

DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS FOR 1974

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
NINETY-THIRD CONGRESS
FIRST SESSION

SUBCOMMITTEE ON DEPARTMENT OF THE INTERIOR AND
RELATED AGENCIES

JULIA BUTLER HANSEN, Washington, *Chairman*

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PART 6

Testimony of Members of Congress and Other Individuals
and Organizations



enjoy high regard in Egypt and have produced very cordial cooperation from the officials of the Egyptian Government.

Mrs. HANSEN. I am glad we have made some friends.

Mr. WILSON. I can assure you of that, Madam Chairman. It has been a regular experience in the last few years to have them eager to see us again, we archeologists.

This allocation would receive a very good press in Egypt, and its help for Egyptian-American relations would be out of all proportion to the amount of money involved.

Back in 1850, the French novelist, Gustave Flaubert, spent some days on the island of Philae, and he records, and I don't know how he could translate it but that is what he records, that on the Temple of Hatru on that island there is the inscription, "A page of history must not be soiled."

Well, this is a page of history which we can very easily assist in the rescue of these temples, and I respectfully urge a favorable consideration for this item.

Mrs. HANSEN. Thank you very much. I particularly wanted to express our appreciation for your drawing on the last page.

Mr. WILSON. I am not a professional mapmaker.

Mrs. HANSEN. They are very good. The committee appreciates them.

Mr. WILSON. Thank you.

SMITHSONIAN INSTITUTION

WITNESS

ROBERT SIMMONS, FREE-LANCE WRITER OF FALMOUTH, MASS., AND WASHINGTON, D.C.

Mrs. HANSEN. Mr. Robert Simmons, free-lance writer of Falmouth, Mass., and Washington, D.C.

Mr. SIMMONS. My name is Robert Simmons, free-lance writer of Falmouth, Mass., and Washington, D.C., and my statement is about the Smithsonian Institution. This is the fourth consecutive year that I have testified before the Committee on Appropriations on matters relevant to the budget of the Smithsonian Institution. The questions that I have raised and the reservations that I have registered have, in every case, been specific and have been backed by documentary evidence. In some instances, my concern has reflected that of certain officers of the Smithsonian Institution itself.

I come before this committee as a private citizen, as a free-lance writer whose special field is art, and as an art collector deeply concerned about the future of our Federal art museums—all of which are run by the Smithsonian Institution in one way or another.

I am not a "latter-day guru" and I do not come here "to attain the giddy heights of time * * * before congressional committees"—as suggested by Smithsonian Secretary S. Dillon Ripley in his editorial in Smithsonian magazine, November 1972, in which he condemns citizens who testify before congressional committees, accusing them of "contributing to a deteriorating climate."

Indeed, the consequences of my testifying before congressional committees in the past have been singularly unpleasant. In 1970, Secretary Ripley hired the noted criminal lawyer, Edward Bennett Williams—who is also legal counsel to the Democratic Party—to threaten me with an expensive lawsuit because I had testified before a congressional committee about the Smithsonian administrative procedures. Earlier in 1970, another influential Democratic Party lawyer, Sam Harris, senior partner of the Washington law firm of Fried, Frank, Harris, Shriver & Kampelman, severely upbraided the staff director of a congressional committee in a pointed attempt to prevent my forthcoming testimony before that committee in a matter relating to the Smithsonian Institution. One of Harris' partners is Sargent Shriver, the 1972 Democratic Party candidate for Vice President. Another partner is Max Kampelman, a major fund raiser for the 1968 Democratic Presidential candidate, Hubert H. Humphrey, and his former legal counsel. Another partner is Mrs. Patricia Harris, a leading official in the 1972 Democratic Party activities. Sam Harris himself has for 18 years been the personal lawyer for Joseph H. Hirshhorn and a member of the boards of directors of certain of Hirshhorn's companies. It was Harris and Hirshhorn who drafted the legislation for Public Law 89-788, which in 1966 established the Smithsonian's Joseph H. Hirshhorn Museum and Sculpture Garden. As the committee may remember, my testimony in past years has touched upon alleged irregularities in that Federal bureau.

Mr. Hirshhorn himself has such political power in Washington that he was permitted to name all the members of the Federal Board of Trustees of the Hirshhorn Museum and Sculpture Garden, submitting his preferences to Republican Presidential counsel Leonard Garment, who passed them on for President Nixon's signature. This Federal Board, under the Smithsonian regents, will administer the Hirshhorn bureau of that Federal agency known as the Smithsonian Institution. Nearly all members of the Hirshhorn Board are important Republican Party fund raisers—men such as Ronald Reagan's old movie agent and other millionaires. The present Ambassador to India is another trustee with close links to the Nixon administration as well as to Mr. Hirshhorn.

When all this political clout is brought to bear upon a citizen-witness, it is expected, of course, that he will shrink away and disappear.

Most recently, in 1972, just a few months ago, following the report in a Jack Anderson column that one of the Smithsonian's art museums had purchased a painting from my collection and that the money had, in effect, made it possible for me—instead of shrinking away and disappearing—to continue my investigations into Smithsonian administration, Secretary Ripley brought enormous inquisitorial pressure to bear upon the Freer Gallery of Art. It is my understanding that it will be a long time, if ever, before that or any other Smithsonian museum will purchase anything from me again.

My reason for listing these few (out of many) instances of pressure brought upon me in apparent reprisal for my testimony before congressional committees is to indicate to the Committee on Appropriations that I have little hope that today's testimony will do much to correct any costly irregularity that I may complain about.

Over and again, I have been informed by congressional aides and others that proper, objective oversight and investigation of the administration of the Smithsonian Institution by any congressional committee is impossible. I have been forthrightly advised to give up my quest for more efficient and more ethical administration in that Federal agency.

The reason given is that this Federal agency is administered by a group of men known as the Board of Regents, and that the most powerful officers of this executive body are six Members of Congress. Today, these members are Senators Hugh Scott, J. William Fulbright, and Henry M. Jackson, and Representatives William E. Minshall, George Mahon, and John Rooney.

These men, in the role of executive officers of the United States, formulate the policies and programs and generate the budget requests of the Smithsonian Institution. Then, putting on their legislative hats, they approve those same policies, programs, and budget requests.

Certainly, no legislative or appropriations oversight committee, either of the Senate or of the House of Representatives, will seriously call in question an executive program fashioned by its own colleagues.

Mrs. HANSEN. We question our colleagues every day.

Mr. SIMMONS. This is a formal point.

The three Representatives who are regents, for example, are also members of the Committee on Appropriations.

Mrs. HANSEN. What is your major concern?

Mr. SIMMONS. It must occur to some of the Congressmen present, as it has over the past years to many others, that this is a flagrantly unconstitutional situation.

Article I, section 6, clause 2, of the Constitution of the United States of America states that "no person holding any office under the United States shall be a Member of either House during his continuance in office."

It was clearly the intention of those who drafted the Constitution that the separation of powers of the three branches of Government—executive, legislative, and judicial—should be unequivocal. Indeed, this separation—which, in practice, prevents conflicts of interest and reduces the chances of corruption—is the very backbone of our kind of constitutional government.

When the Smithsonian Institution was founded in 1846, it was as a trusteeship of the U.S. Government, privately financed from an endowment fund provided by the bequest of a British donor. Its articles of establishment are still carried in the United States Code, title 20, education, in which section 42, regents, states: "The business of the Institution shall be conducted at the city of Washington by a Board of Regents, named the regents of the Smithsonian Institution, to be composed of the Vice President, the Chief Justice of the United States, and three members of the Senate and three members of the House of Representatives, together with six other persons, other than Members of Congress * * *."

That was in 1846. At that time, all Smithsonian salaries and construction funds came from this private source. Some years later, how-

ever, appropriations from the Federal Treasury began to be requested by the Regents and to be awarded by the Congress as to any other Federal agency.

The powers of the Institution grew more and more imposing until, today, it is one of the most powerful Federal agencies in the general field of the sciences and the single most powerful Federal agency in the field of the arts. To run the agency for the next fiscal year an appropriation of some \$56 million has been requested from the Federal Treasury. This sum is a fair indication of the power of the agency itself.

The executive officers with the most clout in the administration of this Federal agency remain those regents who are also Members of Congress.

In the past few years, gross mistakes in judgment have been made by the regents in the administration of this Federal agency. I have complained to this committee for 4 years of those mistakes that have affected my own relationship to the Smithsonian as a writer on art subjects, as an art collector in fields of art in which the Smithsonian's art museums wield great influence, and as an occasional organizer of special art exhibitions, certain of which have been sponsored by the Smithsonian.

I would like today to recount briefly some of my past complaints, to present the current status of those areas of Smithsonian administration complained about, and to lodge one or two new complaints. In all instances, Federal appropriations of large amounts are involved.

Until the unconstitutional nature of the Smithsonian's administrative organization has been corrected, however, I cannot realistically expect any action by this committee to correct mistakes that are essentially the result of that unconstitutional nature.

For the record, I wish to register the following complaints:

(1) The first complaint involves a matter of \$5 million in appropriated funds.

That is the amount, according to testimony given by the Smithsonian Institution before this committee earlier this year, that the Piracci Construction Co. is prepared to ask for as "overrun" expenses in the construction of the Smithsonian's Joseph H. Hirshhorn Museum and Sculpture Garden, now being built on the Capitol Mall. This sum, \$5 million, is approximately the same as the amount of "overrun" in the Rayburn Parking Garage scandal.

The responsibility for this outrageous "overrun"—or whatever name it is given—belongs squarely on the heads of the Smithsonian regents, of the members of the House and Senate Committees on Appropriations, and on the head of the Smithsonian Secretary, S. Dillon Ripley.

I personally advised this committee in 1970, prior to the start of construction, that the bid by Piracci Construction Co. was demonstrably too low, and that it was surely proceeding with the understanding that an "overrun" modification would later be granted. I also complained to the Smithsonian regents, to the General Services Administration, to the General Accounting Office, and to the Attorney General of the United States—and, indeed, to the President—that the Federal Government was being committed to later appropriations in excess of the authorized \$15 million in Public Law 89-788. My com-

plaint was substantiated by documents—including a memorandum indicating that the GSA estimator himself had estimated that the construction cost would be a few million dollars more than authorized.

Mrs. HANSEN. At this point I would like to correct you, Mr. Simmons.

No request has been made for this \$5 million. This entire matter is with the General Services Administration and is not before this committee. It is a legal controversy between the GSA and the construction firm.

Mr. SIMMONS. True.

Mrs. HANSEN. Well, if you admit this is true, why are you making charges before this committee?

Mr. SIMMONS. I am coming to that. I may not have adjusted them in the right order.

Mrs. HANSEN. No, you haven't.

Mr. SIMMONS. My complaints at that time were about the extra millions of dollars that were coming up here.

Mrs. HANSEN. I think you should appear before the subcommittee handling GSA. GSA handles all construction details. Contracts are made with GSA.

Mr. SIMMONS. But the GSA contract is given out through the Smithsonian and just because of the Smithsonian it was able to give it.

Mrs. HANSEN. The Smithsonian gives GSA the ability to contract. The committee went into this in great depth at the Smithsonian hearing this year. I think you were present at that hearing.

Mr. SIMMONS. Yes, I was, and you didn't do what I was hoping you would do, but let me say this.

My complaints were ignored. Instead, with the connivance of the Smithsonian Institution, the GSA rushed through the award of the construction contract to "low bidder" Piracci—even though his bid, after being revised upward following the discovery of an "error," was about \$1 million more than the amount authorized by Congress. This is where this committee comes in.

The rush was necessary to beat a February 1970 deadline for the contract award, after which date all bids would have been invalid and new rounds of bids would be necessary.

In other words, they would have stopped there. If they hadn't given that bid by February 10 or 13, the whole thing would have stopped and they would have had to invite new bids and the whole thing would have been properly handled.

Mrs. HANSEN. I think you should talk to the GSA.

Mr. SIMMONS. To make possible this award to Piracci, Smithsonian Secretary S. Dillon Ripley, on January 22, 1970, gave to the General Services Administration a letter obligating the extra sum of \$1 million that Congress had not authorized. And here is a copy of that letter if you would like to see it.

Not until late in March 1970, and this was information brought to you later by the Smithsonian, not until March of 1970, after the contract award had been made and after construction had begun, did the Smithsonian Institution secure a written guarantee from private citizen Joseph H. Hirshhorn that he would provide the needed extra \$1 million.

He would provide this, he said, by changing his agreement with the Smithsonian Institution—and with the Federal Government—so that a promised \$1 million art-purchase endowment fund could be used instead for construction.

Congressional committees were not advised of these changes, or of the irregular nature of the contract award, until after the fait accompli. According to the chairman of the Executive Committee of the Smithsonian Regents, who met at the end of January, 1970, the regents themselves were not advised of this operation until after the deed was done.

The Federal law that states that obligations cannot be made in advance of authorization was ignored. It is clear in this case why such a law exists in the United States Code. It is to prevent just what has come to pass.

It is obvious that the sum of \$1 million was not enough to cover the projected costs of constructing the Hirshhorn Museum and Sculpture Garden. The GSA's own estimate indicated that. The bids of the other two construction companies indicated that.

I think I have given you a copy of that memo before. They estimated it would cost something like, lump-sum bid, \$14.3 million and Piracci came in with \$11,874,000 which he later revised the next day by adding \$750,000, but that was still not enough.

The bids of the other two construction companies he had were approximately \$14.3 million, too, but the award was made, construction began, and now the United States Government is committed to finish the building—apparently at an added cost of \$5 million.

I say it was the fault of not properly investigating this whole thing.

Mrs. HANSEN. Talk to the GSA again.

Mr. SIMMONS. I sure will.

Secretary Ripley's obligation of the questionable sum of \$1 million in effect committed the Federal Government to an unauthorized added expense of \$5 million.

In my opinion, the Committee on Appropriations should refer this case to the Attorney General of the United States for proper investigation. Under no circumstances should that extra \$5 million be taken from the Federal Treasury. Nor should it be taken from Smithsonian private funds as presently endowed, for these funds were not intended by their donors for such use.

Mr. EVANS. Could I interpose a question here?

You make an interesting statement. If I hear you correctly you say that the acceptance of the \$1 million from Mr. Hirshhorn in effect obligated the Government to an additional sum of money, \$4 or \$5 million, under the original contract.

Mr. SIMMONS. That is my reasoning.

Mr. EVANS. How does the acceptance of \$1 million from a private individual bind this Government to an additional \$4 or \$5 million in expenses?

Mr. SIMMONS. Because they went ahead with the contract. They went ahead with the contract and they went ahead with the building and I think there is a pretty sound tradition that once you start a building you are going to finish the thing even if it costs an awful lot more.

Mr. EVANS. We have been in court many times. We have started buildings and we have had disagreements with contractors and disagreements have been quite often referred to the courts.

Mrs. HANSEN. I understand the disagreements are now in the court.

Mr. EVANS. That is what I understand.

Mr. SIMMONS. What I am saying, Congressman, is this: That had this letter not have been issued on January 22, 1970, obligating that extra million dollars which was needed to give out the contract at all to Piracci, because the total authorization for this building, this sculpture garden and building, the whole thing, was \$15 million and that is what it says in the act, Public Law 89-788—

Mr. EVANS. Excuse me just a minute.

The thing that I object to is when you assume the Government is going to do a certain thing based upon what some private person has done with an official of the Smithsonian. That is where I think you are making a gross error.

Mrs. HANSEN. Mr. Evans, this whole matter is before GSA and we do not enter into the settlement of a court case in this committee.

All discussions of contracts between the GSA and any contractor appropriately belong within the legal processes that the Government has.

Mr. SIMMONS. But you do remember, I think, that I did object that this building was not—

Mrs. HANSEN. I remember you objecting to many projects over the last few years.

Mr. SIMMONS. Yes, but this is a particular case.

[Discussion off the record.]

Mr. SIMMONS. What I was talking about was dollars and cents. I knew very well it was going to cost a lot of money if they did it in a shifty way.

Perhaps the Smithsonian regents can make up the \$5 million from their own pockets—some of the regents, including certain Members of Congress among them, are millionaires and could probably afford it.

The second complaint involves a matter of some \$1 million in appropriated funds.

This is the amount, give or take a few hundred thousand dollars, requested by the Hirshhorn bureau for "salaries and expenses" for fiscal year 1974.

The Committee on Appropriations should authorize no increases whatsoever for Hirshhorn "salaries and expenses" until after the future administration of this Federal bureau is resolved.

It would be far cheaper for the Federal Government if the Hirshhorn building and the cement "garden" can be placed under the administration of the already functioning National Collection of Fine Arts, which Congress established in 1938 as our National Museum of Contemporary Art—with the mandate to foster contemporary American art through exhibitions and other programs.

Mr. YATES. What would that do with respect to the contract between the Government and Mr. Hirshhorn?

Mr. SIMMONS. In my estimation it has to be negotiated. It is going to be negotiated, anyway, according to the terms of the agreement.

Mr. YATES. Negotiated in what respect?

Mr. SIMMONS. In this respect: That the works of art, which all belong to Mr. Hirshhorn still—we don't have title to those works of art. The agreement had the reservation that nothing would be turned over to the U.S. Government until after the Museum and Sculpture Garden are finished and after further negotiations.

Mr. YATES. That is the option of the Government, isn't it, rather than Mr. Hirshhorn? The Government having completed its contract by building the building certainly would have a claim on that art, would it not?

Mr. SIMMONS. I would think so.

Mr. YATES. I would think so, too.

Mr. SIMMONS. But this agreement has not been clung to all the way along. There have been changes in it. There have been several changes in it so it would seem to me that the whole thing is open to negotiation.

I think that contract as a contract simply did not have mutuality, that the Federal Government came off on the wrong end of the stick in that contract.

Mr. Hirshhorn got everything. It is supposed to be a gift when you give works of art to the Federal Government. It is not supposed to be a deal where you get something back.

Mr. YATES. Doesn't that depend on the contract. Haven't there been contracts with other donors who have given gifts to the Federal Government, donors who have had the upkeep of their collections paid for in part by the Federal Government?

Mr. SIMMONS. There is no question about that. That is the whole purpose of the gift. After you give it then somebody else is going to take care of it, thus relieving you of the expense. What I am talking about is the name on the Mall, the right to name all the trustees to control this program and so on. That is a big thing and it is too much to give.

Mr. YATES. That was part of the consideration, wasn't it?

Mr. SIMMONS. It wasn't really the way they planned it, not at all.

Mr. YATES. Who planned it?

Mr. SIMMONS. The way it was planned by Congress. When you enacted the act which set up this Hirshhorn Museum and Sculpture Garden it was not intended that this was a national museum of contemporary art. What I am talking about here is going to cost millions of dollars. That belongs to the national collection, not to Mr. Joe Hirshhorn and his colleagues who have now been named as trustees.

Mrs. HANSEN. Your time has expired, Mr. Simmons.

Mr. SIMMONS. Please note the other complaints.

Mrs. HANSEN. Yes, we are noting them and we have had hearings on this matter.

Thank you very much.

Mr. SIMMONS. Thank you.

[The balance of Mr. Simmons' statement follows:]

The Hirshhorn Building is, after all, just another building. It provides extra space to hang pictures and to display sculpture. It is being built with taxpayers' money. It is intended that taxpayers' money will pay for its maintenance and operations costs.

Behind the scenes, however, plans are being made by Secretary Ripley and Mr. Hirshhorn whereby the mandate of the National Collection of Fine Arts to finance programs of contemporary art in a general and inclusive way is to be

transferred to the Hirshhorn Museum and Sculpture Garden. The added and unnecessary costs of these plans are tremendous. If the Committee on Appropriations does not "blow the whistle" now on these secret plans, the result will be the same as with the construction-funds mess—enormous extra costs to the taxpayer.

The added and unnecessary costs of superfluous administrative and curatorial personnel in the Hirshhorn building will amount to about \$1,500,000 per year. The extra director, assistant director, administrator, librarian, curators, secretaries, et al. now projected to populate this building are simply not needed. With but few added personnel at the lower echelons the present staff of the National Collection of Fine Arts, which is located a few hundred yards away, could more efficiently and more professionally operate the Hirshhorn building. Extra guards and janitors are needed but the space and the mission of this building does not warrant added professional personnel. Perhaps the NCFACurator of Contemporary Art could have an office in the Hirshhorn Building. A special director and body of curators are an astounding waste of money.

It should be noted that the NCFAC's Renwick Gallery is farther away from the mother building than the Hirshhorn building.

A resolution should be introduced in Congress to abridge the administration of the Hirshhorn Building and to place it under the National Collection of Fine Arts. Meantime, the Committee on Appropriations should not approve added costs to the Federal Treasury to be further wasted on this unprecedented boondoggle, the Hirshhorn Museum and Sculpture Garden "salaries and expenses."

(3) The third complaint involves a matter of hundreds of millions of dollars in appropriated funds.

Over the past few years, the Smithsonian Board of Regents has created out of thin air a number of new museums. Behind closed doors the regents establish the administrative structure of these museums. No public hearings whatsoever are held wherein the public may express reservations about the logic of establishing these new museums. Instead, the regents go to Congress to approve directly the new expenses of new salaried personnel and to approve the site chosen by the regents for erecting the new museum building. Sometimes, hearings are held in the matter of the building site and then construction money is requested from Congress.

The Smithsonian regents have spun off museum after museum, thus committing the American taxpayer to hundreds of millions of dollars in "salaries and expenses" and other costs, without ever holding hearings in the matter.

Thus, the Joseph H. Hirshhorn Museum and Sculpture Garden was established with no public hearings except for siting the building (it was decided to tear down the National Armed Forces Medical Museum and give this site to Mr. Hirshhorn). No public hearings were held regarding the establishment of the National Armed Forces Museum. No hearings were held regarding the establishment of the National Museum of Man. No hearings have been held regarding the establishment of the National Museum of Design.

Serious questions have existed and do exist in the matter of all these new museums. For example—should the Smithsonian Institution, devoted to the "increase and diffusion of knowledge among men" for the "benefit of mankind" be committed to run a Warfare Museum? Should the Federal Government be committed, in a manner that excludes the public from having any say whatsoever, to funding a National Museum of Design way up in New York City? How does this accord with the Smithsonian original legislation that establishes the Institution in the City of Washington?

Congress is now being asked by Regent Minshall to set aside another large plot of the Capitol Mall whereon to build the National Museum of Man—but no hearings have ever been held on the establishment of any Museum of Man at all. These museums may all very well be great things to have. But the Committee on Appropriations should under no circumstances further commit the Federal Government to open-ended costs without first making sure that the entities needing the money have been properly established—after public hearings.

(4) The fourth complaint concerns the possible expenditure of Federal funds to cover the irregular private commitment of Smithsonian funds to the firm of Expeditions Unlimited, Inc., which was engaged by Secretary S. Dillon Ripley, according to newspaper reports, to salvage the U.S.S. *Tecumseh*, now lying on the bottom of Mobile Bay.

On Dec. 22, 1972, a jury decided that the Smithsonian had defaulted on a contract and awarded the salvage company damage of \$212,305. In April, 1973, U.S. District Court Judge Oliver Gasch mediated the ruling and plaintiff and defendant agreed on a settlement of \$150,000.

According to my information the Smithsonian administration intends to make up this sum by taking a little bit here and a little bit there from each of the various bureaus of the Institution. If these little bits prove to be from appropriated funds, this may be an illegal activity. The United States Code states clearly that funds appropriated for one purpose may not be expended for another.

According to newspaper reports, this contract was given out by Secretary S. Dillon Ripley, who obligated the Smithsonian Institution in a letter to the salvage company. The situation indicates that Smithsonian private funds should be found to pay the costs of this indiscretion on the part of the Secretary. If no private funds are available for such a purpose, perhaps, again, the Smithsonian regents can dip into their own pockets for the necessary money to satisfy this judgment.

In any event, the Committee on Appropriations should carefully supervise the proper payment of this \$150,000 award.

(5) The fifth complaint involves the disposition of national treasures by the Smithsonian Institution. In 1969, it was necessary for me to exert my utmost energy to stop the Smithsonian Institution from further dissipation of art treasures through irregular dispositions. My Congressman had the General Accounting Office conduct an audit of certain Smithsonian holdings, which confirmed the charges that I made. Not until then did the Smithsonian regents adopt a written policy governing the disposition of art treasures.

At Smithsonian hearings on March 15, 1973, before the House Committee on Appropriations, Smithsonian Assistant Secretary for History and Art told Congressman "there have been no dispositions by these museums," when asked whether or not the Smithsonian had disposed of more treasures since the regents' ruling.

The truth is, however, that the Smithsonian Institution sold at auction in Geneva, on November 15, 1972, an important collection of 19th century jewelry, realizing \$140,000 in the sale. The jewelry was in the collection of the Cooper-Hewitt Museum—the projected National Museum of Design—and represented the world's most important collection of jewelry of Castellani and Giuliano, the foremost designers of jewelry in the 19th century. One piece had been exhibited in the 1876 Philadelphia Exposition. Others had been published in major articles and books on the history of jewelry.

Apparently, the Smithsonian Regents, including certain Members of Congress, had approved of this sale at the regents' May, 1972, meeting.

The regents should be called into account for this business—but, of course, since certain of them are members of the House Committee on Appropriations, it is unlikely that anything will be done.

In the matter of the statement of denial by the Assistant Secretary for History and Art—a man who makes some \$42,000 per year in salary, plus expenses—the Committee on Appropriations should request a full explanation regarding his apparent contempt of Congress. In past testimony, this man has brought other misstatements to Congress in matters involving Federal appropriations, and it should be determined whether or not this has become a habit.

Although there are many other matters that I could testify upon regarding the administration and costs of funding the activities of the Smithsonian Institution, the above matters may suffice to assist the Committee on Appropriations in overseeing the budget for fiscal year 1974.

[From the Washington Post, Apr. 26, 1973]

A FORMER CHAIRMAN OF THE COMMISSION OF FINE ARTS ON "VILE INTRUSIONS ON THE MALL"

Mr. Wolf von Eckardt's provocative article, "The Rosslynization of America's Athens" in the April 7 issue struck a responsive chord with me: it serves to emphasize the necessity for a more effective and intelligent control over the future development of the Nation's Capital.

The Mall has been destroyed by the construction of the Hirshhorn monstrosity, a structure paid for by the taxpayers (over \$15 million) to house a one-man col-

lection of art valued by the donor's appraisers at about five times the cost! This museum, which ought to be razed instead of completed, will, by agreement, carry the donor's name in perpetuity. Is it appropriate to give this great importance to an unknown, undistinguished character described as "a convicted money smuggler" (article by John Hanrahan in the Washington Post, March 16, 1973), whose name, Hirshhorn, will take its place on a structure in the vicinity of the memorials to Washington, Lincoln and Jefferson? The "vandals" who authorized this vile intrusion of the Mall include, among others S. Dillon Ripley, Secretary of the Smithsonian Institution and certain one-time members of the Commission of Fine Arts, which agency approved the design. The architect, Bunshaft, of the Hirshhorn structure, was a member of the Commission during the planning of it and extending some time in the construction stage; does this not constitute a conflict of interest?

In recent years the Commission of Fine Arts have shown themselves to be incompetent to deal with the problems of the central area of the Capital. Some years ago the Commission approved the plans for a center for the performing arts, later named in honor of President Kennedy. When the question of the site for this structure first came to the attention of the Commission of Fine Arts, more than two decades ago, the majority of the members expressed their disapproval for reasons that are now obvious to anyone with sensitivity.

If the Commission did not approve the ugly expanse of concrete of L'Enfant Plaza exposing a group of monotonous office structures, I never heard that they expressed concern!

Mr. Von Eckardt's statement: "As you look at Washington you see a civilization in decline." How true yet how unnecessary, and how regrettable. The decline in the visual concept may be attributed to the ineptness of the public agencies that have power of approval over the location and the design of the structures. If the members of these agencies are incompetent to deal intelligently and sympathetically with the programs for expansion that are to be made in the precious fabric of the Nation's Capital, then the fabric will be destroyed as indeed it has been.

When plans for the Air Museum were first announced I addressed letters of protest to persons, including Dr. Ripley, in authority expressing my opposition to the placement of this structure on the Mall. It does not belong opposite the National Gallery of Art; the site is too small it is smaller than the site upon which the National Gallery stands. How can the building ever be enlarged? It is obvious that such a museum must grow, for space exploration and aviation are still in the process of further development.

Did you know that Dr. Ripley plans to place a merry-go-round on the Mall? I also expressed opposition to this proposed incongruous intrusion suggesting that the place for such a structure is in the zoo. But Dr. Ripley, the czar of the Mall, turned a deaf ear to my suggestion.

This writer spent almost 19 years (1932-50) as a member of the Commission of Fine Arts, 13 of those years as the Chairman. You can readily imagine how frustrating it is now to witness Washington being "violated by illiterate vandals," to quote Mr. von Eckardt's appropriate expletive.

GILMORE D. CLARKE.

NEW YORK.

[From the Evening Star and Daily News, Washington, D.C., May 1, 1973]

SHIP SALVAGER SALVAGED

The Smithsonian Institution has agreed to pay \$150,000 to an underwater salvage firm because of a lawsuit resulting from plans to raise the U.S.S. *Tecumseh*, a Civil War ironclad, from the bottom of Mobile Bay.

A civil jury decided Dec. 22 that the Smithsonian had reneged on a contract with the firm, Expeditions Unlimited Inc., and had ordered the Smithsonian to pay \$212,305.

Asked by the Smithsonian to reverse the verdict, U.S. District Court Judge Oliver Gasch indicated at a hearing that he was inclined to rule in the Smithsonian's favor on the contract issue but that the firm, which claimed it had spent \$126,000 of its own money on the project, was entitled to some money.

He suggested that the two parties reach settlement, and on Friday, they agreed on \$150,000. Neither party conceded any disputed facts.

In January 1969, Smithsonian secretary, S. Dillon Ripley, authorized the firm to begin raising money for the salvage operation and purportedly gave it full media rights to the salvage story. These rights are potentially valuable, since the Union ship is filled with Civil War history.

It was sunk on August 5, 1864, at the mouth of Mobile Bay, a few hundred yards from Fort Morgan, Ala.

The sinking inspired Rear Adm. David Farragut to order his flagship to take the lead in the attack on the Confederate fort, and to utter his famous phrase, "Damn the torpedoes, full speed ahead."

The firm had begun the fund-raising effort and made initial tests for the salvaging when the Smithsonian called the project off in June 1969, according to John J. Pyne, the firm's attorney. Pyne says the problem arose after discovery that some of the media rights had been granted to other parties.

[From the Evening Star and Daily News, Washington, D.C., Dec. 29, 1972]

DIVERS WIN JUDGMENT—SMITHSONIAN IS TORPEDOED

(By John Sherwood)

Expeditions Unlimited, Inc., an underwater archeological recovery firm, has been awarded a \$212,305 judgment against the Smithsonian Institution for breach of contract.

The dispute involves a "letter-type" contract signed by S. Dillon Ripley, secretary of the Smithsonian, which the firm says authorized the raising of private funds for its salvaging of the Civil War ironclad, *Tecumseh*, for the Smithsonian.

A jury found the Ripley document to be a binding contract, Peter G. Powers, general counsel of the Smithsonian, said yesterday that "it would not be appropriate to comment on the matter."

Pursuing media rights for the story of the recovery, however, the firm discovered that the Smithsonian had granted a portion of those rights to others after assuring Expeditions Unlimited that it had exclusive media rights.

The jury trial, presided over by Judge Oliver Gasch, ended December 22 in U.S. District Court here.

The *Tecumseh*, which is the property of the Smithsonian, was found in 1967 after more than a century at the bottom of Mobile Bay in Alabama. Initial salvaging probes began under the direction of the Smithsonian's advisory board of the proposed National Armed Forces Museum, but floundered in bureaucratic redtape.

John J. Pyne, attorney for Expeditions Unlimited, said the firm had been promised more than \$500,000 in private funds to proceed with the recovery operation and had spent \$126,000 of its own money when it learned that it did not have exclusive media rights to the story.

After they had been awarded "the prime contract to recover the vessel," says Pyne, "the Smithsonian began changing plans, specifically budget requirements, and stopped the firm from continuing with the project."

The firm brought a suit claiming breach of contract in January 1971.

Plans were to recover and refurbish the ship and put it on view in Washington. Artifacts recovered are now in the possession of the Smithsonian.

Loaded with Civil War battle stores, it was sunk by a mine on August 5, 1864, and went to the bottom in a minute with most of its 106-man crew aboard.

The 225-foot ship rests at the mouth of Mobile Bay a few hundred yard offshore from Fort Morgan. The vessel is almost overturned with only a few feet of keel sticking out of the mud.

The sinking of the *Tecumseh* inspired Rear Adm. David G. Farragut to shout, "Damn the torpedoes. Full speed ahead!" Ordering his flagship to take the lead in the attack on a Confederate fort.

The president of Expeditions Unlimited, which was put out of business by the *Tecumseh* venture, was Norman Scott, of Pompano Beach, Fla. Vice president was Michael Freeman, of Oxon Hill. The firm has since been reorganized as Expeditions Unlimited Aquatic Enterprises, Inc.

Scott said the suit was undertaken "with reluctance."

He added that "his firm" of course, is still interested in the project, which is a perfect time capsule of a vessel involved in Civil War combat. I would hope that in the future the vessel can be salvaged and that I would be involved."

[From the Washington Post, Apr. 14, 1973]

CIA-INSPIRED TIBET RAIDS WIND DOWN

(By Jack Anderson)

In mountainous Nepal, America's least known and least bloody war is winding down. The warring tribesmen and the Central Intelligence Agency, which recruited them, are losing interest in the adventure.

After the fleece-clad Red Chinese legions crushed a revolt in Tibet in 1959, the fiercest of the Tibetan clans fled on wiry ponies into the high fastness of Nepal.

CIA agents slowly gained the confidence of the mountain fighters, known as Khampas or "warriors," and began organizing them against the Chinese. In the cloud-capped regions of Mustang and Dolpa, the Khampas were outfitted with American saddles, small arms and other equipment.

Then, out of the craggy highlands, they swooped down into Chinese military encampments in Tibet, disrupting communications and stealing supplies. This distressed the Nepalese authorities, who never authorized the raids and feared Chinese retaliation.

We spoke to sources who were invited to participate in a raid on Chinese army facilities in Tibet. The Khampa leader claimed he learned his English and was trained in guerrilla tactics in the United States.

In past years, Indian intelligence agents were used to parachute American supplies to the Khampas' mountain bivouacs. The bright orange supply parachutes were converted into shirts by the Khampas and quickly became a "Red Badge of Courage" in Tibetan refugee restaurants in Khatmandu.

But now the Tibetan refugees, when they gather in the restaurants for marijuana stew and cakes, are forlorn. The American aid is drying up, and the Khampas have to depend on the penurious Indian intelligence services for supplies. This has so weakened them that the Nepal government, branding them "bandits," has been able to move them from the border areas. Now when the tribesmen feel war-like, they prey on peasants instead of Chinese soldiers.

Thus, has a faraway war flared up and died down, virtually unknown to the American people, whose dollars supported it and whose secret agents encouraged it.

WASHINGTON WHIRL

Campaign finances.—We recently reported that most of the Nixon scandals, from ITT to Watergate, were outgrowths of the 1972 presidential campaign and the corruptive method of financing politics in this country.

We suggested that the taxpayers would be better off if they earmarked a dollar of their taxes for the political party of their choice. They can do this simply by filling out the Presidential Election Campaign Statement, Form 4875.

But a spot check by IRS disclosed that only 2 of 29 employees, assigned to assist taxpayers with their returns, bothered to inform the taxpayers of the campaign checkoff. This would seem to confirm Democratic National Chairman Robert Strauss' complaint that IRS, under Republican rule, is deemphasizing the dollar contribution because it would give the debt-ridden Democrats an even financial break with the Republicans in the 1976 Presidential election.

WHERE'S THE JEWELRY?

In 1968, the prestigious Smithsonian Institution obtained a collection of precious 19th century jewelry. The national curators were so excited that the 1969 Smithsonian report promised "a spectacular jewelry exhibition" and, as a teaser, showed illustrations of three gem-laden brooches. But instead of becoming part of a grand display, 150 pieces of the historic jewelry that seemed so irreplaceable in 1969 have been auctioned off in Geneva for some \$140,000.

Sold, for example, was awesome jewelry that once belonged to J. P. Morgan. The public wasn't told about the auction; indeed, the auction catalog identified the seller only as "an American institution."

We asked the Smithsonian why the treasure hadn't been loaned out to less fortunate museums instead of consigned for display on the bosoms of rich men's wives. A spokesman explained that the collection had been acquired with the intention of auctioning it off, that the Smithsonian had netted about \$30,000 on the sale and had retained a small, representative assortment of the gems.

PERJURY PROBE

A year after the celebrated ITT hearings, the Justice Department is finally getting around to investigating who committed perjury. The FBI has been assigned, for example, to rewrite the history of the infamous Dita Beard memo.

Agent James Elder has called upon Susan Lichtman, Mrs. Beard's former secretary, who typed the memo. He asked whether her affidavit, claiming she didn't recall typing all portions of the damaging memo, was "in your words and in your language"? She acknowledged it had been prepared for her by an ITT attorney. The FBI is also planning to question ITT employees Beverly Sincavage and William Merriam. But the investigation hasn't reached as high as former Attorney General John Mitchell, who has been caught in the most glaring inconsistencies.

[Committee note: A detailed rebuttal of Mr. Simmons' testimony was supplied to the committee by the Smithsonian Institution.]

NAVAJO IRRIGATION PROJECT

WITNESS

HON. BRUCE KING, GOVERNOR OF NEW MEXICO

Mrs. HANSEN. The next witness is Mr. Bruce King, The Governor of New Mexico. We are very happy to welcome you, Governor, to the committee.

Governor KING. Thank you very much, Madam Chairman.

I will make my remarks rather brief.

Mrs. HANSEN. We will place your statement in the record.

Governor KING. Fine.

[The statement follows:]

SUMMARY

This statement is submitted in support of appropriations to the Bureau of Indian Affairs to continue construction of the Navajo Indian irrigation project which, in recognition of the obligation of the United States to the Navajo Tribe, was authorized in 1962. The project in the northwestern corner of New Mexico will furnish water for irrigation of 110,630 acres of land and will provide an adequate standard of living for 33,000 Navajos. The President's budget proposes \$10,500,000 for fiscal year 1974. A total of \$14,500,000 of new funds could be effectively spent in fiscal year 1974. An increase of \$4 million over the amount proposed in the budget would assure the availability of water to the first project lands at the beginning of the irrigation season in 1976 and to the second block of project lands in 1977 under an orderly construction schedule. I strongly urge that appropriations for fiscal year 1974 be increased to \$14,500,000.

STATEMENT

The 1868 treaty between the United States of America and the Navajo Tribe of Indians provides that any Navajo being the head of a family and desiring to commence farming shall have the privilege to select 160 acres in the Navajo Reservation to be held in the exclusive possession of the person selecting it and of his family so long as he or they may continue to cultivate it. The treaty further provides that any person over 18 years of age not being the head of a family may in a like manner select and hold 80 acres within the reservation for purposes of cultivation. The treaty further provides that the Navajo head of family is entitled to receive seeds and agricultural implements to help him get started in his farm enterprise. Even a casual examination of precipitation records shows that irrigation is essential if these treaty provisions are to be given effect of much significance.

The law which authorized the Colorado River storage project in 1956, Public Law 84-485, explicitly recognized that assistance of the Navajo Tribe in the

Mrs. HANSEN. Is this \$14.5 million in addition to the \$1.5 million which is unobligated?

Mr. GOSLIN. Yes, ma'am, technically it is. The \$1.5 million was impounded and not used. However, it has been obligated. The total program would be \$16 million under this proposal.

Mrs. HANSEN. What you really are requesting is \$4 million over the \$10.5 million which is in the budget.

Mr. GOSLIN. \$4 million over the \$10.5 million, that is right.

Mrs. HANSEN. Thank you both very much. We are well aware of your problems.

Mr. GOSLIN. You have been out there, haven't you, and looked it over?

Mrs. HANSEN. That is right. If you recall, the committee has added funds in the past.

Mr. GOSLIN. But we didn't get a chance to spend it due to the action downtown.

MAKAH-OZETTE MUSEUM

WITNESSES

JOSEPH LAWRENCE, MAKAH TRIBAL COUNCIL

LUKE MARKISHTUM, JR., MEMBER, MAKAH TRIBE

RICHARD DAUGHERTY, WASHINGTON STATE UNIVERSITY

MARSHALL CUTSFORTH

MR. BOWECHOP

Mrs. HANSEN. Mr. Joseph Lawrence of the Makah Tribal Council.

Mr. LAWRENCE. Madam Chairman and distinguished members of the subcommittee:

It is indeed an honor and pleasure to appear before your committee in the Nation's Capitol to tell you of the proposal to construct one of the most unique museums in America on our reservation at Neah Bay, Wash.

The Makah people, numbering over 1,000, live at Neah Bay near Cape Flattery, the northwesternmost tip of the continental United States. This is our ancient homeland, a land we have occupied for at least several thousand years. This reservation of ours, which was established by treaty in 1855, is, we think, one of the rare natural beauties of America. Our western side is bordered by the Pacific Ocean and the northern side by the Straits of Juan de Fuca. Our village of Neah Bay is not only our home, but it is also the home port for much of the northwest fishing fleet during the season, as well as a tremendous sports fishing resort for hundreds of thousands of visitors annually. Our tribe is committed to a long-range program of acquisition and development of our reservation to take advantage of this annual influx of tourists. Many of these tourists are fishermen, but in addition, thousands who are not fishermen come to see Neah Bay because of the rare natural beauty of the country and because they want to see Indian people in their own land. We think this is a resource that can benefit the entire tribe economically if properly developed.



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