50 years taking pictures, but how many that I did can you look at for more than three seconds? Maybe 50? 100? It's about all."

Jealous of his privacy, reluctant to be photographed, he had agreed to be interviewed on condition that it was "a conversation without questions," his way of avoiding the sort of discussion — about photographic techniques, about cameras, about his own

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Martine Franck/Magnum

allows himself to be photographed, al History in Paris in 1976.



Sara Krulwich/The New York Times

John Swing, left, John Carter, center, and John J. Veronis, sculptors, have transformed the 18,000-square-foot lobby at the old Macy's warehouse in Long Island City, Queens, into a sculptural installation of recycled materials, scrap and used appliances. The building's owner wants it removed.

## Is It Art or Merely a Safety Hazard?

By WILLIAM GRIMES

Wherever art and commerce rub together, the potential for conflict lurks. At the old Macy's warehouse in Long Island City, Queens, the two are digging in for a head-to-head court fight that could test, for the first time, the Visual Artists' Rights Act, a Federal statute that went into effect in June 1991.

On one side are three artists who, over two and a half years, transformed an 18,000-square-foot lobby at 47-44 31st Street into an eye-popping sculptural installation made of recycled materials, scrap and abandoned appliances reconfigured into a huge silver fish, a moon that opens up to reveal an astronaut with a trash-can head, a bathtub sun and much more.

Testifying last week in Federal District Court in Manhattan, the art historian and critic Robert Rosenblum compared the work, which is unfinished and untitled, to the Watts Towers in Los Angeles and Antoni Gaudi's Church of the Holy Family in Barcelona, Spain.

### Argument Against a Work

Helmsley-Spear, the New York City real estate giant that owns the building, takes a different view. At a hearing to decide whether the artists should be granted a preliminary injunction that would bar the owners from disturbing the work until its fate can be decided at a trial, the lawyers for Helmsley-Spear are arguing that the sculpture presents a safety hazard to the tenants of the building and to members of the public who walk through the lobby. Many of the sculptural elements, some of which weigh hundreds of pounds, are suspended

from the ceilings and walls. The work was commissioned by a partnership, which is now dissolved, that leased the building. Helmsley-Spear says it must go.

"The owner is caught in an unfortunate situation," said Adrian Zuckerman, a lawyer with Davidoff & Malito, which is representing Helmsley-Spear. "We are attempting to protect the health, safety and welfare of the tenants and the public. This has nothing to do with the quality or the esthetics of the piece."

But if the judge in the case, David N. Edelstein, accepts the argument of Richard A. Altman, the lawyer for John J. Veronis, John Swing and John Carter, the sculptors who created the work, Helmsley-Spear will have no choice but to begin talking about art, not safety.

### Saving From 'Distortion'

Mr. Altman contends that the work is protected by the Visual Artists' Rights Act. Signed into law by President George Bush in 1990 and effective six months later, the act is an amendment to Federal copyright law that seeks to protect certain categories of visual art commissioned or completed after June 1991 from intentional "distortion, mutilation or other modification" that would harm an artist's honor or reputation and to prevent the destruction of works "of recognized stature."

The law is much narrower than European laws that govern what are known as the moral rights of an artist. It does not deal with books or musical works, and it protects only certain categories of visual art: paintings, sculpture, drawings, prints (in editions of less than 200) and photographs produced for exhibition.

Motion pictures and other works of visual art produced in multiple copies, including photographs for magazine publication, are not protected. It is assumed that they are, as a matter of course, altered to suit the demands of different markets. In addition, in virtually every case they would be excluded by the act because they were produced for hire by salaried employees. The intent of the statute is to protect unique works of art that once mutilated or destroyed, could not be recreated.

"It started out being much more expensive, and ended up being whit-

## Fighting over a silver fish made of recycled materials and old appliances.

tled down to a statute that provides very little protection," said Marci A. Hamilton, an associate professor of law at the Benjamin N. Cardozo School of Law in New York City. "This is the way moral rights are going to work in this country, because they do not fit neatly in our economic system of copyright protection."

### Safeguards and Precedents

Other experts argue that despite its relatively narrow focus, the statute extends important legal safeguards and establishes potentially important legal precedents.

"It establishes that artists have rights that are different from copy-

right," said Robert A. Gorman, a professor of law at the University of Pennsylvania. "It also opens the door to the recognition of moral rights in this country. It's an acknowledgment that the law should protect certain rights that go beyond economic rights to affect an artist's reputation and the integrity of the artwork."

The Congressional report on the legislation cites the case of two Australian entrepreneurs who bought a Picasso print, "Trois Femmes," cut it into hundreds of pieces and sold them as "original Picasso pieces."

Although the act is deliberately narrow, legal experts say it could have been invoked to protect "Shinto," a 1,600-pound-metal sculpture by Isamu Noguchi, which once hung in the lobby of the Bank of Tokyo Trust Company at 100 Broadway, in the financial district. In 1980, without notifying the artist, the bank chopped the sculpture into pieces and put it into storage.

Under the 1991 act, the bank would have had to make a good-faith effort to notify the artist and give him 90 days to remove the sculpture, at his own expense, before it took action.

### In Another Case

It is unlikely that the act would have helped the sculptor Richard Serra in his fight to prevent the General Services Administration from removing his sculpture "Tilted Arc" from the plaza in front of a Federal building in lower Manhattan in 1989. It might even have hurt him.

Mr. Serra argued that because "Tilted Arc" was "site-specific" — that is, created with a particular site in mind that is inseparable from the

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