

Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest, Case 23(2021-22): *Algernon Marsden* by James Joseph Jacques Tissot

Statement from Expert Adviser	Statement of the Expert Adviser to the Secretary of State that the painting meets Waverley criteria two and three. See below
Statement from the Applicant	Statement from the applicant referencing the three Waverley criteria. The Reviewing Committee will designate an object as a 'national treasure' if it considers that its departure from the UK would be a misfortune on one or more of the following three grounds: a) Is it closely connected with our history and national life? b) Is it of outstanding aesthetic importance? c) Is it of outstanding significance for the study of some particular branch of art, learning or history? See below
Note of case hearing	See below
Press release	A press release was issued by the Secretary of State on 17 June 2022: https://www.gov.uk/government/news/tissot-painting-worth-24-million-at-risk-of-leaving-uk
Recommended price	£2,430,130 (plus VAT of £72,900 which can be reclaimed by an eligible institution)
1st Deferral period	16 September 2022
2nd Deferral period	16 January 2023
Note of outcome	During the initial deferral period, we received a serious expression of interest from the National Portrait Gallery. The owner accepted this offer and granted the National Portrait Gallery an Option Agreement. On the same day, the painting was purchased by the National Portrait Gallery with the assistance of grants generously donated by Sir Martyn Arbib and his children. Algernon Moses Marsden by James Jacques Joseph Tissot has been jointly acquired by the National Portrait Gallery and the National Gallery. The portrait will be displayed in Room 44 of The National Gallery from 7 December 2022 alongside works by artists such as Cézanne, Monet, Renoir, and then in the newly named and renovated Blavatnik Wing when the National Portrait Gallery reopens in 2023. The portrait will return to the National Gallery to mark its bicentenary in 2024.

RCEWA – Algernon Marsden, James Joseph Jacques Tissot

Statement of the Expert Adviser to the Secretary of State that the painting meets Waverley criteria two and three.

Please note that images and appendices referenced are not reproduced.

EXECUTIVE SUMMARY

1. Brief Description of item(s)

Jacques-Joseph 'James' Tissot (1836-1902)

Algernon Marsden

Oil on canvas, 48 x 72.5 cm, 19 x 28 ½ in

Signed and dated *J Tissot 1877*

2. Context

Provenance: commissioned by the Marsden family, who paid £50 or 1,250 FF; by descent to Robert Marsden; Sotheby's 17 February 1971 lot 59; Christie's (or Sotheby's) 25 November 1983 lot 64, bought Agnew's for the Old House Foundation; [REDACTED]

Exhibited: 'James Tissot', Barbican Art Gallery, London, and Whitworth Art Gallery, Manchester 1984-5, no. 76; 'James Tissot: Victorian Life / Modern Love', Yale Center for British Art, New Haven, Musée du Québec, Albright-Knox-Gallery, Buffalo 1999-2000, no. 17 (Yale only); 'The Cult of Beauty', Victoria and Albert Museum, London, Musée d'Orsay, Paris, De Young Museum, San Francisco 2011-12, no. 9; 'James Tissot: Fashion and Faith', California Palace of the Legion of Honor, San Francisco 2019 – 2020, no. 30; 'James Tissot (1836-1902), l'ambigu moderne', Musée d'Orsay, Paris 2020, no. 35

Literature: Christopher Wood, *Tissot: The Life and Work of Jacques Joseph Tissot, 1836-1902* (London, 1986), p. 101, fig. 99; *De Nittis e Tissot: Pittori della vita moderna*, exh. cat. Pinacoteca G. De Nittis, Barletta, 2006, pp. 35-8 (repr. p. 37); Krystyna Matyjaszkiewicz, 'Focus: The Ball on Shipboard, 1874 by James Tissot' (Tate Research Publication, 2019); Michael Wentworth, 'Energized Punctuality: James Tissot's "Gentleman in a Railway Carriage"', *Journal of the Worcester Art Museum*, 3 (1979-80), pp. 8-27; Michael Wentworth, *James Tissot* (Oxford, 1984), p. 143, pl. 128; Cyrille Sciamia, 'James Tissot, the Englishman', in *Impressionists in London: French Artists in Exile, 1870-1904*, ed. Caroline Corbeau-Parsons (London, 2017), pp. 81-5 (p. 83)

Waverley 2

Is it of outstanding aesthetic importance?

Although it was never exhibited in the artist's lifetime, Tissot's *Algernon Marsden* has in recent years become an icon of the Aesthetic movement. This portrait of a handsome young man in a luxurious

interior, nonchalantly leaning on a tiger skin and facing the viewer, epitomises Tissot's desire to elevate a portrait of an individual into a timeless genre painting, the sitter's character suggested as much by his surroundings as by the painting of his features. The quality of the painting is at least equal to that of the artist's most famous portrait of an English sitter, *Captain Frederick Burnaby* (1870; National Portrait Gallery). Indeed, the two might be considered as companion portraits of dandies, one in military uniform and the other in a dark civilian suit.

More than any other French artist of this period, Tissot enjoyed enormous success on both sides of the Channel. He studied with Ingres's pupils, Louis Lamothe and Hippolyte Flandrin, and exhibited at the Salon from 1859 until his move to London in 1871. His early work followed the mediaeval subject matter of the Belgian artist Henri Leys, but in the mid-1860s, he developed his distinctive genre scenes of high society at play in the ballroom or on the river, which were keenly collected. He first exhibited in London in 1862, at the International Exhibition, and by 1865, when he first showed at the Royal Academy, he was being described as 'the French Millais'. His versatility was also seen in a series of caricatures for *Vanity Fair*, whose publisher, Thomas Gibson Bowles, became a close ally. His technical skill was universally recognised, if not always admired: John Ruskin was forced to admit that 'their dexterity and brilliance are apt to make the spectator forget their conscientiousness'. In France, he was described as 'that ingenious exploiter of English stupidity', while in England, his portrayal of relationships was 'hardly nice in its suggestions. More French, shall we say, than English?' By 1875, he was earning nearly £5,000 a year, while contemporary critics compared his work to the novels of Zola and Trollope. In early 1873, Tissot moved into 17 Grove End Road, a villa of 1825 set in nearly an acre of garden in St John's Wood, to which he added a large studio and conservatory, which is the habitual location of his portraits. After his return to Paris in 1882, the house was later taken over by Sir Lawrence Alma-Tadema.

Tissot's career as a portrait painter was effectively launched at the Salon of 1864, when *The Two Sisters: Portrait and Portrait of Mlle L.L.* (both Musée d'Orsay) emphasised, one indoors and the other outdoors, the importance he placed on the meticulous depiction of his sitters' surroundings. The prestigious commission to paint the family of the Marquis de Miramon in 1865 (Musée d'Orsay), indebted to English conversation pieces of the previous century, was followed by his largest portrait, *The Circle of the Rue Royale* (1866; Musée d'Orsay). It was natural that, following his move to London after fighting in the Franco-Prussian War, he should have continued to paint minutely detailed and highly distinctive portraits. Whereas the full-length of Chichester Fortescue, commissioned by his formidable wife, Frances, Countess Waldegrave (1871; Oxford Examination Schools), shows the sitter standing in a crowded study, his dog at his feet, the most original portraits of Tissot's English years are the two representing complacent dandies, *Captain Frederick Burnaby* and *Algernon Marsden*. Although his pose is relaxed and proprietorial and seems to be perfectly attuned to the interior in which he is portrayed, Marsden was in fact painted in Tissot's studio – the tiger skin and other elements of the decoration reappear in other paintings. Nevertheless, the evident sympathy between the artist, his sitter, and their surroundings are extraordinary.

Waverley 3

Is it of outstanding significance for the study of some particular branch of art, learning, or history?

The complexity of Tissot's position in the history of English and French art was well illustrated in the exhibition 'Impressionists in London: French Artists in Exile, 1870-1904' at the Tate and the Petit

Palais, 2017-18. As a close friend of Degas, who painted his portrait in 1867-8 (Metropolitan Museum, New York), he was repeatedly invited to exhibit with the Impressionists from 1874 onwards, although his minutely detailed style was the opposite of theirs. As a worldly painter in London, he enjoyed the friendship of such varied artists as Millais, Whistler, and Alma-Tadema. It is significant that he declined to choose between Whistler and Ruskin in the famous trial of 1878. Tissot's reputation still needs further exploration.

The sitter in this portrait, Algernon Moses Marsden (1847-1920), is a shadowy figure in the Victorian art world who also merits research. His grandfather, Elias Moses (1783-1868; see *ODNB*) and father, Isaac Moses, later Marsden (1809-1884), established a partnership in 1832 retailing ready-made clothing in Aldgate; by the late 1840s, the Ready-Made Clothing Emporium was the largest shop in London, and in later decades branches were opened throughout Britain and its empire. Algernon Marsden was one of the fourteen children of Moses's second wife, Esther Gomes Silva. He turned his back on the family trade, and was first recorded as a picture dealer in the Conduit Street Gallery in 1872. He bought a number of paintings from Tissot between 1872 and 1875, notably the *Portrait of Empress Eugénie and the Prince Imperial (Compiègne)* for £700, after the artist had suffered the humiliation of seeing it rejected by the Royal Academy. The last was this portrait of Marsden. Apart from these purchases from Tissot and isolated mentions in sale catalogues, Marsden became better known for his frequent appearances in the bankruptcy courts, largely due to gambling at the races and the tables. He once declared his profession as a dealer as 'a peculiar and speculative one', and he later abandoned it and returned to trade. He was obliged to abandon his wife and ten children and flee to New York with another woman. He was again declared bankrupt in 1912, and died in Rochester, New York, in 1920. There is an increasing interest in the history of collecting, the formation of taste in the Victorian period, and indeed the personalities of dealers. Projects such as 'Jewish Country Houses: Objects, Networks, People', funded by the AHRC (2019-23) are increasingly bringing to light invaluable evidence of the workings of the art market which this portrait so vividly suggests.

RCEWA – *Algernon Marsden*, James Joseph Jacques Tissot

Applicant's statement

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Is it closely connected with our history and national life?

Algernon Newton is now only remembered to a small number of art historians as dealer to Tissot and Holman Hunt for a few years. He did not shape our history or national life.

Is it of outstanding aesthetic importance?

While the portrait is undoubtedly accomplished, it is no more aesthetically important than many other works by the artist. Had the sitter's identity been lost, one would be presented with a young man in a dark suit in an elegant interior. It forms a more sober contrast to the justly celebrated portrait of Colonel Burnaby (NPG) which perfectly captures the confidence and self-regard of a young Englishman occupying a privileged position in society at the height of Empire. This is perhaps the ultimate swagger portrait of the 19th Century, although the emphasis of the long streak of red on the elongated leg, emphasises the laid back languor of the sitter rather than a more vertical, assertive stance. The Marsden portrait is a quieter, more introverted study. The face is handsome, and the composition is unusual, but not more so than other works by the artist who was always innovative in the insouciant way his sitters were posed. It cannot be said to be of greater aesthetic importance than other works by Tissot currently in UK public collections.

Is it of outstanding significance for the study of some particular branch of art, learning or history?

Tissot occupies a singular and anomalous place in the history of British Art. A Frenchman, born in Nantes, he established his career in Paris before moving to London for approximately a decade following the fall of the Paris Commune in 1871. His 'London period' was thus relatively short. Although he was a friend to many of the Impressionists, notably Degas and Manet, he declined to join the Salon des Refuses, fearing that his name, by then well established, would be tarnished by association. His work is not held to be impressionistic. He did not work with a studio and did not have followers or found a school. He could be said to exemplify Baudelaire's exhortation in *Le Peintre de la Vie Moderne* (1863) that artists should paint 'the beauty of circumstance, and the sketch of manners'. However, other works by the artist currently in UK collections also demonstrate this. Tissot's portrait of the 1st Lord Carlingford (Examination Schools, Oxford), connoisseur and travelling companion of Edward Lear, shows him in a study overflowing with books and detritus, while Catherine Smith-Gill and two of her children (Walker Art Gallery) could not be more informal. Reflecting the influence of photography, it is the antithesis of a portrait that is posed. One senses the restlessness of the children, eager to leave the sofa and play, and appreciates why Tissot was feted as a master of the painting of

textiles. The portrait is also a bravura display of painting differing shades of white. The likeness of Sydney Isabella Milner-Gibson (West Suffolk Heritage Service) shows another interior that firmly places the portrait in its date, with the sitter spiritedly perched on the arm of a chair. Moreover, the sitter has the added interest of being the maternal great aunt of the Mitford sisters. UK collections are also replete with depictions of the beau and demi-mondes. The Ball on Shipboard (Tate Britain) is complemented by a clutch of Thames side views: On the Thames (Hepworth Wakefield), The Last Evening (Guildhall), and The Captain's Daughter (Southampton). These detailed descriptions of costume and manners are what Tissot is best celebrated for, often supplemented by depictions of Kathleen Newton, his mistress and muse. Quiet, for instance, depicting Newton with her niece in the garden of the house she shared with the artist in St John's Wood, was recently acquired by Ulster Museum through an Acceptance in Lieu negotiated by Christie's. It is perhaps difficult to argue why the portrait of Algernon Marsden is more representative of the artist's oeuvre than these other examples. Many of the didactic points one would wish to make are amply demonstrated in these pictures. In and of itself the Portrait of Algernon Marsden is not significant for a branch of art learning or study.

Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest, note of case hearing on 11 May 2022: *Algernon Marsden* by James Joseph Jacques Tissot (Case 23, 2021-22)

Application

1. The Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RCEWA) met on 11 May 2022 to consider an application to export the painting *Algernon Marsden* by James Joseph Jacques Tissot. The value shown on the export licence application was £2,204,262.00 which represented the sterling equivalent of the agreed sale price (\$3,000,000) subject to the granting of an export licence, calculated on 18 February 2022, the date of the export licence application, at a rate of \$1.361:£1 (Lloyds Bank). The expert adviser had objected to the export of the painting under the second and third Waverley criteria on the grounds that its departure from the UK would be a misfortune because (ii) it was of outstanding aesthetic importance and (iii) it was of outstanding significance for the study of the history of collecting, the formation of taste in the Victorian period and the personalities of dealers.

2. Seven of the regular eight RCEWA members were present and were joined by three independent assessors, acting as temporary members of the Reviewing Committee. The Chairman explained that the binding offers mechanism was applicable for this case.

3. The applicant was consulted about the hybrid virtual/in person process and confirmed they were content to proceed in this manner. The applicant confirmed that the value did not include VAT and that VAT of \$90,000 on the commission would be payable in the event of a UK sale. The applicant also confirmed that the owner understood the circumstances under which an export licence might be refused.

Expert's submission

4. The expert adviser had provided a written submission stating that Tissot's *Algernon Marsden* has in recent years become an icon of the Aesthetic movement, although it was never exhibited in the artist's lifetime. This portrait of a handsome young man in a luxurious interior, nonchalantly leaning on a tiger skin and facing the viewer, epitomised Tissot's desire to elevate a portrait of an individual into a timeless genre painting, the sitter's character suggested as much by his surroundings as by the painting of his features. Although his pose is relaxed and proprietorial and seems to be perfectly attuned to the interior in which he is portrayed, Marsden was in fact painted in Tissot's studio – the tiger skin and other elements of the decoration reappear in other paintings. Nevertheless, the evident sympathy between the artist, his sitter, and their surroundings is extraordinary.

5. His early work followed the mediaeval subject matter of the Belgian artist Henri Leys, but in the mid-1860s, he developed his distinctive genre scenes of high society at play in the ballroom or on the river, which were keenly collected. His versatility was also seen in a series of caricatures for Vanity Fair, whose publisher, Thomas Gibson Bowles, became a close ally. His technical skill was universally recognised, if not always admired, in France, he was described as ‘that ingenious exploiter of English stupidity’, while in England, his portrayal of relationships was ‘hardly nice in its suggestions. Tissot’s career as a portrait painter was effectively launched at the Salon of 1864, when *The Two Sisters: Portrait and Portrait of Mlle L.L.* emphasised the importance he placed on the meticulous depiction of his sitters’ surroundings.

6. The complexity of Tissot’s position in the history of English and French art was well illustrated in the exhibition *Impressionists in London: French Artists in Exile, 1870-1904* at the Tate and the Petit Palais, 2017-18. As a close friend of Degas, he was repeatedly invited to exhibit with the Impressionists from 1874 onwards, although his minutely detailed style was the opposite of theirs. As a worldly painter in London, he enjoyed the friendship of such varied artists as Millais, Whistler, and Alma-Tadema. It was significant that he declined to choose between Whistler and Ruskin in the famous trial of 1878. Tissot’s reputation still needs further exploration.

7. The sitter in this portrait, Algernon Moses Marsden (1847-1920), was a shadowy figure in the Victorian art world who also merited research. His grandfather, Elias Moses and father, Isaac Moses, later Marsden, established a partnership in 1832 retailing ready-made clothing in Aldgate, which by the late 1840s was the largest shop in London. Algernon turned his back on the family trade and was first recorded as a picture dealer in the Conduit Street Gallery in 1872. He bought a number of paintings from Tissot between 1872 and 1875, notably the *Portrait of Empress Eugénie* and the *Prince Imperial (Compiègne)* for £700, after its rejection by the Royal Academy. The last was this portrait of Marsden. Apart from these purchases from Tissot and isolated mentions in sale catalogues, Marsden became better known for his frequent appearances in the bankruptcy courts, largely due to gambling. There was an increasing interest in the history of collecting, the formation of taste in the Victorian period, and indeed the personalities of dealers. Projects such as ‘Jewish Country Houses: Objects, Networks, People’, are increasingly bringing to light invaluable evidence of the workings of the art market which this portrait so vividly suggests.

Applicant’s submission

8. The applicant had stated in a written submission that they did not consider that the painting met any of the three Waverley criteria. Regarding the first Waverley criterion, they stated that Algernon Newton was now only remembered to a small number of art historians as dealer to Tissot and Holman Hunt for a few years and did not shape our history or national life.

9. Regarding the second Waverley criterion, the applicant stated that while the portrait was undoubtedly accomplished, it was no more aesthetically

important than many other works by the artist. It formed a more sober contrast to the justly celebrated portrait of *Colonel Burnaby* (NPG) which perfectly captured the confidence and self-regard of a young Englishman occupying a privileged position in society at the height of Empire. The Marsden portrait was a quieter, more introverted study. The face was handsome, and the composition was unusual, but not more so than other works by the artist who was always innovative in the insouciant way his sitters were posed. It cannot be said to be of greater aesthetic importance than other works by Tissot currently in UK public collections.

10. Regarding the third Waverley criterion, the applicant stated that Tissot occupied a singular and anomalous place in the history of British Art. Born in Nantes, he established his career in Paris before moving to London for approximately a decade, his 'London period' was thus relatively short. He did not work with a studio and did not have followers or found a school. He could be said to exemplify Baudelaire's exhortation in *Le Peintre de la Vie Moderne* (1863) that artists should paint 'the beauty of circumstance, and the sketch of manners'. However, other works by the artist currently in UK collections also demonstrate this. UK collections are also replete with depictions of the beau and demi-mondes. *The Ball on Shipboard* (Tate Britain) was complemented by a clutch of Thames side views: *On the Thames* (Hepworth Wakefield), *The Last Evening* (Guildhall), and *The Captain's Daughter* (Southampton). These detailed descriptions of costume and manners are what Tissot was best celebrated for, often supplemented by depictions of Kathleen Newton, his mistress and muse. It is perhaps difficult to argue why the portrait of Algernon Marsden was more representative of the artist's oeuvre than these other examples. In and of itself the *Portrait of Algernon Marsden* is not significant for a branch of art learning or study.

Discussion by the Committee

11. The expert adviser and applicant retired and the Committee discussed the case. They agreed this was a fascinating painting, presented in Tissot's highly insightful style. They noted this was a painting of precarious, recent affluence, specific to this era, which contradicted social status with instability. Further to this, the attention to light and textures, and the singularity of every pose and gesture, was pioneering. However, they agreed that this originality was characteristic of Tissot and was well represented in the vast collection of Tissot's work in UK collections.

12. The Committee felt that this painting's interest was as a social context portrait and as a commentary on Marsden at this time. They agreed that there was a lot more that could be learned about Marsden through further research, especially in the context of the 'Jewish Country Houses: Objects, Networks, People' project currently being undertaken. In addition, they agreed that the relationship between Marsden and Tissot was of great interest, and that the painting had a great deal more to tell.

Waverley Criteria

13. The Committee voted on whether the painting met the Waverley criteria. Of the 10 members, no members voted that it met the second Waverley criterion. Six members voted that it met the third Waverley criterion. The painting was therefore found to meet the third Waverley criterion for its outstanding significance to the study of Tissot's influence on British art, as well as the culture of art dealers at this time.

Matching offer

14. In accordance with its policy that the date to be used for establishing the exchange rate for an agreed price in foreign currency should be assessed on a case by case basis to ensure that the applicant got the benefit of any fluctuations, the Committee recommended the sum of £2,430,130 as a fair matching price plus VAT of £72,900 (converted on the same basis) on the commission which can be reclaimed by an eligible institution. This represented the price at which the owner had agreed to sell subject to the grant of an export licence converted to GBP (xe.com) on 11 May 2022, the date of the meeting.

Deferral period

15. The Committee agreed to recommend to the Secretary of State that the decision on the export licence should be deferred for an initial period of three months. At the end of the first deferral period if, Arts Council England received notification of a serious intention to raise funds with a view to making an offer to purchase the painting, owners will have a consideration period of 15 Business Days to consider any offer(s). The Committee recommended that there should be a further deferral period of four months that commences following the signing of an Option Agreement.

Communication of findings

16. The expert adviser and the applicant returned. The Chairman notified them of the Committee's decision on its recommendations to the Secretary of State.

17. The expert adviser agreed to act as champion if a decision on the licence was deferred by the Secretary of State.