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NATIONAL ART BANK ACT OF 1978

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HEARINGS

BEFORE THE

COMMITTEE ON HUMAN RESOURCES

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2645

TO ESTABLISH AN ART BANK

AUGUST 22 AND 23, 1978

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NATIONAL ART BANK ACT OF 1978

TUESDAY, AUGUST 22, 1978

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:40 a.m., in room 4232, Dirksen Senate Office Building, Senator Harrison A. Williams, Jr. (chairman) presiding.

Present: Senators Williams and Javits.

OPENING STATEMENT OF SENATOR WILLIAMS

The CHAIRMAN. Our hearing will come to order.

Today we begin 2 days of hearings on S. 2645, The National Art Bank Act of 1978.

The bill has stimulated enthusiasm among artists and art lovers, as well it should. For the art bank will encourage and assist artistic creation through the purchase of works of living American artists. Paintings, sculptures, pottery, and tapestries will be made available for display in public places across the Nation. No longer will the esthetic surroundings which we are so fortunate to have here in the Capitol be reserved for a few buildings in Washington.

The WPA Federal Art Project of the 1930's had similar goals. What these projects accomplished has been eloquently summarized by Archibald MacLeish:

They brought the American audience and the American artist face to face for the first time in their respective lives. And the result was an astonishment needled with excitement such as neither the American audience nor the American artist had ever felt before * * * In less than a year from the time the program first got underway, the totally unexpected pressure of popular interest had crushed the shell which had always isolated painters from the rest of their countrymen, and the American artist was brought face to face with the true American audience.

The WPA projects brought the artist and the public together by making art an integral part of daily life.

As Presidential candidate Jimmy Carter declared, "We must again have a Government that is prepared to make active use of the arts." This is precisely what the art bank is designed to do. It will enhance and ennoble the everyday places where people work and gather. Schools, post offices, hospitals, train stations, and airports, as well as Federal office buildings, can become showcases of contemporary art.

While the art bank is a new concept in the United States, it has already been adopted in Canada and in the State of Alaska. We are for-

tunate to have with us today Madam Suzanne Rivard LeMoynes, who created the Canadian Art Bank and helped it flourish. We will, I hope, be able to benefit from Canada's 6-year experience with this innovative idea.

Of course, an American art bank will need to be tailored to the American art market, artist population and governmental structure. Our witnesses today and tomorrow, who represent the point of view of the artist, the Government and the museum, can bring us the insight we need to fine tune the National Art Bank Act.

[The text of S. 2645 follows:]

95TH CONGRESS
2D SESSION

S. 2645

IN THE SENATE OF THE UNITED STATES

MARCH 3 (legislative day, FEBRUARY 6), 1978

Mr. WILLIAMS introduced the following bill; which was read twice and referred to the Committee on Human Resources

A BILL

To establish an Art Bank.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "National Art Bank Act
4 of 1978".

PURPOSE

5
6 SEC. 2. It is the purpose of this Act to assist and en-
7 courage artistic creation through the purchase and display
8 of works of art, to beautify public places by increasing the
9 availability of works of art for exhibition, and to foster ap-
10 preciation and understanding of art by making it more ac-
11 cessible to the public.

II

1 SEC. 3. (a) The National Foundation on the Arts and
2 the Humanities Act of 1965 is amended by redesignating
3 section 14, and all references thereto, as section 15 and by
4 inserting after section 13 the following new section:

5 "ART BANK

6 "SEC. 14. (a) There is established, within the National
7 Endowment for the Arts, an Art Bank, which shall be headed
8 by a Director.

9 "(b) (1) The Director of the Art Bank shall be ap-
10 pointed by the President, by and with the advice and con-
11 sent of the Senate, and shall serve at the pleasure of the
12 President. The Director shall be compensated at the rate
13 provided for level V of the Executive Schedule under section
14 5316 of title 5, United States Code.

15 "(2) The Director shall report to the Chairman of the
16 National Endowment for the Arts with respect to the activi-
17 ties of the Art Bank.

18 "(c) The Director of the Art Bank is authorized to—

19 "(1) appoint periodically ad hoc juries of artists
20 and art experts for the purpose of assisting in the selec-
21 tion of visual works of art;

22 "(2) select visual works of art for the Art Bank
23 with the assistance of juries and enter into agreements
24 to purchase at fair market value or lease such works

1 directly from artists or from art dealers, which purchase
2 agreements shall include the right of artists to repurchase
3 their works after a reasonable time at a price not less
4 than the cost of acquisition and not more than the cost
5 of acquisition plus 50 per centum of any increase in the
6 fair market value of such works;

7 “(3) provide for the safe and secure storage, trans-
8 portation, and insurance of such works;

9 “(4) make such works available on loan to Federal
10 supervisory authorities, including the Administrator of
11 the General Services Administration, the Architect of
12 the Capitol, and the Director of the Administrative Office
13 of the United States Courts, who shall supervise the
14 loan of such works to the Federal facilities and activities
15 under their respective jurisdictions for display;

16 “(5) make such works available on loan to
17 museums, and by lease to State and local governments,
18 nonprofit institutions, and private corporations, which
19 shall provide for the public display and adequate securi-
20 ty of such works;

21 “(6) sponsor exhibitions of works from the Art
22 Bank;

23 “(7) select periodically works from the Art Bank
24 for sale by public auction or otherwise;

1 “(8) encourage and provide technical assistance
2 to State and local governments and nonprofit institutions
3 for the establishment of art banks; and

4 “(9) promulgate such rules and regulations as may
5 be necessary to carry out the provisions of this section.

6 “(d) Members of juries appointed pursuant to subsec-
7 tion (c) (1) of this section who are not regular full-time
8 employees of the United States shall receive, while serving
9 on such juries, compensation at a rate equal to an amount
10 fixed by the Chairman of the National Endowment for the
11 Arts but not to exceed \$125 a day including traveltime,
12 and, while so serving away from their homes or regular
13 places of business, they may be allowed travel expenses
14 including per diem in lieu of subsistence, in the same manner
15 as persons employed intermittently in Government service
16 are allowed expenses under section 5103 (b) of title 5,
17 United States Code.

18 “(e) (1) In selecting works of art for purchase under
19 subsection (c) (2) of this section, the Director shall con-
20 sider—

21 “(A) the quality of such works;

22 “(B) the need to encourage artists who are not well
23 known to the public; and

24 “(C) the need to encourage artists from all sections
25 of the United States.

1 “(2) Not more than \$25,000 may be expended for the
2 work of any one artist in any one fiscal year.

3 “(f) Notwithstanding any other provision of law,
4 amounts received by the National Endowment for the Arts
5 from the sale or lease of works from the Art Bank under sub-
6 section (c) of this section may be used in the fiscal year in
7 which such amounts are received and for succeeding fiscal
8 years to carry out the provisions of this section.

9 “(g) For the purpose of carrying out the provisions of
10 this section, there are authorized to be appropriated \$2,000,-
11 000 for fiscal year 1979, \$3,000,000 for fiscal year 1980,
12 and \$4,000,000 for fiscal year 1981. Not more than \$250,-
13 000 of the amounts appropriated in any fiscal year may be
14 used for administrative costs.”.

15 (b) Section 5316 of title 5, United States Code, is
16 amended by adding at the end thereof the following new
17 section:

18 “(141) Director, Art Bank, National Endowment
19 for the Arts.”.

The CHAIRMAN. I am pleased to welcome all of you here today.

Without further delay, we will call our witnesses after we have introductory words from my colleague and ranking minority member, Senator Javits.

Senator JAVITS. Mr. Chairman, I am so pleased to join the chairman in this particular hearing and to congratulate my colleague upon this initiative.

As most of my colleagues know, beginning in 1949, I started the effort for The National Endowment on the Arts which resulted 16 years later in the enactment of the legislation. So my heart is very much in this.

In addition, New York is as important a center as there is in the world for art, and it indeed developed the postwar New York school, which is precursor of modern art as we know it.

There are grave dangers involved in this project. Mr. Chairman. They will be pointed out, I am sure—Government stifling of the arts as, for example, in the Soviet Union. There the artistic creativity has been channeled until it has become political poster art, as many of us who have been there know, and there the modern art movements are suppressed on political grounds and art works destroyed. This is barbarism reminiscent of book burning of Nazi days.

But, at the same time, as the Chair has properly said, an art bank has enormous possibilities. We have learned a great deal, Mr. Chairman, about how to deal with the danger of political influence and the heavy hand of bureaucracy in the arts through the National Endowment and through the Smithsonian and the many works which are carried on in a quasi-governmental setting.

I believe that we can avoid the dangers which are very manifest to the author of the bill and to me and all others. I shall take this occasion, Mr. Chairman, to congratulate the Chair and also to pledge my every cooperation to endow this initiative with success in the way which will not only mean its passage, but will insure its operating success in the decades, even in the centuries, ahead.

I thank the Chair.

The CHAIRMAN. Well, Senator Javits, with your endowment, I predict the art bank will come to pass. I know the contribution you have made in all of the areas of this committee and in the area of the arts particularly. The National Endowments, which have meant so much to the development of the arts, are in large part due to the contributions of you and Senator Pell through this committee.

Now, officials from the National Endowment for the Arts will present our first panel here today, P. David Searles, Deputy Chairman for Policy and Planning; Mary Ann Tighe, Deputy Chairman for Programs; and James Melchert, Director of the Visual Arts Program.

Will you join us, please? It is most appropriate we begin these hearings with the National Endowment for the Arts.

STATEMENT OF MARY ANN TIGHE, DEPUTY CHAIRMAN FOR PROGRAMS, ACCOMPANIED BY P. DAVID SEARLES, DEPUTY CHAIRMAN FOR POLICY AND PLANNING; AND JAMES MELCHERT, DIRECTOR OF THE VISUAL ARTS PROGRAM, NATIONAL ENDOWMENT FOR THE ARTS, A PANEL

Ms. TIGHE. We are very honored to appear before you today. We would like to offer some thoughts and some reflections on the bill, S. 2645, which would create a National Art Bank.

First, however, I want to relay to you and to Senator Javits and the other members of the committee, Livingston Biddle's regret that he could not be with us today. Our chairman has asked that I convey to you his appreciation for the commitment and support which you and the committee have shown for legislation to nurture and sustain American art and American artists.

Thanks to the efforts of this committee, and the Congress, the National Endowment for the Arts has grown in little more than a decade from a fledgling Federal agency able to provide only limited support for cultural programs, into one which this year will have a budget of nearly \$150 million.

The support this budget has received from President Carter and from the Congress reflects, we believe, the intensifying recognition throughout the country of the important role the arts play in improving the quality of life in America.

We see this in the exploding statistics of attendance at museums, galleries, concerts, plays, festivals—wherever access to experience of the arts are available, it is appreciated.

In the visual arts, America contains a vast wellspring of talent. This country's painters, sculptors, photographers, printmakers, and those working in a wide range of other media have gained preeminent international stature for their creative strength and vitality.

The needs of American artists are of continuing concern to the Endowment.

With the resources available to the Endowment, we have provided support for artists through our fellowship programs, workshop and residency opportunities and through assistance to museums for purchase of work and exhibits.

Since 1967 the Arts Endowment has awarded more than \$4 million in matching grants for commissioning public art to 160 communities in 43 States.

Also, during the period 1967-78, the Arts Endowment awarded fellowships totaling almost \$8 million to more than 1,600 visual artists in 47 States. By the end of fiscal year 1980, the Endowment will have awarded more than 2,500 fellowships totaling \$14 million.

But this is not meant to imply that more cannot be done to advance the interests of individual American artists.

Ours is a nation with many fine professional artists who do not find adequate support or opportunities for exhibition before the public.

The art bank would create new possibilities for discourse between artists and the public, would extend the availability of works of art by integrating them into public buildings and would enhance the environment of Federal buildings.

Mr. Chairman, the National Endowment for the Arts shares your enthusiasm for the art bank concept. President Carter has instructed his task force on cultural policy, part of the White House domestic policy review system, to examine the issue of establishing an American art bank.

The germ of the art bank idea comes, of course, from Canada and we owe our neighbor full credit for this innovation. But we must also bear in mind that distinct and major differences exist between the Canadian art situation and that in our own country. All of these differences should be reviewed.

Specific questions for study, for example, would be the extent to which the Canadian model can be applied to conditions and needs that exist in this country. Figures obtained from the Bureau of Labor Statistics indicate there are 183,000 painters and sculptors and 86,000 photographers working in this country. Craftspersons, who number in the hundreds of thousands, and printmakers are not included in these figures.

In Canada, rough estimates place the total artist population around 10,000. Although these are gross figures, they offer some indication of the difference in scale between the Canadian and American art systems. In deciding on a structure for a National Art Bank, we believe it is necessary to consider alternatives that best conform to the vastness and complexity of the American art system.

Further, we feel it is particularly important to examine the possible effects of the Federal Government entering the current art market. This art market consists of a number of major components, including artists, museums, private collectors, and commercial galleries. Under this bill, the U.S. Government would become the single largest collector in the country of existing works of contemporary art. What effect will this have on prices, on artist/dealer relationships? Will this place us in competition with museums or private collectors? What are the consequences of deaccessioning works of art at auction? Is the repurchase provision in this bill fair to artists who wish to reacquire their early works for their own collection? And does a repurchase provision unduly involve this Government in speculative activity?

Finally, the full range of costs associated with establishing an art bank must be analyzed.

We offer these concerns about our present understanding of an American art bank. The bill before us could improve the economic condition of artists, encourage young and unknown artists, and create a healthy climate of public acceptance of contemporary American art.

We believe that it would be premature to proceed with this bill without time for more thorough study.

But we certainly do not wish to complete our testimony on that note.

We want to thank the chairman and the sponsors of this bill sincerely for their vision in championing legislation to assist America's individual artists. It is through such dedication as this that our culture and civilization can prosper. Thank you.

The CHAIRMAN. Thank you very much, Ms. Tighe. You have raised several issues that need to be understood to determine what the impact of this legislation would be on the art community in the United States.

You have suggested that these issues receive further study. Have you thought through the most effective or efficient way of addressing these issues and understanding what problems might arise? What kind of study do you suggest?

Ms. TIGHE. These hearings are really the first major step. Certainly what we are going to find out today and tomorrow is going to tell us a lot in terms of the direction that such a study should go. But I think probably in addition to the hearings, the questions that are raised are going to need some really hard numerical data. We really need to know whether we are talking about something that is a central art bank or something that is regional.

We need to know the difference in figures, for example. I think all of that could be generated by the various agencies that the committee designates.

It would be a simple enough assignment. I think also it might be worthy of request to the private sector that we might find out from individual artists, et cetera, around the country how they respond to this from dealers and from museums. Perhaps more extensive hearings are the answer to that.

Perhaps that can be done simply through work of the committee or through the Endowment. I think it could be any of those directions.

The CHAIRMAN. Maybe an Aspen seminar on this subject.

Ms. TIGHE. I am ready.

The CHAIRMAN. Well, then we could call on Mr. Biddle. He is in Aspen now, is he not?

Ms. TIGHE. Yes, indeed.

The CHAIRMAN. While you suggest that the art bank would make the Federal Government the single largest collector in the country of existing works of contemporary art, it seems to me that there is a practical limitation on the Government's ability to purchase art works with the relatively small amount of money that is authorized. It is a modest sum that is provided over a period of 3 years. Would you not agree?

Ms. TIGHE. I think, to my mind, modest particularly in terms of the administrative amount. I think it probably seems a very fair sum of money in that this is an initial effort into this area. I think infusions of much larger sums would probably be very difficult. But I do think it is administrative sums that cause us the largest problem.

The CHAIRMAN. In what way? That is the most modestly stated figure of all.

Ms. TIGHE. I think the problem is precisely that, that it is modest in the amount of care that the artworks are going to require, and the amount of financial support for just the display and the transportation of the art works, I do not think that was sufficiently covered in the money designated.

The CHAIRMAN. There's a misunderstanding here. As a matter of fact, the term administrative costs, as used in the bill, would only cover personnel costs and not the costs of acquiring, storing, transporting, securing, and insuring art works.

In your testimony you note that as part of the President's Task Force on Cultural Policy, the issue of establishing an art bank is currently being studied. When did that study begin?

Ms. TIGHE. It has just begun. The President has just recently designated a group to study, to do, I think it is called, issue definition memorandum on American cultural life, and as a subset of that, the art bank will be an area of study. I think they have only just begun. I do not think they have really got into the issues.

Mr. SEARLES. I think it will be late fall before they finish.

The CHAIRMAN. They must have an ambitious agenda then.

Mr. SEARLES. They have an ambitious timetable. I think the second meeting of the subtask force is taking place this week. It is hoped they will have completed the statement by the end of the year. Whether or not that is overly ambitious, we cannot tell at this point. But they do hope to have a position on the whole range of issues being discussed as well as the art bank at that time.

The CHAIRMAN. Senator Javits?

Senator JAVITS. Mr. Chairman, before I start, may I again repeat that which I raised a number of times before, and that is that we practice what we preach. I would hope the Chair would now renew the question of whether we can put works of arts into this room, our committee room. I know we raised the question before. I raised it, and the Chair was very sympathetic. We found some difficulties with relation to the rules—

The CHAIRMAN. Yes, concerning the hanging of art works on the walls of this room.

Senator JAVITS. Hanging, and so on.

Would the chairman be kind enough to have another look at that in view of this interest which I think is splendid on the part of the chairman himself. I think it might be a very interesting thing for us to do.

The CHAIRMAN. Would you disturb the Doric simplicity of that great wall [indicating]? [Laughter.]

Senator JAVITS. I think the Dorics disturbed it themselves. [Laughter.]

The CHAIRMAN. We will take another look at the issue. We had previously received a ruling that we could not actually hang artworks from the walls, but there is a new administration supervising this building that may have a different view on the matter. Of course, we are already getting a lot of outdoor sculpture, a lot of steel which we can see rising outside these windows.

Senator JAVITS. Shades of David Smith.

The question I wanted to ask is this. There needs to be an understanding of the relationship of the Federal Government to the art world if we do have an art bank. It is true that \$10 million is a lot of money, and that the U.S. Government, of course, has the power to preempt the field. After all, it has the power in other areas to preempt the field, and I believe you can safely assume, Ms. Tighe, and your associates, that there will be a very healthy area for everybody just as there is now, and that the United States, with an art bank, will have a very limited objective, and that is to fit in for the Federal Establishment in an organized way and with an effort to apply taste which will

go beyond the ad hoc Administrator's beautification, like the head of the GSA of public buildings.

I went up to Buffalo not so long ago where magnificent sculpture was commissioned for the Federal building, and I am trying to think of the name of the artist, he lives in New Brunswick, N.J., very famous sculptor, George Segal, and that was beautiful. Now, that is the kind of thing we need. The United States owns that sculpture, and it is magnificent. The thing I would like to ask you at the Endowment, is that I noticed that you say that you finance museums for the acquisition of works of art.

Now, we would need to know a great deal about that policy, whether the United States owns works of art or leases them, directly or indirectly, that is a major question. I notice that you said that in your testimony this morning.

Ms. TIGHE. We do indeed have a museum purchase plan.

Senator JAVITS. Museum purchase plan?

Ms. TIGHE. Purchase plan.

Senator JAVITS. The money is then granted to museums, is that right?

Ms. TIGHE. It is a matching grant. It is given usually in fairly small sums of money. Effort is made to reach museums and to bolster their collections. They indicate in their application what they intend to purchase, and it is usually in areas that they feel their collection is weak in, and it is always in areas of contemporary living artists.

Senator JAVITS. Suppose the museum sells the work of art which has been bought with a matching U.S. grant, what happens to the money?

Ms. TIGHE. I think we have yet to face that problem since the purchase plan is very young, and most of the acquisitions, museums in general, tend when they purchase contemporary art will hold on to it for a considerable period of time and let history be the judge. And we do not have specific provisions for that, basically, because we feel it is premature. Museums will hold on to the examples of their work.

Senator JAVITS. I think that under this bill we ought to first have a complete record of what you have been doing, how much you have been spending, what has been acquired with it, and also I think that information would be very useful for us.

Ms. TIGHE. We would be happy to submit it.

Senator JAVITS. What other techniques are used in those acquisitions, by the curator, boards of directors of museums, et cetera? I think it is an important point.

Have you advanced any money to finance the acquisition of works resulting from the winners of competitions for art exhibits?

For example, the various great international exhibitions. Somebody comes out first, second, and third. Those works sometimes are acquired by governments. If you exhibit there, your work has to be available for acquisition by the host government.

Can you give us some idea of those experiences because, as I see this plan of Senator Williams, that is a possibility. That is that the United States would give the cachet to an artist of the acquisition of one who won, pre-Washington, pre-New York, in some great competitive exhibit.

Ms. TIGHE. Be happy to supply it. I do not think we have experience with funding a major international winner, although we have sup-

ported the exhibitions themselves. I do not believe we have been involved in the prize in that area, and if there have been any other areas, we will supply that information.

Senator JAVITS. I think domestically, also I think Mr. Melchert has a lot of experience in that. We can have some idea of the experience, how it works, et cetera, because this a great thing.

Mr. MELCHERT. The closest thing I can think of we are currently doing is that we support a number of regional fellowship programs. One of these is the area based in Winston-Salem. An organization called SEGA, awards fellowships to at least seven artists, and part of the award is, I think, \$2,000 cash, for an exhibition. The paintings, sculptures, which do not belong to SEGA, are displayed and sent on tour as part of the fellowship program.

Senator JAVITS. In any case, that experience is important.

The other thing that appeals to me is this. I am sure you know that I know this, but a great many artists are very interested in innovative ideas. For example, you spoke of printmakers. Some of our greatest artists, as you know, work with the lithographing machine, lithographing stone, or even the printing press. That is the original, with whatever duplicates there are. That is by no means the regularized practice, and the extent to which they have control of the print is the big question. So that is one thing.

Another thing is, for example, many artists feel that even if they sell a work to a collector or the United States or whomever, they should have some benefit in the resale. Also, they feel they should have some benefit in the reproduction of that work, like our friend Robert Indiana, in the word "Love," which was reproduced by the millions without compensation to him.

Those are innovative ideas in which the art bank could give direction and experiment with. Is that not so? Would that be a very useful enterprise?

Ms. TIGHE. I think any kind of support for the individual artist's rights is something really important, not just for the art bank, but for the Arts Endowment, too. Collectively, we have to continue to work on this, yes.

Senator JAVITS. Finally, I think it would be very important because we are very realistic to point out areas of conflict which might exist and how they might be reconciled between the Endowment and the art bank and among all forms of other buyers, museums, private sectors, auction sales, et cetera, because, after all, this is your skill.

You have got excellent people in this field and you should map for us what the reefs and shoals are for these particular problems.

Mr. Chairman, in my opinion, because I would like to see this expedited—I think it is a very distinguished initiative—rather than study, perhaps we need the aggregate expertise of the Endowment and the aggregate expertise that it can command because it has panels, with the ability to attack with a great deal of experience. The study could be heavily done by you—

Ms. TIGHE. We would be very happy to do that.

Senator JAVITS [continuing]. In order to aid this effort.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

As a matter of fact, the Endowment participates in forming juries to evaluate art, am I right?

Ms. TIGHE. Yes.

The CHAIRMAN. The juries advise in the selection of art for the Art-In-Architecture program. Thus, you have experience in the jury system which would also be utilized for the selection of art by the art bank.

Ms. TIGHE. Yes.

The CHAIRMAN. The objective here is to have people see and to appreciate the art that is acquired for the bank by placing it in public places.

How do your juries operate under the public places program?

Ms. TIGHE. Jim, would you like to explain? It is in the visual arts program.

Mr. MELCHERT. Yes.

The panels for the art in public places project are put together by choosing people from around the country. If a project is based in, let us say, the Northwest, then every effort is made to bring in some panelists from that area as well as other experts, persons involved with projects of this sort, and they meet at the site. Usually it is six people and they sit and discuss the various ideas that they have as to what would be appropriate, the kind of work, whether it should be a free-standing sculpture, perhaps a mural, or whatever.

Am I answering your question?

The CHAIRMAN. Yes.

Mr. MELCHERT. The visit is made at the site. The site is central to the thinking, because once you visit the place and you have some idea of what the existing special structural situation is, then you can begin to think of what kind of imagination, what kind of sensibility would contribute something very special to that place.

The CHAIRMAN. Let me ask you this. Where should this committee begin within the arts and humanities structure, to develop answers to these difficult questions?

Mr. SEARLES. Senator, if I could suggest that perhaps the Arts Endowment would be the appropriate place to pursue the question, although we would be asking the Federal Council for its points of view and other agencies in other parts of the Government who are also involved could be involved in this sort of activity. But I would think the Endowment might be the place to start.

The CHAIRMAN. All right.

Now that we have met, let's continue our communication. Marcia Wolf from my staff brought this proposal to my attention based on the experience of the Canadian Art Bank whose founder is one of our witnesses today.

Marcia, you have been to Canada.

Ms. WOLF. Yes, but I have not seen the art bank.

The CHAIRMAN. Mr. Fusco and Jerry Lindrew will also join this staff team in preparation of further legislative activity.

Thank you very much.

Ms. TIGHE. Thank you.

[Information supplied for the record follows:]

NATIONAL
ENDOWMENT
FOR
THE ARTS

WASHINGTON
D.C. 20506



A Federal agency advised by the
National Council on the Arts

October 4, 1978

Mr. Stephen H. Paradise
General Counsel and
Staff Director
Committee on Human Resources
United States Senate
Washington, D.C. 20510

Dear Stephen:

In the hearing in which the Endowment participated on the Art Bank proposal there were two questions to which the Endowment was asked to respond for the record.

I am enclosing my memorandum to the Museum Program with the questions from the record and the responses back to me from the program. I hope these are sufficient, but if they are not, I would be glad to have them elaborated upon further.

With regards,

Sincerely,

(Signature)
Donald A. Moore
Director
Congressional Liaison

Enclosure

NATIONAL
ENDOWMENT
FOR
THE ARTS

WASHINGTON
D.C. 20506



A Federal agency advised by the
National Council on the Arts

MEMORANDUM

TO : David Ryan ✓

CC : Mary Ann Tighe
Jim Melchert
Renato Danese

FROM : Don Moore *D.M.*

DATE : 22 September, 1978

RE : Art Bank

I am enclosing for your review a copy of that portion of the testimony given to Senator Williams' Human Resources Committee by the Endowment on the Senator's proposals creating a national art bank.

I would also appreciate it if you could supply me with a written answer to two questions emanating from the text. These questions are:

1. An explanation of the Arts Endowment Museum Purchase Plan; and
2. A list of any works acquired by museums under the Museum Purchase plan which were winners of any international competitions or art exhibitions.

These are questions and answers of which I must supply to Senator Williams for the record.

NEA/MUSEUM PROGRAM
MUSEUM PURCHASE PLAN

1. This program, initiated in 1968, provides matching grants of \$5,000, \$10,000, \$15,000, or \$20,000 to museums for the purchase of works by living American artists.

The objectives of the program are to encourage museums to add to their collections of contemporary art, to create and expand public response to works by living artists through display of their works, to raise new funds for this purpose specifically, and to provide direct financial assistance for artists.

Art works in all media: graphics, painting and sculpture, photography, film prints, folk arts, crafts, costume and industrial designs are eligible for purchase. Applications are limited to one application from each museum per fiscal year and the grant matching funds must be used for the direct costs of purchasing two or more works.

Thus far, 304 grants have been awarded, approximately 38 grants per year. These grants have provided ^{on}for the acquisition of more than 3,000 works of art.

2. International awards are not given for individual works, but rather, in honor of an artist's complete oeuvre. Acquisitions made through the Museum Purchase Plan include works by every artist represented in an international exhibition including Adolf Gottlieb, Robert Rauschenberg, Alfred Jensen, Richard Diebenkorn, Harry Callahan, and many others.

Competitive prizes, as a viable concept in the visual arts, however, have long been on the wane. The artist community has become increasingly critical of the process, comparing it to a demeaning beauty contest. It is outdated and inappropriate reducing the visual arts to the likes of an athletic contest.

Art works are distinct statements and cannot be judged in competition with one another let alone one medium (prints, photography, printing, or sculpture) with another.

Moreover, the selection process for international exhibitions has been so abused by self-serving, political considerations they have lost much of their credibility with artists, museums and critics. It is one of the reasons the International Exhibitions Committee was established.

A decade ago, there were about fifty major competitive exhibitions scheduled on a regular basis nationwide; today, only a couple remain. Museums have taken on a much greater responsibility towards the artist community. Rather than sponsoring an obligatory, one-time effort to showcase the recent efforts of contemporary artists, especially those living and working in the region, museums are presenting selective exhibitions on a regular, ongoing basis and taking sole responsibility for the museums artistic judgments rather than leaving it up to outside jurors. They are also maintaining current artist files and matching up public, private and corporate commissions.

The CHAIRMAN. We are pleased to welcome the General Services Administration, Mr. David Dibner, Assistant Commissioner, Office of Construction Management, Public Buildings Service.

Mr. Dibner, we are pleased to have your advice and counsel.

STATEMENT OF DAVID DIBNER, ASSISTANT COMMISSIONER, OFFICE OF CONSTRUCTION MANAGEMENT, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY DONALD THALACKER, DIRECTOR, FINE ARTS BRANCH, SPECIAL PROGRAMS DIVISION

Mr. DIBNER. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am David Dibner, Assistant Commissioner, Office of Construction Management of the General Services Administration's Public Buildings Service. With me today is Donald Thalacker, Director, Fine Arts Branch, Special Programs Division.

On behalf of the Administrator of General Services, Jay Solomon, I am pleased to have this opportunity to testify on the bill, S. 2645, which would create a National Art Bank. The bill would provide support to existing Federal art programs. It promises to develop an awareness of America's cultural life—our unique and irreplaceable legacy—to foster an appreciation and understanding of art by all citizens, and to encourage artistic creation on the part of those artists who are not well known to the public.

Mr. Chairman, we are delighted that this committee has begun consideration for National Art Bank legislation. GSA supports this concept.

GSA's commitment to the arts is exemplified in our art-in-architecture program. As part of that effort, since 1972, the agency has commissioned some 109 works of art for Federal buildings across the country. These art works have been created by some of our country's finest artists, both emerging and established. The Art-In-Architecture Program is designed to expand the range of public art by supporting a wide range of media; these include paintings, sculptures, mobiles, bas-reliefs, earthworks, lightworks, murals, tapestries, and artistic crafts such as mosaics, ceramics, fiberworks, and banners. The program also involves the "building arts" through the creative use of such materials as brick, stained glass, metal, and wood in the design of innovative and artistically interesting building structures.

In August 1977, the amount set aside for commissioning art in new Federal buildings was increased to one-half of 1 percent of the total building cost. The same percentage of repair and alteration contracts for existing Federal buildings was also allocated for the purchase of works of art. This expansion will help to reaffirm our efforts to enhance our working environment, and will at the same time give support valuable to the art community.

The selection of works of art for this program is coordinated closely and most successfully with the National Endowment for the Arts. The program has worked well and has, we believe, made a significant contribution to the quest for excellence in the design and decor of Federal buildings. GSA has a continuing commitment to the dissemination of art in Federal buildings. The bill now before your committee would

directly support current Federal efforts by providing for collection, in a National Art Bank, of art work of all media from artists throughout the country. These works of art would then be leased to Federal agencies for installation in public interior spaces in Federal buildings.

I am pleased to note that the President's Task Force on Cultural Policy, of which GSA is a member, is examining this concept. We agree with the National Endowment for the Arts that many questions remain as yet unanswered. A period of study and preparation will be required to develop both the policy and the specific operational guidelines which would govern the establishment or administration of any future art bank program. We do not underestimate the difficulty and importance of these questions, but we do believe that with a coordinated effort on the part of all agencies concerned, they can be resolved. We look forward to cooperating in this undertaking.

Thank you for your attention. If you have any questions, I would be happy to try to answer them for you.

The CHAIRMAN. That is a very encouraging statement. We greatly appreciate your comments, realizing that you are to be a necessary partner in the development of this art bank.

In your statement you described the method of distributing art to Federal agencies as leasing art. In our proposal there is a leasing provision; but art would be distributed to the Federal agencies on a loan basis. There would be leasing arrangements, however, to nonprofit groups and to State and local governments. The idea is to find those public places where people congregate so that the display of art would be most widely appreciated.

We may well consider leasing to Federal agencies. We will hear from the Canadian experience that they lease to their Federal agencies. I believe it is paid out of the furniture and fixture account.

Mr. DIBNER. We think that the Federal agencies and Federal buildings should be included in this program definitely as part of lease arrangements. Again we are striving for the addition of a greater degree of art in the human workplace. That is why we have a program that commissions artists for buildings, which usually results in major pieces or several pieces.

As I believe you pointed out, Mr. Chairman, in any public space there is certainly a need for art to embellish that public space.

The CHAIRMAN. At the very beginning, I felt GSA would be perfectly equipped to handle storage and some of the housing arrangements. But I believe your role may go well beyond that. Even in that area, it has also been suggested that museums, with all of their experience, would be better equipped to handle the storage arrangements.

Mr. DIBNER. I think you have to realize right now we are engaged in a nationwide program. Our Art-In-Architecture Program is nationwide. We have developed the understandings and facilities necessary to administer that program. Certainly we see this art bank as a possible extension to some degree of that. We have a regional organization, and if the art bank program reaches out as a regional structure, we would certainly have the organization that possibly could administer it.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Again I think you can help us in the study we are talking about. You have had a lot of experience—you have heard me, I am sure, mention George Segal—you have had a lot of experience

in this. I think you should do a paper for us on what you do for the artists, how they are compensated, what arrangements you make with them, and on any other aspects of how they are chosen, how you decide what should go into a public building, who decides that, and how you recruit artistic personalities for the purpose. I think all of that would be fascinating to us.

I would think the nuts and bolts of your operations in the arts ancillary to your activities would be very helpful.

Mr. DIBNER. We would be happy to furnish that. This activity is a close cooperative effort between ourselves and the National Endowment for the Arts and, in that respect, we will be happy to describe that.

Senator JAVITS. Or make it a part of their study. They have already agreed to give it to us.

Mr. DIBNER. All right.

Senator JAVITS. I think we should be advised by you and by them, Mr. Chairman, the staff can work that out, as to when they would give this body of information and make it available, and give us all the nuts and bolts of their outlook and operation.

The CHAIRMAN. Can that be done?

Mr. DIBNER. Yes, sir.

The CHAIRMAN. Within a reasonable time, perhaps early fall?

Mr. DIBNER. Early fall would be fine. We are also involved, as I mentioned in the statement, in the President's review of Federal cultural policy. In fact, we chair the task force on design that is taking up this subject as part of the broad subject of the Federal influence on design. That would also be part of the investigations that we would be making.

The CHAIRMAN. Thank you very much.

Mr. DIBNER. Thank you.

The CHAIRMAN. We have repeatedly referred to the Canadian Art Bank, and we are most fortunate to have with us this morning Ms. Suzanne Rivard Le Moyne, founder of the Canadian Art Bank.

We appreciate your coming here to assist us, Ms. Le Moyne.

STATEMENT OF SUZANNE RIVARD LE MOYNE, FOUNDER OF THE CANADIAN ART BANK

Ms. LE MOYNE. Thank you, Mr. Chairman. It is a privilege and an honor for me to appear before the Committee on Human Resources regarding S. 2645 introduced in Congress on March 3, 1978.

The creation of the Canada Council's Art Bank came about a few years after Expo 1967, which had generated great artistic energies and a heightened awareness for cultural values. It also coincided with the enunciation of a Canadian cultural policy aimed at increasing the production of and the accessibility to artistic activities for a wider portion of our population.

At that time, the only direct form of financial assistance to the individual artist was the Canada Council's granting system which, in fact, "buys time" so that the artist can, for limited periods of time, research and produce relatively free of economic worries.

I should add at this time the Department of Public Works of Canada also had an art-in-architecture program started at 1 percent of the cost of the buildings.

It was, however, quite modest and only the beginning then. It still is going on.

In the early seventies, the private art market in Canada was terribly weak. Museums and galleries had inadequate facilities, particularly in the areas of acquisition and exhibition budgets. The studios were choking the artists with unsold and unseen significant art works. Conversely, the public was deprived proportionately.

It seemed to me imperative that a "connecting system" be devised, whereby the society, through its Government, could, not only help, but tangibly recognize that the artistic contribution is an important component of its cultural fabric.

It seemed also a valid idea that a new network of spaces be used, parallel to those of museums and galleries; spaces that would bring art to the people in public areas and work environments. It should be noted that the fostering of knowledge and art appreciation is an important objective of the art bank. Decorative purposes are not.

When the art bank was thought out, we anticipated, and it has proven true, that such a program would stimulate private and public collecting and therefore improve the art market.

The above consideration led very naturally to a detailed proposal of an art bank. Fortunately for the artists and the public of Canada, the program was agreed to by the Canada Council and the Federal Government in 1972.

Having been the initiator of the first art bank to exist in the world, it would be redundant to say how much I commend the American Government to follow this northern example. It would also be improper for me to talk about its success or the interest it has raised in Canada and in other countries.

Since I am no longer working for the Canada Council, the following statement is strictly a personal one. I carefully read the proposed legislation and would now like to convey to this committee a few remarks on bill S. 2645.

My first comment deals with an issue that goes beyond mere semantics. While all granting programs are forms of help, assistance, and support, I firmly believe that such qualifications do not apply in the context of an art bank which is essentially a two-way contract between the artist and the purchaser, in this instance, the Government. If, indeed, artists benefit financially and in exposure through selling contracts, the Government and the society at large benefit as much in terms of possession of significant art works as well as intellectual and spiritual enrichment. I would therefore suggest that all terms such as "support", "assist", "help", and "encourage" be considered as condescending and deleted from texts pertaining to such a program.

The other points I would like to make are of a more precise and practical nature and are the results of having had the experience with the establishment of an art bank from its original concept to a continued and personal assessment since its implementation. I do not know if the suggestions I am bringing forward, provided they are deemed relevant, should be the object of amendments to the bill or that of attached regulations.

SECTION 14(b) (2)

It is my view that the director of the proposed art bank, while reporting to the Board of the National Endowment for the Arts,

should be assisted by an advisory committee made up of some 10 to 12 prominent American artists and art experts.

The mandate of such a committee could be: (a) To formulate and assess ongoing policies of the program; (b) to assist the Director in maintaining the quality and the balance of a first-rate art collection and advise him or her on related matters; (c) to designate and update a list of artists or art experts to be invited on selection juries; (d) to insure that due attention is given to a wide spectrum of art forms and styles to be included in the collection; to insure also that such a collection is fairly dispersed across the land without imposing any quota system—for purchases, loans, and rents—based on regional considerations. High standards of excellence should never, in artistic or other fields, be equated with forms of elitism.

SECTION 14 (C) (2)

It is my view that the selection of works of art should be made through a collective recommendation of jurors with the director of the art bank having one vote on three and having a veto power only on the two following grounds: (a) If the price of a work is too low or too high in relation to fair market value; (b) for reasons pertaining to the balance of the collection—that is over- or under-representation of a particular artist or group or art form.

I beg to disagree with the conditions pertaining to the right of artists to repurchase their work after a reasonable time: The proposed text reads thus: “* * * at a price not less than the cost of acquisition and no more than the cost of acquisition plus 50 percent of any increase in the fair market value of such works.” I submit that if and when the proposed art bank agrees to hold public auctions, the artist should have the priority of repurchasing his or her work at the acquisition price value.

If I may depart from my text for a few moments, I would like to add a few comments.

When the art bank was created, it was understood that the Canada Council owned the collection and, therefore, technically it had the right to resell. However, it did not use that right until recently when it decided to give the artist the right to repurchase after a reasonable length of time.

I see arguments in favor of that and arguments against, depending if you look at it from the standpoint of the collection which means the standpoint of the public's right.

The CHAIRMAN. I regret to interrupt your comments, Ms. Le Moyne, but there is a rollcall vote going on.

Perhaps you can converse with our staff, Mr. Bannard and the other artists during this brief recess.

[Short recess.]

The CHAIRMAN. I regret that we had to recess, but I understand that you all had an opportunity to exchange views and get to know each other. I am glad of that.

Now may we continue with your statement?

Ms. LE MOYNE. I was departing from my text just to give my own personal opinion on the very delicate point which appears in your legislation and has recently appeared in the Canadian procedure and

has to do with reselling part of the collection. I think that point has arguments in favor of it. Certainly for the artist, whether he gets the acquisition price or half of the accrued value of the work, it certainly is an advantage to be able to repurchase.

But, on the other hand, it can be a danger for the collection and, therefore, for the public's right in depleting the collection from its most valued works. There are pros and cons to that.

Concerning also the public auctions, depending on the works to be sold, what works and at what time and who would select the material to be put for auction, all this needs further clarification, at least for my own understanding of your intentions.

I just wanted to say that I have mixed feelings vis-a-vis the whole reselling question and no conclusion to bring forward.

I will return to my text.

SECTION 14(C) (3)

In my view, additions should be made to include computerized accessioning, framing, crating, maintenance, and restoration.

SECTION 14(C) (4)

I seriously wonder about dispersing the supervision responsibilities in several government bodies. In my view, the art bank administrative structure should, in liaison with the National Endowment for the Arts, control all operations pertaining to the program. The structure of the art bank should insure that no political interference can jeopardize esthetic and professional decisions. This is crucial for the success of such a program.

SECTION 14(g)

According to the Canadian experience and given the large scope envisaged for the American collection—\$9 million within a 3-year period and a very broad artistic community—I firmly believe that it is totally unrealistic to foresee a maximum of \$250,000 per fiscal year for administrative costs. In addition to the above argument, the rental fees will not apply in an overall way as in the Canadian model and, therefore, will not generate as much revenues to offset high administrative costs. Revenues from public auctions should not be overestimated. Finally, the director should be responsible for recommending hiring of the required specialized and technical staff; assistants, registrar, education officers, secretaries, carpenters, handlers, et cetera.

In addition to the above comments, I would like to raise one point which should be a complementary aspect of such a program and which is slowly developing in the Canadian Art Bank. I am referring to the educational role of such a program and to the need to devise didactic means and sufficient information in the publicity, presentation, display, and interpretation of the works, in order to facilitate for the public the contact, enjoyment, and learning experience that is a primary aim of such a service. Without duplicating the educational responsibilities of museums and galleries, there would be, it seems to me, ample room for an innovative program of information, provided staff and financial resources are secured.

I wish to thank the honorable members of this committee for their patience in receiving the above comments, modestly submitted to their attention.

The CHAIRMAN. Thank you. We are most appreciative you could be here for the beginning of our art bank hearings.

I notice in your statement that the Canadian Art Bank leases all of its works of art.

Ms. LE MOYNE. Yes.

The CHAIRMAN. Even to the Federal Government agencies?

Ms. LE MOYNE. Yes. The Federal agencies of the Government can use their budgets called "furniture and furnishings" for the purpose of leasing, of renting the works, which is to say they can decide to have thinner carpets and art works or the reverse. So that, in fact, the Government has given up to now a million dollars a year plus the possibility for the departments, Federal departments, to use x amount of dollars out of their budgets.

The CHAIRMAN. Does each department have authority to make the decisions on its own furnishings?

Ms. LE MOYNE. It is up to each agency or department to decide if they will or will not rent from the art bank and to decide what works, et cetera—education officers are there if needed to help make selections and give advice.

The CHAIRMAN. What was your startup appropriation when the art bank was created?

Ms. LE MOYNE. It was created with the approval that \$5 million would be given over a 5-year period on the basis of \$1 million a year. So the first year was \$1 million, and it kept on this way every year.

The CHAIRMAN. Now, you have a revolving fund because of the leasing?

Ms. LE MOYNE. True, because the first year, and until the second and third years, the revenues from the rentals which are based on 12 percent of the value of the works were not coming in as much as they are now after 5 years.

Now more than 60 percent of the \$5 million collection is out on rentals, so it is easy to figure out the revenues that can be forthcoming.

The CHAIRMAN. In our bill, we have basically three criteria for selection—the quality of the work, the need to encourage artists who are not well known to the public, and the need to encourage artists from all sections of the country.

Ms. LE MOYNE. Well, maybe a slight difference would be that in our program the art bank does not go out to search for artists, but any artist, wherever in the country, can submit at any time offers of his work, and there is a jury that meets every 6 weeks in Ottawa and views the slides of the submissions; so it is the initiative of the artists out there to bring forward to the attention of the art bank their own work.

The CHAIRMAN. How do you advise artists wherever they are in the country of this opportunity to present their work?

Ms. LE MOYNE. I think I can say that the program is well known in the artistic community.

The CHAIRMAN. How does the jury system work in selecting art?

Ms. LE MOYNE. The first jury meets every 6 weeks. It is a different jury every time. An artist whose work has been rejected always has an

opportunity to resubmit 2 months after, knowing it will be a different group of people. The system goes the following way:

The jury views slides of submissions—slides or portfolios—and can recommend the following: either outright purchase of the submitted work, and that applies to the minority of the decisions, or recommend a visit to the artist's studio, or denial of the work.

If the recommendation is made upon the submission of slides to visit a number of studios, then another jury is set up locally where the artist lives, and that jury is made up of a local artist or art expert and of a nonlocal artist or art expert plus the director of the art bank.

I do not know if I have answered your question?

The CHAIRMAN. Yes, you have.

Now, are the juries made up of artists and art experts?

Ms. LE MOYNE. Yes; artists, curators, art historians, knowledgeable people in the arts, practicing and nonpracticing.

The CHAIRMAN. Have there been any problems in that mix of people within the juries?

Ms. LE MOYNE. No; I think that it insures a higher degree of objectivity, and there have not been any problems within the juries themselves. It has been an accepted fact by the artists and the community in general.

The CHAIRMAN. What has been the effect of the Canadian Art Bank on artistic work and creativity in Canada?

Ms. LE MOYNE. I would not be able to give you any kind of scientific measurement because it is impossible, I think. But there have certainly been greater activities both in terms of the artistic output, and in terms of the attendance at galleries as well as the collecting, on a private and public level; by fostering new spaces and by increasing the accessibility of art works, it has helped at the same time museums' and galleries' aims and objectives.

The CHAIRMAN. How have the art dealers and galleries received the Canadian Art Bank?

Ms. LE MOYNE. Well, I will deal first with galleries and museums.

It was a fortunate time that when our bank was approved: A broad cultural policy of the Government of Canada was being established, a national policy on museums which increased fantastically the budgets for circulating exhibitions and decentralizing national collections throughout the country.

The galleries had more money for their own purchasing and exhibiting. That is from the point of view of museums and galleries.

Had it not been for that parallel other program, the galleries whose budgets were very tight before might have said that acquisition monies should be given directly to museums and galleries. But the purposes were different. The distinctions had been clearly made.

As for commercial dealers, there was a bit of worry on how the whole thing would develop, but it was offset by the fact that many of the art bank works were purchased in their own galleries. It helped several commercial galleries of Canadian contemporary art to survive because the major collector in the country was and still is the art bank.

So, they have benefited financially and from the exposure the art bank provided.

The CHAIRMAN. Let us go back to the dealers now.

Have there been problems? Is there a reaction of competition?

Ms. LE MOYNE. Competition? No.

I should add that when the art bank visits, for instance, an exhibition in a commercial gallery, if there are individuals who would like to purchase the works, the art bank withdraws and gives the chance to a gallery or an individual to purchase the art because this is one of the aims: to stimulate all forms of collecting.

The CHAIRMAN. I thought that was a condescending word.

Ms. LE MOYNE. Stimulate, I said.

The CHAIRMAN. Was that not one of those words to be avoided?

Ms. LE MOYNE. No; I would like to say also that a bank is not a substitute for other forms of recognition. I think it is an added one, but not a substitute.

The CHAIRMAN. I am glad Senator Javits could be here now. There is another rollcall going on and I am going to have to run over and vote.

Senator JAVITS. I just came by to pay my respects. I have no questions.

The CHAIRMAN. Our discussion has been most constructive.

I want to suggest that our committee communicate with you further as we develop our proposal.

Ms. LE MOYNE. I would suggest that you should write and communicate with the Canada Council and art bank since I am no longer there, as I mentioned.

The CHAIRMAN. The art bank and with you personally.

Ms. LE MOYNE. Personally, I would be delighted.

The CHAIRMAN. I feel confident we might be able to get some good advice from you.

Thank you.

Ms. LE MOYNE. Thank you.

The CHAIRMAN. We will introduce the artists panel, and then I will have to go over and vote.

Dr. John Stritch and Walter Darby Bannard, who are both artists, are our next witnesses.

As they are coming to the table, I would like to read into the record a wire that we have received.

The wire says:

I heartily endorse your bill for an art bank. It is a constructive idea to help the young talented artists of the United States. New York is now the center of the art world. If this bill passes, the whole country will benefit in the sense of the participation of the artists. Congratulations to you and your committee. I wish you great success.

This was sent to the committee, by Joseph H. Hirshhorn, whom we all know and love, respect, indeed revere, for his contributions in the world of art.

Now, we are fortunate indeed that Dr. John Stritch and Walter Darby Bannard, accomplished artists, can join us in our deliberations on this new thought for art in America, the American art bank.

Gentlemen, you have met. Who wants to first embark on testimony? I have read both of your statements, and they are excellent.

Mr. STRITCH. I lost my statement. Do you have a copy of it?

I am going to change some things.

The CHAIRMAN. Mr. Stritch, Mr. Bannard—I like what you said, and I like the way you said it. That was the best midnight reading or later than midnight reading that I have had in a long time around here.

**STATEMENTS OF DR. JOHN STRITCH AND WALTER DARBY
BANNARD, ARTISTS**

Mr. BANNARD. Gentlemen and ladies, I have made myself familiar with the concept of the art bank and how it has worked in Canada, and I have read the bill before us. In my opinion, it is a very good idea. I have some suggestions and a few reservations.

Most of the best art today is being made in and around New York City. This is no accident. New York does not breed artists, it attracts them. Many of the best artists in New York were born elsewhere. They come to the city because that is where competition is strong and reputations are made. There is never very much of the very best art, and it tends to get noticed, and it tends to get expensive.

In recent years I have juried art shows in Michigan, New York, Ohio, Massachusetts, Texas, Idaho, and North Carolina, and I have lectured and acted as visiting artist in as many more States.

One show I juried had 3,709 entries. They came from almost every State in the Union. I saw excellent work coming out of places I did not know were inhabited. There are no Picassos hiding out in North Dakota, but there was a man in a North Dakota town who was good enough to take third prize in that competition.

I can assure you that there is good art being made in North Dakota which is not being seen, and I can assure you that there is good art being made in New York City which is seen but not sufficiently appreciated.

I would like to put special stress on the word "good" and, in so doing, elaborate a conflict implicit in the bill.

Though the bill states that the Director's first duty will be to consider the quality of the work, it goes on to say that he must give equal weight to the encouragement of artists and to their geography. I do not think we need to encourage artists. There are too many artists who should be encouraged to do something else. We need to encourage achievement, first and foremost. That will benefit everyone. As for geography, all areas deserve equal investigation. As much as possible should be seen. But any purchasing policy which includes a geographical quota system will corrode excellence. It may be good politics, but it is bad aesthetics.

The CHAIRMAN. We are going to have to break at that point.

I will go vote and then return.

[Brief recess.]

The CHAIRMAN. We will come to order.

Mr. BANNARD. The second word I would like to stress is "dissemination".

At is not art if it is not seen. While it is praiseworthy to recognize the achievement of our artists by establishing an art bank, its primary service, like that of any bank, is its loans. It must not be a charity, nor a storehouse, but an intermediary, an agency to select good art and put it into our daily life.

I realize that this is part of the stated purpose of a bank, and I am pleased to see that there are few restrictions on loans. But one of the director's first responsibilities will be to develop a highly efficient system for getting the art out before the public. This should be emphasized more strongly.

This brings me to the third point to stress: "strength".

So much depends on a strong arm at the helm, an art professional who is a good executive, with no axe to grind, and the willingness to say, as Mrs. Mondale said recently, to certain foolish criticisms, "baloney!" Any museum trustee will tell you a good director is absolutely essential, if hard to come by.

Furthermore, the director should work unhindered by bureaucratic baggage. I am sure there are good reasons for putting the art bank under the wing of the Endowment, but I have had enough experience with bureaucracy to know that best results are gained by giving an able person full responsibility.

Let us not underestimate the tremendous prestige and power the art bank will have. It can succeed on its own. It could actually buy art with its profits. The taxpayer could get a return on this money. This would be a singular achievement in itself.

There are five more specific suggestions I would like to make:

One: Do not let artists buy back their art at less than market price. That would be unfair to the taxpayer, to the art bank and to those who will lease the art. The art bank should use income to buy art. The artist already will have profited from a sale to the art bank. If the work is to be sold, the artist could have first crack at it, but at fair market value.

Two: Juries of selection should be artists only. Artists are not perfect, but it has been my experience that they are better jurors than other art experts.

Three: Get a list of the hundreds of art competitions around the county and find out who the prize winners are and ask them to submit slides. This is not an infallible system but it is a better grassroots search than sending juries all over the place and, in the long run, a more fair appraisal. It also will save money.

Four: Do not neglect crafts if it is practical to bring them into the program. The line between art and craft is not very distinct any more. The same goes for photography.

Five: Sculpture, unfortunately, may have to be deemphasized because it is hard to loan out. Also, the proportion of good two-dimensional work to good three-dimensional work is, I would guess, about 20 to 1.

I hope this legislation is successful. The art bank will be a good and positive way to bring art into our life.

Thank you for asking me to testify.

The CHAIRMAN. Now, that leads us right to John Stritch.

Dr. STRITCH. It certainly does.

I thought I had nothing to say. I thought Mr. Bannard had said it all and said it much better than I was going to say it until the very end.

I certainly agree with all the points up until we got to the third dimension.

First, let me go back to my statement, since it has been recovered.

I would like to say I have come to this committee with some serious doubts as to whether I ought to be here at all. These doubts arise from the fact that, as an artist, I try to speak to that capacity for delight, that sense of wonder, that feeling for the sense of mystery surrounding all our lives.

This is an extremely different approach from thinkers, scientists, and legislators who make their appeal to those qualities that fit us best for the dangerous job of living.

But to come to grips with my present situation, let me state my creed: I believe in art. I define art as a triumph of everything that cannot be put into or gotten out of a computer. My humanness depends on my imagination of other people. Where do they come from? What are they? Where are they going? Why? I believe that art is a tool which helps foster growth of the imagination, which gives a focus to wonder. It is through its use that the evolution of feeling progresses.

If the purpose of a government of the people, by the people, and for the people, is to foster full realization of all the human qualities of its citizens, then that government must nurture the arts. John Adams said: "I must study politics and war, that my sons may have liberty to study mathematics and philosophy * * * to give their children the right to study painting, poetry, and music." Two hundred years later, let a descendent add: outdoor sculpture.

Now that I have read my lost statement, let me say on a very personal level what the art bank would do for me. I expected to have a triumph to report for the concept of the art bank at this meeting today, but I do not. I have just made a sculpture, I think it is my master work to date. It is on the grounds of Chesterwood—Daniel Chester French's home, part of the National Trust for Historic Preservation. It is part of a show there now which opened on July 22. It is the first show of living artists that has ever been done on those grounds. They opened the doors and changed the qualifications, which I am very glad they did.

I have invested in my piece of sculpture \$3,500 worth of steel. Now, I want to sell that piece so that I can make another one. I have four more models that I would like to do. That is quite an investment, which I am willing to make if I can.

This piece of sculpture, at the end of the show, will need to be moved. To pick that piece of sculpture up is about \$140, for a crane and truck.

Now that it has been born, it will not go away again.

I found a place for it. It is in a town of 50,000 people, Pittsfield, Mass., where, by the way, there was one sculpture since the Civil War placed in a public place. This sculpture was a graffiti screen, designed to have kids write all over it. They do not do that in the Berkshires and if they did it, the imagination level is so bad in the Berkshires that it would be the one word we would have to erase every night.

Many people did not notice that in New York there was a dramatic change in graffiti and it was not obscene any more. The graffitiists were writing their names. They were crying for identity. Norman Mailer did a book about that.

But at any rate, I found a place to put it. It was on 4 acres of beautiful green grass, in a spot where people have to drive by, walk by, go in and out. You can walk through this sculpture, by the way; it is over your head. It is called "Stonehenge." It is like going back to a cave. Kids can walk in, and you look up, it forces you to many different angles.

At the show, it has been besieged with people. We have very good critical reviews of the piece.

On this lawn, playing with the light, through the years, through the seasons, before a large building where there is nothing now, a void would be filled.

First of all, that piece of sculpture, I think, would be a source of pride. This is what I hoped. Similar to the art bank, I would pick up the tab on this; I would rent it in terms of the art bank, at 1 percent per month. Still they said no.

Let me say I think the sculpture in that environment would change those people. They said they did not want anything on the lawn. They are nervous. They are afraid they cannot get the gardener to trim around it. The sense of mystery, of fun, of wonder, is shrinking; and I think the arts are, a tool to increase our receptivity to all of our life experiences. That is why it is very important at this time, that this country, which has atrophy of feeling right now, promote a sense of adventure through the arts.

I think art is a magic tool which we could use to help us.

I have a different way of looking at things—inside me. I do not know where it came from. It is almost a curse to be an artist is, whatever that is. But from the National Endowment today we were told that there were so many artists in the United States, there were so many printmakers, there were so many sculptors, there were so many painters. How could you possibly know how many there are? What are the qualifications? How does a man become an artist?

There is no university which can give a man a piece of paper that makes him an artist. He can be a master of fine arts. It does not mean anything to another artist. An artist makes himself. He has to be alone and he has to be older. There are no great young artists. There are young people with great potential to be artists. There are young painters. There are young sculptors; but no young artists.

Today, when we use the word "art," we have been talking about art as an artifact, the final product; what to do with the product, where to put the product.

I believe that the art bank's chief impetus is not in the product; it is in the process. Put your money where your mouth is and buy the man's work. This is the way to encourage him to make another one, and another one, and to grow.

I think anyone who would like to understand exactly the implication of what the art bank could do for the United States could go to the east wing and watch the crowds looking at the art. The people need help. They are not enjoying that building as much as they should.

It is a great building and has some great art in it. On the second floor there is work of Mark Rothko, Pollock, Gorky, and de Kooning. They are WPA artists who were nurtured by the Government. We are not at all concerned with what happened to the work they did when they worked for the Government. But look what happened to those men because they kept on working through the depression. In the fifties, we the Americans gave birth to abstract expressionist painting, a style of painting that is truly American. It reflected us beautifully as a people, as a nation. That was what these men did as a result of the WPA in those formative years.

Let us not lose them this time.

Now, what is an artist?

If we start to count the artists of the United States who make their living selling the art that they produce, I think that the number mentioned from the endowment would come tumbling down. Nearly all our artists, even famous artists, have to make their living by teach-

ing. There are not many of us who can make a living by doing the thing we really want to do: make art.

Basically, I think the art bank is beautiful. I think the details are excellent. Certainly, the proposal of my fellow artist is exactly what I would have said, except that I would put more emphasis on the sculpture. When you make a work of art, you need your hands, you need your nose, and your eyes. You need all of your sensibilities. You need a sense of balance, height, and of gravity. A piece of sculpture confronts you. It is a challenge. You should be allowed to touch it. It should be strong enough to take it. You should be able to walk in it, look up, look around, recreate. This is how we learned to walk, to talk, by touching and feeling. Bang it. Listen to it. Is it hollow? Solid? Is it round? Is it soft?

Feel it.

When you come to the east wing, there is a Henry Moore outside, and people walk by and sort of look. That Henry Moore is great. It is there and it is great and I wish it were mine.

The CHAIRMAN. As you walk through it and touch it and feel it, it is a tremendous experience. The same is true of Mark diSuvero's ISIS at the Hirshhorn. That is another incredible experience. You wonder a little; there is an awful lot of weight swinging up there, and as you walk under that, you have to have a lot of confidence on the technical aspects of the art.

Mr. STRITCH. There was a marvelous editorial in the Washington Post, called "Only in America." We have not had a lot to be proud of lately as Americans. We are a little bit nervous and scared right now. "Only in America" said this is an immigrant who built that sculpture, a museum who had the guts to put the piece there, sight unseen, did not know what it was going to look like.

The Hirshhorn did this. ISIS—Institute of Sculptor and Steel—had guts and imagination. The piece will be there forever. Everybody did a good job. The museum did a good job. "Only in America"—this is what we used to do; creative thinking. We did not get stopped so easily. The arts again broke a little barrier here. It does not matter if everybody likes it or not. It is a challenge. We will have some fun with it and we will grow.

I wish it were away from the building a little bit more.

The CHAIRMAN. I wonder how ISIS would fare if 80-mile winds hit? You know we had 80-mile winds here this summer.

Dr. STRITCH. I do not think he needed those guy ropes. That is for effect. That will stand all right. Those guy ropes will do nothing. That is like a little bit of decoration on it; I do not know. I have not talked to him about it. It looks to me like it does not even need those.

The CHAIRMAN. In your statement you mentioned WPA and the art that came to the Nation through that program. That was part of the most exciting, dynamic change of national direction. It was all accomplished evidently within a brief period of time without the complexities we now experience. There were amazing things done in that period within 100 days; Roosevelt was inaugurated in March and the Social Security Act became law in 1933. Now, it takes us 5 years to structure an amendment to the original act.

The Work Projects Administration was also a product of this period. I do not know how many artists were sustained through that

program, but there were significant works from that period. You just raised a point I had not considered. The WPA program kept vibrant the evolution of America's art of the fifties, which I did not realize.

At any rate, we are now involved in more complex times and we must carefully evaluate how this legislation will affect the art community.

What will this do to the private market and the dealers? It is not as simple as in those days.

Mr. BANNARD suggested that only artists, not art experts should participate on the juries.

Mr. BANNARD. That is just purely from experience. There are certainly some art experts that could be much better judges than artists, but when I have been on juries, and it comes down to the line, comes down to the final decision, or when it gets tough, and the things have to be selected, I find artists usually have a better eye and they are usually fairer and they are usually less inclined to go along with their own personal bias and will look at something objectively. This is a matter of experience only.

The CHAIRMAN. We know how to compromise around here.

Would there be a satisfactory compromise here if we say, "predominantly artists?"

Mr. BANNARD. This was not meant to be a dogmatic statement. I meant to say in my experience, artists are better jurors. I certainly think whoever the director turns out to be should have a very strong voice in a jury because of his experience and because he knows what is going on within the art bank.

The CHAIRMAN. Now, I got the impression—I could be wrong—that you were suggesting that the art bank should be independent of other agencies.

Mr. BANNARD. I feel that the art bank has all kinds of potential. It could be an absolutely marvelous thing or it could work out not so well, according to the kind of person that is running it. I think, having read the bill—and I am not familiar with exactly how these things work—but obviously a great deal of specific policy has to be made if the bill is passed, and detailed policy, how you go about doing all these little things, jurying, how you get art out of all of that. Somebody who is really of strong character, that knows what is going on, will make the best policy for the foundation of the art bank, make it a great success.

I think it is very clear that something like this could have such enormous prestige that it could be just successful, a successful thing on its own. It would almost be a good business to start. It is a very, very good idea, particularly with all the clout that the Federal Government would have behind it. I think it can be very successful.

There should not be too much problem in making decisions there for the director. There should not be a whole lot of bureaucratic entanglement once the thing gets off the ground.

The CHAIRMAN. Well, again—this is perhaps superficial—but, over the past 15 years we have really created a new focus on the arts: a national effort to support the arts, the endowment, the foundation, the Council. It seems to me that although we have created something new in government, we must have created problems also. What we are trying to do here, Mr. Bannard, is to get things of common objective together.

Mr. BANNARD. I understand that. I simply wanted to emphasize the fact that if you can find an executive that is good enough, which is a problem in itself, you can find an executive that is good enough to run this thing, it could really take off. I feel potential really has a lot to do with the person who is running it.

The CHAIRMAN. And could that not adapt itself to being within the art world?

Mr. BANNARD. Very much so. My emphasis was just the less entanglement, the better; that is all.

The CHAIRMAN. If we have failed to gather all the pertinent information here, we will write you.

This goes right to you, John.

What would the art bank do for you that existing programs would not?

Dr. STRITCH. Well, I feel I explained this a little bit in concrete terms. It would free me to produce more. I have been doing nothing but art since I was 37. This is the day I started. I am a late starter in art.

The CHAIRMAN. You were a surgeon?

Dr. STRITCH. I was a surgeon.

The CHAIRMAN. You left the practice—

Dr. STRITCH. Let me put it this way: Medicine left me. I do not believe in people being sick. I think we could skip most of our sicknesses if we were fulfilling ourselves; if we were alive and enjoying our lives, we would not have time to be sick. Medicine has its place, but I feel I can help people far more; can change their lives for the better with art, and I believe it is a far more potent medicine than anything coming out of a drug house; I think we can heal wounds of all kinds this way. Therefore, I am still practicing a profession, a healing profession. I am an artist. I just changed my tools; that is all. So I did not leave medicine. I think medicine has gone another way. It has become a science.

The most important part of medicine still is the art.

Mr. BANNARD. There are other artists around Pittsfield, too. I juried Massachusetts Open, and there were 1,800 entries and there were a lot of them.

Dr. STRITCH. New York State, Massachusetts, Vermont, it covers a big area. Yes, but we do not know each other. There is no community here, so to speak, of artists, or anything like that. It is a very lonesome profession still, despite all its numbers. So I believe it would help.

This condition, us, and certainly them—I think we would all be very much better off. I think we would have a very exciting experience, similar to what they had in the WPA during those days. We are in a time when we need something exciting and wonderful to happen to us.

The CHAIRMAN. I wonder if we could now just have a laundry list of the things that we should address in improving the bill.

Can we list the essentials that require our attention? In view of all the comments we have heard concerning the art bank I think the blue print is generally uniformly accepted. We start on a solid foundation: That it is a worthy objective for our country to embark upon.

Dr. STRITCH. Certainly.

Mr. BANNARD. Yes.

The CHAIRMAN. Mr. Bannard's statement objected to a geographic quota system in the selection of art. I can tell you right now that the bill does not contemplate geographical quotas. On the contrary the bill is designed to assure consideration of worthy art from any part of the country. So it is not a rigid quota.

Now, can we proceed with a list of some of the improvements and changes that need our attention.

Mr. BANNARD. I would say that the basic policy of the art bank, as I see it, the most productive way to put it would be to say that it should expose as much art of the highest quality to as many people as possible. I think that fundamental principle could be a kind of touchstone for the other policies that come out. I emphasize in my statement that there was a duty—I wanted to emphasize the duty that it would have more than to the artist, the duty it would have to the public in order to get the art out in front of the public.

If your emphasis is on excellence, and if you do make every effort to get it out in front of the public, then the other things happen automatically. The art is bought. The art is exposed. The artist gets reputations and sales and so forth. That is why I wanted to emphasize exposure: getting art out there is more important than supporting the artists, to my way of thinking.

The CHAIRMAN. That fits very nicely with Ms. Le Moyne's observation that we are not here to support and assist struggling artists.

Mr. BANNARD. Exactly; but to recognize accomplishment and get it out in front of the public eye.

Dr. STRITCH. In a sense, to work with other agencies; for instance, the CETA proposition under the urban renewal plan; they are working with playgrounds and they are working with cleaning up the rivers, and the art bank, by supplying maybe a focus to some of these things, a piece of sculpture—I happened to be biased that way—would be the focus of this river project, that playground, they could work together and this would give the artist an input here which is very, very much missing on the CETA side.

The way CETA looks at what they are trying to do, what the artist would be trying are different, and it would bring in a little friction again. I think out of the friction might be certainly better urban renewal—a little heat.

The CHAIRMAN. Are there additional points that should be the foundation for us to always guide ourselves by?

Your statements will be of importance in developing this legislation.

As you can see, Senator Javits recognized there would be another rollcall and he stayed over there. I am very sorry that he did not have a chance to be with you while you testified.

Dr. STRITCH. One other point that might be interesting.

I did a very brief artist-in-residence program at a high school that was funded by the National Endowment. I came into the vocational side of the school, in the welding shop, and we started to work, and in 2 weeks, those boys produced a big sculpture which is now in the school, and they had a lot of fun. It is called "Equinox," and it is moved four times a year. It is in a courtyard that was closed during the year.

There was an atrium in the center of the high school and the doors were kept locked because the kids would make a mess if they went in there. The atrium was never used. The sculpture is there now. The doors are open and they are in there. The chief thing is that two of the students that I had making this piece of sculpture are now fully employed making sculpture.

On the other side of this is that some of the other students have no jobs, but these have got jobs. They are going out to Omaha this week; they are loading the truck, and they have found a vocation. I hope we can keep them going. It is not a thing that ends with the artist or even the viewer. It is the guy with the truck and the guy in the welding shop. It is a marriage. It is a breakdown in disciplines. You can study Latin and also know how to weld. You do not have to be a certain kind of person. The arts can heal this gap.

Mr. BANNARD. It creates jobs, as they say.

The CHAIRMAN. With the WPA project perhaps the goal was not that noble, but it was to take unemployed people, whatever their occupation, and give them something productive to do. It turned out to have a very beneficial influence on the arts.

Basically what we are talking about here is to give the people of this country that opportunity of enrichment and to see quality work.

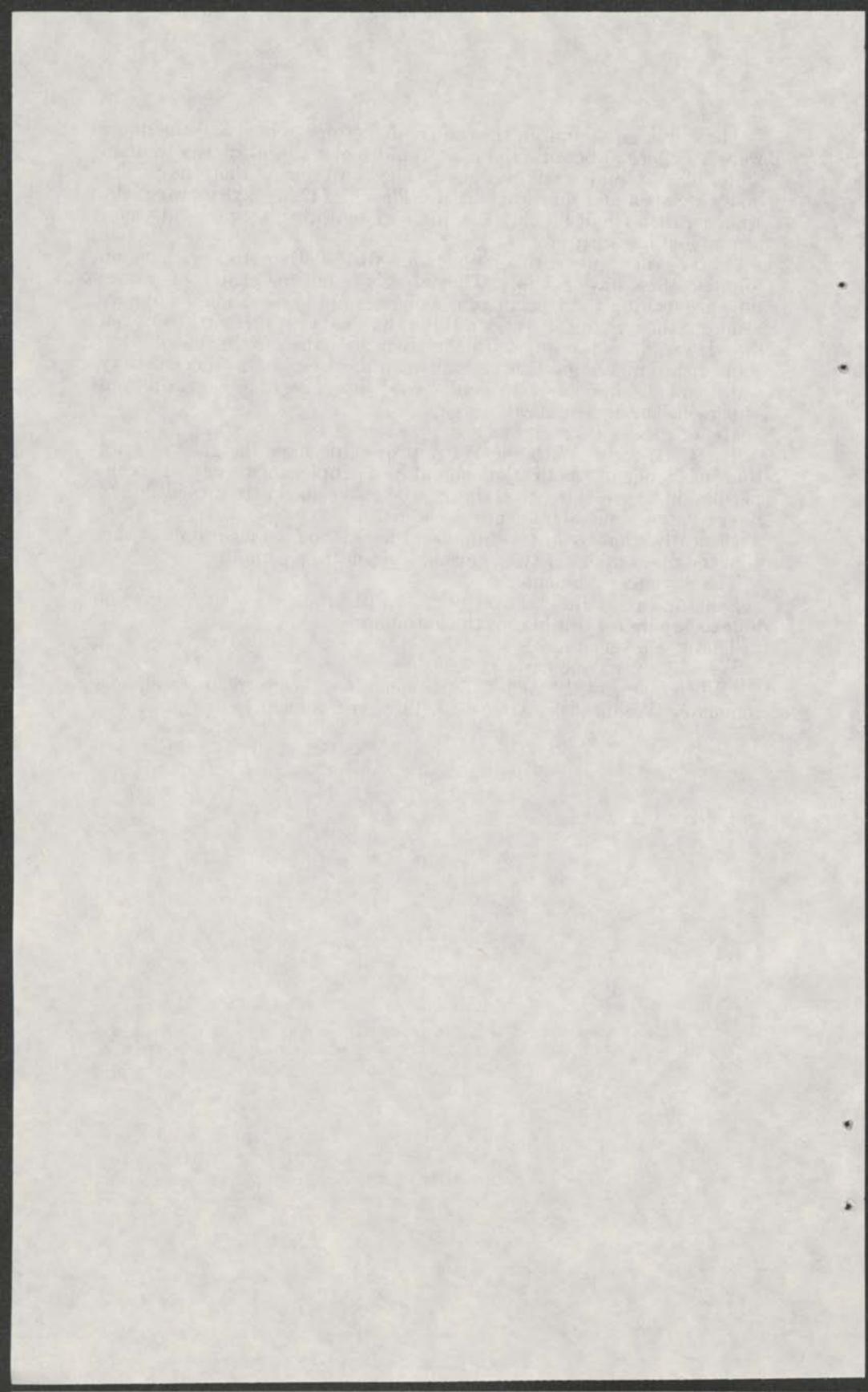
Thank you very much.

Senator Javits did call over and send his apologies that he was not able to be here for this part of the testimony.

Thank you very much.

We will return tomorrow at 9:30.

[Whereupon, at 12:20 p.m., the committee recessed, to reconvene tomorrow, Wednesday, August 23, 1978, at 9:30 a.m.]



NATIONAL ART BANK ACT OF 1978

WEDNESDAY, AUGUST 23, 1978

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:45 a.m., in room 4232, Dirksen Senate Office Building, Senator Harrison A. Williams, Jr. (chairman) presiding.

Present: Senators Williams and Javits.

The CHAIRMAN. We will come to order, even though it is a little later than I hoped for, to begin our second day of hearings on the National Art Bank Act of 1978.

I am reminded of the words of an eminent art historian:

It is undeniably true that if the artists of our own time were justly rewarded, they would produce even greater works of art (than they are already producing, without encouragement), far superior to those of the ancient world. Instead, the artist struggles to ward off famine rather than to win fame, and this crushes and buries his talent and obscures his name. This is a shame and disgrace to those who could come to his help, but refuse to do so.

Those are the words of Vasari who in 1550 wrote the first great history of art. I believe that this plea is equally valid for us today.

The measure of a great society is not merely the ability of that society to satisfy the material wants and needs of its people. Equally important is the ability of society to nourish its artistic talents so as to satisfy the spiritual needs of its people by bringing to them a dimension of cultural and aesthetic appreciation.

Our American society is distinguished by a great reservoir of individual creativity and by the genius of its artists. However there are many people, particularly those who do not live near our metropolitan centers with their great museums who are largely beyond the reach of our art resources. The art bank can serve this country well by nourishing this great resource for the benefit of all the people. Through the art bank, thousands of art works can be distributed for the appreciation of the American people.

The art bank is more than just a means for bringing artistic and cultural enrichment to the people. It can stimulate the creative genius of our artists by searching out the diverse art forms in our country and bringing forward works of art deserving of recognition and appreciation.

Today the young artist who struggles to gain recognition may give up in despair—for the excitement and exhilaration of creativity carries only so far. The art bank brings to the struggling artist not only immediate recognition and reward, but also the means for exposure with the promise that his work will be justly rewarded in the future.

To our galleries and museums, the art bank brings a means of identifying and displaying some of the great undiscovered art talents.

I am very pleased today our first witnesses include a panel of artists that have been gathered by courtesy of the Artists Equity Association.

I understand that Gilda Ellis, the president of the Artists Equity Association, will introduce the panel members after we have opening words from Senator Javits.

Senator JAVITS. Mr. Chairman, I join the Chair in the sentiments expressed and congratulate the Chair on this bill which I think is most enterprising and will be productive.

I am very hopeful that we will fashion appropriate legislation in this committee.

Also, it is personally a great joy to me to welcome the artists from New York and to have an identity here in the Senate with the New York school, which is so critical in postwar development of the arts and is a very special interest of Marion Javits, my wife, who has contributed a great deal to this field and will continue to do so.

I would like to apologize to the panels for this reason.

We have on the floor, unhappily from their point of view, though happily for ours, today two critically important bills out of this committee, both of which I shall have to manage on the part of the minority. So I will be leaving within about 20 minutes for that job.

One of them is the Federal Aid to the Education of Disadvantaged Children, the so-called ESEA bill. The other is a Public Service Jobs bill, and they are two critically important bills for the country.

I hope you will all understand and forgive me, but I will participate very actively in the fashioning and development of this legislation and do my utmost to make their visit to Washington completely rewarding.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Javits.

It certainly has been a rewarding experience today and one I know will be continued.

So if we could have our panelists come forward.

Senator JAVITS. While the panel is taking its seats, may I also introduce to the committee and greet Tom Messer, director of the Guggenheim Museum in New York, one of our very talented museum directors.

STATEMENT OF GILDA ELLIS, NATIONAL PRESIDENT, ARTISTS EQUITY ASSOCIATION; RICHARD MAYER, ARTIST; RICHARD ANUSZKIEWICZ, ARTIST; HAROLD VOGEL, ARTIST; BENNARD PERLMAN, ARTIST; MIRIAM SCHAPIRO, ARTIST; JUDITH BRODSKY, ARTIST; AND ELLOUISE SCHOETTLER, ARTIST, A PANEL

Ms. ELLIS. Good morning, Mr. Chairman. I am Gilda Ellis, national president of our association—the national organization for professionals in the visual arts—going down the map from New York to New Jersey. I live and work in Philadelphia, Pa.

The association has previously submitted its testimony to the committee. Our remarks in support of S. 2645 have been endorsed by our affiliate organizations and by a number of prominent artists across the country.

We would like to take this opportunity to applaud you, Senator Williams, for introducing what may be the first piece of legislation of direct benefit to visual artists since the Endowments for the Arts and Humanities were created in 1965.

Over Artists Equity's 31-year history, we have not seen the Federal Government address the problems visual artists face as they struggle to earn a dignified living from their careers. The National Art Bank Act of 1978 promises direct economic benefit to artists and cultural enrichment for the entire Nation.

Larry Rivers, who originally planned to be on the panel, was unable to attend these hearings today.

I would like now to read into the record a telegram received from Jack Youngerman and from Larry Rivers.

Senator Williams and members of the Human Resources Committee: As Americans and as artists who have seen a lot of life and a lot of art we support your art bank bill, S. 2645. Your bill will free those insufficiently recognized artists to produce a great variety of artworks, and in owning and placing this art, the Federal Government will not only significantly enliven the work surroundings of millions of its employees and visitors, but at the same time will accrue a national collection of contemporary art, creating for the first time the rarity of an appreciating investment of taxpayers' money.

Not only man, but no society, lives by bread alone, but in this case, Senator Williams, Government bread alone will be enough.

Larry Rivers and Jack Youngerman.

P.S. We both personally look forward and welcome the chance to participate in your program.

I would like to now introduce the artists of the Artists Equity panel, each of whom will make a brief statement.

I will go down the whole list according to the way you have it: Richard Mayer, Richard Anuszkiewicz, Harold Vogel, Bennard Perlman, Miriam Schapiro, Judy Brodsky, and Ellouise Schoettler.

Thank you very much for the opportunity to appear before this committee.

The CHAIRMAN. Have you decided in which order you will give your statements?

Mr. MAYER. Senator Williams, I seem to be first on the list.

The west coast region of Artists Equity Association, Inc., in concert with the national organization and other members of the art community throughout the United States, applauds the initiative taken on behalf of artists and the arts by Senator Harrison A. Williams, Jr., with the introduction of S. 2645, a bill that would establish an art bank. We further congratulate the Senate Human Resources Committee for its timely scheduling of hearings on S. 2645 on Aug. 22 and Aug. 23, 1978.

In common with financial banks, the art bank will serve as an institution to receive and lend a treasured resource—in this case, the product of American artists. As banks are also a mechanism for investment, the art bank will serve as the means for the Nation to invest and husband this artistic resource for the benefit of future generations as well as for the present time.

The programs of the art bank will clearly demonstrate the ability of Government to act as a facilitator, strengthening the base for the production of art by stimulating interest in and support for the arts in the private sector. Provisions of S. 2645 also show laudable concern for the well-being of individual artists, which is, after all, the essential foundation for the well-being of the arts.

We are confident that the art bank will bring a manyfold return on the investment, and we respectfully request that the Senate Human Resources Committee give most favorable consideration to this innovative and important legislation.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. MAYER. I have a few comments that will amplify my statement and some material to offer for the committee's consideration if you would like me to express that at this time.

The CHAIRMAN. Shall we go through the panel first. Do you have any bumper stickers there?

[Bumper sticker handed to Senator Javits.]

Mr. ANUSZKIEWICZ. Senator Williams and Senator Javits, I have a brief statement to read.

My belief is that the National Art Bank, in addition to helping the artist, will in fact be helping the culture of the whole country. One area in which this bill will not only assist the artist, but the community as a whole, is that of the small museum.

Most of the large metropolitan museums, with their many budget problems, still have their expensive collections to circulate and exhibit. But there are many more smaller museums spread throughout the country that have meager or no collections of their own. A good number of these are connected to universities and college art departments and not only serve the educational needs of their students but are usually open to the whole community.

These smaller museums are dependent on the artist, or the collector, or on the larger institutions for their exhibitions. Many go directly to the artist, since he or she has proved to be most generous and easy to deal with. This can be a costly venture for the artist, since sales, especially in educational institutions, are nonexistent.

There is absolutely no monetary compensation to the artists for their involvement. Putting an exhibition together can be both expensive and time-consuming. Aside from the artist's own role in the process, some of the out-of-pocket expenses accrued are for materials and extra labor, costs for taking work out of storage, preparation for pickup, cataloging, and, at the end of the show, the reverse process of checking the condition of the work, cleaning, and putting the work back into storage.

Some of the large museums absorb many of these charges. Others pass them on. The Museum of Modern Art in New York charges the artist a fee of \$100 per painting or sculpture for the rental of their own work, which in turn has been previously loaned to the museum by the artist. The museum claims that the fee, indeed, only covers half of their costs.

I feel that the National Art Bank will certainly be a mutually beneficial remedy for this situation, since without question, more art would be put in circulation for this purpose; and by buying or leasing the artists' work, the artists would be compensated for their time and effort.

Exhibitions of art must continue, for as helpful as reproductions and slides are in art appreciation, there is no substitute for experiencing the original.

I also have a few reservations about the bill as it is stated. I do not know if I should give you those now or not.

The CHAIRMAN. Yes.

Mr. ANUSZKIEWICZ. I have a few reservations about the bill as it is now stated. One is: What happens after a 3-year period when the bill expires?

In my opinion, it would be helpful if it were continued.

A second is the disposal or the deaccessioning of some of the work after a period of time. An auction is certainly not the most desirous way of selling the work.

Also, I would certainly like to see some of the work donated to many of the small museums with meager or no collections.

I realize that it is hard to write the perfect bill, and new ideas will come from the experience of the bill when it is in existence.

So, I do urge the passing of this bill so we can finally have new art legislation which we have not seen in a long time and so much deserved money for the artists.

Thank you.

The CHAIRMAN. Thank you very much. We will have some questions and further observations following all your comments.

Senator JAVITS. If I am not here, I hope the Chair will explore with the witnesses the tax problem of the artist giving a gift of his own work even to a museum. It is a very serious one which I tried to correct for many years and so far without success.

The CHAIRMAN. I know of your concern and, if we have time, we will raise it here. That, of course, is a problem in another area and not really part of the art bank. However, Senator Javits does have to leave when his bill is brought up on the floor this morning, so if you have any questions now, Senator Javits?

Senator JAVITS. I just wish to make that statement on what you said about gifts to small museums. It is heavily impeded by the fact that you cannot take tax deductions by the value of your work, even though a collector who bought it from you for \$20 could take it.

It is an outrageous situation which we are trying to correct.

The CHAIRMAN. Mr. Vogel?

Mr. VOGEL. I think we all agree on the importance of art as part of our culture. Just as ancient civilizations are known to us by their monuments, so would we like to be remembered 2,000 years or more from now by our visual works.

Unlike oil and gas, usage and demand will not deplete the resources of art, but on the contrary will increase the flow by encouraging creation of new works.

The National Endowment for the Arts has achieved great results by giving grants to groups and institutions such as the performing arts and museums. However, the visual artist who works alone, by necessity, has been denied institutional support.

Our military capacity, as well as our technical achievements, are known worldwide, but only the professional artist, the museum director, the critic, et cetera, have recognized that for the last 30 years the American artist has been the leading innovator. The general public worldwide is unaware of the great movements of art in the United States of America. I had an interesting conversation at the opening of an exhibit of my works in Honduras: I was asked why all American artists live around New York. I assured the man that they don't. He then told me that the others could not possibly be very good, because

they are never shown. Well, this points out the fact that many of our good artists are unknown, because they are away from the mainstream.

The concept of the art bank is sound: Since the cost of its administration will be kept low, the money can be spent on new purchases.

The nationwide selection will help to get quality work from all over the United States.

This program is designed to help the individual artist, while at the same time it promotes our cultural image.

Our Embassies will display quality work on their walls and in their halls. Not only will this make a better environment for the people who work there, it will also be good public relations for the United States.

There is no country too small or unimportant to enjoy American art displayed in our Embassies.

Thousands of good artists will finally have the opportunity to be recognized. No artist can be recognized if his work is not seen. It is very expensive for the individual artist to mount an exhibit. Many artists cannot afford that outlay. For this reason, many good artists are overlooked. The art bank will overcome this difficulty by providing intelligent viewing by the regional committees. The investment that is made by the public will be sound because an artist who makes a living is an artist who pays taxes.

The publicity will stimulate interest on a local level and spread from there. Business enterprises will follow suit and make use of the rental program.

There would be no conflict with any other programs, such as, for instance, the grant program of the National Endowment for the Arts.

I do hope it will not be necessary to study the art bank at such length as the D.C. Metro, which would have cost about 10 percent of its eventual amount, had we started when the need was established.

Thank you.

The CHAIRMAN. I shudder at the thought. That's not comparable.

As far as a 3-year program, what will happen then? You know, in Congress these days, the sunset principle is an idea that has significant momentum. That principle is based on the expiration of all programs after a certain period of years; 5 years is the suggested period, and there are no continuations of programs without reenactment under the sunset principle.

In the proposal we are considering a 3-year sunset principle. However, the success anticipated by everyone with this art bank would dictate a mandate that the program be continued.

Mr. Perlman.

Mr. PERLMAN. Senator Williams, as an artist, as an historian, as a college art professor, I cannot help but applaud your art bank proposal.

This legislation will prove significant for the future of both artists and the arts in the United States.

While Senate bill 2645 will be innovative in several ways, it does not represent the first Federal effort to, as the bill reads, "assist and encourage artistic creation through the purchase and display of works of art * * *." This distinction must go to the WPA, the Works Progress Administration, which stands as the first such program. The time was the Great Depression of the 1930's. With 10,000 artists out of work, the Federal Government initiated a mammoth program of public works of art. The New Deal's pump-priming effort began in 1933. In

the ensuing decade, more than 100,000 paintings and 18,000 sculptures were produced under WPA sponsorship. At its peak, the WPA employed some 5,000 artists.

The walls of Federal buildings were embellished with 2,500 murals. During 1939, for example, a nationwide competition was held among artists to provide designs for post office murals in all 48 States. The results not only adorn Federal structures in New York, Washington, and every other major metropolises, but post office walls in such communities as Aliquippa, Pa., Hartselle, Ala., and Anadarko, Okla., as well.

One might argue that the economic gloom of the Great Depression has no parallel with the 1970's, but for thousands of artists across the land this is not true. And this points out my chief concern about the art bank bill, which stems from the statement on page 4, beginning with line 18—section 14(e) (1)—which states: "In selecting works of art for purchase under subsection (c) (2) of this section, the Director shall consider * * * (B) the need to encourage artists who are not well known to the public * * *."

I might interject that in your opening remarks today, this was also borne out when, after quoting Vasari, you said today the young artist—and I emphasize young—who struggles to gain recognition may give up in despair.

All artists who struggle are not necessarily young.

To the casual observer, art in America would seem to be flourishing. We read of record prices being paid at art auctions, there is a growing number of art galleries, and art festivals and art benefits have inundated virtually every region of the country. Nonetheless, the painful truth is that most artists—the well knowns as well as the unknowns—find themselves in a dreadful economic plight.

Some years ago, while serving as art critic for a Baltimore magazine, I attempted to ascertain the seriousness of the professional artist's plight, which incidentally I would rather see the word "professional" instead of present wording of the bill, to encourage artists who are not well known.

When asked to indicate their average total earnings, and this incidentally was the questionnaire that was sent and returned anonymously, sent to 139 well-known Baltimore painters, sculptors, and printmakers, 110 of them responded, when asked to indicate their total earnings from the sale of art for the preceding year, 95 of the 110 respondents revealed that their art income was less than \$3,000 for the year. This startling statistic means that 86.3 percent of those artists polled would have been below the poverty level if their subsistence came solely from the sale of their art.

What is more, over one-half of that number, 62 of the 110 indicated that their sales totaled less than \$1,000 for the preceding year, and only four of the artists, 3.6 percent, listed art income over \$10,000.

I am cognizant of the fact that this Baltimore sampling cannot be considered an accurate microcosm of the artist's plight in America. However, it does reveal that, well known or unknown, the vast majority of this country's local and regional artists should be considered potential recipients of the benefits of Senate bill 2645, and we hope we can bank on that.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Perlman follows:]

Statement of Artists Equity Association Panelist

Bennard B. Perlman, Painter, Art Historian, East Coast
Regional Vice President

As both an artist and an art historian, I should like to address myself to the importance of the Art Bank Legislation for the future of both artists and the arts in the United States. Not since the days of the W.P.A. has a government-sponsored project been envisioned which would have as much impact for the economic welfare of artists. The Art Bank would serve the public by enhancing the environment, while at the same time aiding professional artists by providing official recognition and financial encouragement.

I should like to address myself to the reality of artistic existence in the United States for the tens of thousands of local and regional artists who, it is hoped, will be affected by this proposed legislation.

Despite a popular notion that artists lead a carefree life, the reality of the situation is that the great majority of America's artists are victims of a dreadful economic blight. A survey of Baltimore artists revealed that even those artists who enjoyed a relative measure of success in their art careers, would be below the poverty level if their subsistence came solely from the sale of their art.

(Mr. Perlman will speak extemporaneously on the W.P.A. and the results of the Baltimore survey).

Bennard Perlman
6603 Baythorne Road
Baltimore, Maryland 21209

Ms. SCHAPIRO. Senator, I support this bill as an artist. Because of my lecturing and jurying schedule, I meet artists and see their art all over the country.

With your permission, I will depart from my written statement.

The art bank will benefit the American economy by emphasizing the importance of purchasing the products of America's smallest business people, the artists.

A career in art is indeed a small business for most artists who earn—and my statistics say \$6,000, but I will yield—or less a year, \$6,000 or less a year, from the sale of their work.

The art bank can behave differently from the private sector, from the commercial galleries, by virtue of its idealism. It does not have to be concerned with works that will sell well. It can fit the tone for the new pluralism of the eighties because it will honor works of art often overlooked by main stream advocates.

By recognizing the authenticity and vitality of nonurban art as well as art made in cities, it can be an effective spiritual voice for democracy. This kind of aesthetic spread has never been achieved before.

The art bank will recognize excellent art which the commercial galleries have for one reason or another missed.

Notice I use the word excellent. I did not refer to art of quality. Quality in quotation marks as it was used here yesterday invoking the aura of God and motherhood is a word which disguises mainstream and commercial attitudes. Quality in quotation marks often defines art which is recognizable at a certain high market level.

Art of quality is art of preference.

For example, to a male sculptor working on a 40-foot-high sculpture, a small object made of silk and stuffed with cotton, then embroidered with delicate needlework and embellished with sequins might not be considered a work of quality. Or another example, an art historian or critic who has written extensively on art of the seventies would not see the new pattern and decoration objects as anything but flashy, opulent, decorative, and excessive. Ceramicists might not like paintings. People who make prints might not appreciate artists who make body ornaments.

All of these examples work in reverse.

Quality disguises taste.

To offset this problem, the art bank must constantly change juries. Madame Le Moyne outlined an excellent plan for us yesterday when she described the workings of the Canadian Art Bank. If we are apprised of the dangers of unilateral decisionmaking and work toward complementary opinions on aesthetics, we will be bringing a truly democratic process to the world of art and in no way will we sacrifice excellence.

Thank you.

The CHAIRMAN. Thank you very much.

[The prepared statement of Ms. Schapiro follows:]

Testimony of
Miriam Schapiro

Before the
Senate Committee on Human Resources

August 23, 1978

Artist: Works in the collection of Hirshhorn, M.O.M.A.,
Whitney, La Jolla Mus. Cont. Art, Worcester Mus. etc.

Dealers: Lerner Heller, N.Y.C., Gladstone Villani,
N.Y.C., Douglas Drake, Kansas City, Linda
Farris, Seattle, Wash.

Teacher: Bryn Mawr, U.C.S.D., Co-Founder of the Feminist Art
Program at Cal-Arts, Tyler, and currently at Amherst

Lecturer: Yale, Oberlin (Baldwin Series), Goucher, Kansas
State, Oregon State, University of Minn., Stanford..

Founder: Woman's Building, L.A., Heresies, N.Y., L.A.I.C.A.,
L.A., W.C.A.

Boards: College Art Association, W.C.A., G.W.A., F.A.I.

Co-Creator: WOMANHOUSE (Art Project, L.A., 1972)

Members of the Senate:

I am testifying on behalf of Bill S.2645 (known as the
National Art Bank Bill) because I am an artist who exhibits
widely and who travels extensively speaking to other artists
about their concerns. Usually I am sponsored by University
Art departments, sometimes by Museums. I am particularly known
as an artist who has taught and organized other women artists
and professional women in the Arts. Together we have originated
magazines, art schools, written books, formed professional org-
anizations, galleries, exhibitions etc. We are gathering our
momentum and are now speaking on matters pertaining to all artists

who struggle to survive.

In Art schools and University Art departments all over this country the best artist possible to find are hired to inspire students to become artists and possibly teachers. What for ?

Last year alone there were twice as many artists looking for jobs as there were teaching positions open. It has been estimated that of the 500,000 artists in this country, most of them earn only \$6000. a year from the sale of their works.

What is the purpose of making art when you know your activities are peripheral to the aims of society. For myself, my purpose is to humanize my environment. In observing the natural world and perceiving technology as man made nature - I wish to synthesize these perceptions into beautiful objects which are defined as "Art". There are others like me. We are compelled to make art. Our work is not functional, we are not engineers. Our work is beautiful yet the rewards are minimal. Our work is a natural resource - yet neglected.

In my travels young artists ask me what they should do to make their lives in isolated places more agreeable. After I look at their work and ascertain that they are indeed serious artists producing work of high quality (and I am proud to say that there are many such grass roots artists out there) I answer them. Taking my cue from the consciousness of the seventies, I advise them to unite - to discuss their problems with each other as a hedge against loneliness and as a way of agreeing on universal issues. I tell them to seek solutions, to form galleries, to look for funding, to organize day care centers, to wait on tables if necessary, but above all never to lose hope, always to keep on working, to continue making paintings, sculpture, prints, drawings, ceramics, body ornaments, to work together, to publish a newsletter, create slide banks - above all to keep reminding

a sometimes heedless world of their spirit. Because essentially the spiritual tone of the nation is their responsibility. Small towns are not message centers. People who make art in outlying places must be sustained. Otherwise they leave, discouraged and migrate to cities already overcrowded and expensive where competition is so severe among artists because the crumbs of success are so few, that the promised land instead of providing an answer to one's dreams, only creates mean havoc.

We must answer the needs of artists in the hinterlands. We need to recognize these good artists all over this country rather than only concentrating on those featured in metropolitan galleries. We know that the private sector does not begin to sustain the spirit of the "out of towners"

What would the Art Bank do for these men and women? Well where the National Endowment of the Arts, that blessed agency, begins the process of encouragement by awarding the artists, fellowships, the Art Bank would finish the process by endorsing the work itself. When the work is removed from the studio of the painter or sculptor etc. then hung in a public place, there is satisfaction in knowing that the dialogue between the public and good art would be also complete.

I asked Eric Fischel, a young artist, who is a friend of mine what it meant to him when he lived in Nova Scotia to have a work of his purchased by the Canadian Art Bank?

He replied, "When they walked into my studio and appreciated what I was doing, I felt the gloom lift for the first time that season".

Ms. BRODSKY. The entire community of artists in the United States is excited about this bill. I would like to speak for it from the point of view of the art editor because I have become increasingly concerned with the moral issue of training young men and women for a profession in which most are not going to be able to make a living.

This field is a glimmer of light at the end of the tunnel. The National Endowment provides fellowships and grants for artists to make their work. The art bank will provide a market for that work through hundreds and hundreds of one-time purchases.

Furthermore, young artists are much more likely to have a single work purchased than they are to receive fellowships until later in their lives.

What a purchase like this can mean to developing a reputation is simply enormous. It is also a morale-boosting incentive, encouraging young artists to persevere until they can establish viable careers as artists.

I believe, too, the impact of the bill will be more far reaching than its actual purchases. As a model, it will help to stimulate expansion of the market tremendously.

Second, I would like to talk about the way in which I think the bill will help the larger society as well as the world of artists.

I teach in an urban environment, Newark, N.J., which you know well, Senator. I am delighted with what is happening to revitalize that city, and have seen how the arts are an essential ingredient in that renewal. The exhibitions of the Newark Museum and cultural life of Rutgers University campus are drawing cards attracting residents back to the city. Through leases from the art bank to other sites in the city, the role of art can be more widespread in improving Newark's quality of life.

In connection with this last point, I would like to suggest another way besides sales in which works of art might be released from the bank in order to make room for new purchases. Through grants from the bank to cities, the works of art from the bank can become permanent installations in strategic places, thus contributing over a long-range period to urban visual environment. This concept can be expanded to gifts to institutions, such as colleges and universities or small museums, as Mr. Anuszkiewicz has already suggested, with such limited funds for purchases. Thus the art bank would become a source for permanent collections to institutions that cannot afford them otherwise.

Again, let me say the entire community of artists lauds this bill. It opens up a whole new approach to making the artists and art an integral part of society today.

The CHAIRMAN. Excellent.

[The prepared statement of Ms. Brodsky follows:]

Testimony of
Judith K. Brodsky
Chair, Art Department
Rutgers, The State University of New Jersey, Newark
Former President, Women's Caucus for Art
Before the
Senate Human Resources Committee
August 23, 1978

Mr. Chairman, my name is Judith K. Brodsky. I am an artist and a New Jersey resident. I am now serving as Chair of the Art Department, Rutgers, The State University of New Jersey, Newark. I am also a former president of the Women's Caucus for Art, the foremost national organization of women artists, art historians, museum professionals, and critics.

I would like to speak for S. 2645, the bill to establish an Art Bank, first from the point of view of the art educator, and secondly in relation to urban renewal.

I would like to begin, however, with a commendation to this committee for its sensitivity to the community of artists as witnessed by the presence of this panel of artists at the hearing. Furthermore, this hearing is exemplary for its inclusion of women, not only speaking on behalf of issues affecting women, but also taking their place as speakers on behalf of the entire community of artists and educators of which they compose fully half.

This bill will help to resolve a basic question for the art educator in the last quarter of this century. How can we train men and women in a field in which only a few of them will earn enough from their profession to survive in that profession? Too few individuals in our society value the visual environment enough to buy art, and the museums and other institutions which purchase art have particular goals and financial limitations which prevent their giving adequate support to the living artist. Yet the number of

students who want to be artists has grown extraordinarily in the last decade. With little hope of financial recompense, it is difficult to find a logical reason for this growth. One can only say that it seems to indicate a search for satisfaction in the life of the spirit and mind rather than through material well being.

As an educator, then, I laud S. 2645 for its creation of a mechanism by which the opportunity to artists for purchase of their work will be sizeably increased. I am particularly pleased by the provision that special attention will be paid to purchase of work by young, less well known artists with the idea of encouraging and supporting them in their development.

Furthermore, by setting an example, the Art Bank will have a salutary effect on art purchasing activity beyond its own actual buying power. The federal government through the National Endowments has already become a leader in establishing the value of cultural activity in the United States. The Art Bank will further enhance the image of the arts as important to the well being of the society.

Another way in which the Art Bank is pertinent to the education of young artists and indeed, to all students is the opportunity it presents for acquainting them with a broad selection of contemporary art. There has been a good deal of emphasis placed, recently, on the importance of esthetic education and the need to develop visual literacy from the elementary school years on. With the limited funds available for introducing new programs, the Art Bank becomes a leading resource for exhibitions at colleges, universities, elementary and secondary schools.

As an educator in a reviving urban area, I am particularly concerned with the state of American cities, and I see the Art Bank as playing an

important role in improving the visual environment of the blighted areas that are now being rebuilt. Our cities have to be beautiful as well as functional in order to attract residents back into them. Through the Art Bank people who might otherwise not have that opportunity can be surrounded by high quality art. It has been shown repeatedly that redevelopment projects which take into account only the physical and material well being of their inhabitants do not work. The projects must be esthetically pleasing as well, in order to make them neighborhoods. The Art Bank can provide the resource for accomplishing this goal even more effectively than through permanent installations. Changing exhibitions constantly renew people's awareness of, and pleasure in their surroundings.

Furthermore, the Art Bank, might serve to encourage the active participation of artists within more American cities by making the work of local artists available for installation in their own communities rather than at random.

Thus, in summary, S. 2645 by establishing an Art Bank, will function significantly in supporting emerging, as well as established, artists in the best way possible--through purchase of their work. It will also serve to strengthen art education programs, and finally, could play a vital role in improving the visual environment of the United States.

Ms. SCHOETTLER. Good morning. I am very happy to represent a coalition of women's art organizations this morning. We are an organization that represents 75 organizations nationwide, and I also represent the Washington Women's Art Center which is a member of the coalition and an organization of 500 women artists in the Washington metropolitan area.

We thank you for introducing this legislation. It is long overdue, and I support and reiterate the thanks and appreciation of the artists appearing here on this panel this morning.

I think that is a significant thing to stop just for a moment and mention that these are all artists sitting here before you this morning to speak to you about this bill. That is an innovative step in and of itself because so many times legislation, policy and things that will directly affect the careers of artists are decided by nonartists, by experts on artists, and on art.

So seldom do we have an opportunity to come forward and to speak for ourselves. I thank you for that. I think it is tremendously significant.

I am departing from my written testimony which is dangerous, and I will try to keep my remarks—

The CHAIRMAN. That is acceptable, but we would like to include your prepared statement in the record.

Ms. SCHOETTLER. You have my written statement.

I am departing from this for a major reason that I think is significant enough that I must do it. I am glad to be here on the one hand. I am ambivalent about it on the other. I will explain that.

Appearing on a panel of this nature, of a bill of this magnitude with the impact that it can have on the careers of artists, I feel a great sense of responsibility for what I will say here. Artists must, I agree with Madam Le Moyne yesterday that help, support—these are encouraging words—they can also be, when the artist does not take the responsibility of a professional to stand up, be patronizing and they need not be considered that when they respond as a professional, and that is the obligation I feel here this morning.

I would rather bite the hand that offers to feed me a little in a very healthy and constructive way.

There are several things I am concerned about.

Artists that I have talked to, and I have talked to a great number over the past couple of weeks, and I have studied the bill, and there are two issues that I would like to bring to your attention. I am concerned about the director and the power of the director as it is written into the bill.

I agree with the Canadian example or the suggestion of Madam Le Moyne yesterday. An advisory panel is imperative. An advisory panel predominantly of artists, because artists understand and feel about artwork in a different way from other people. It is their product, true, but art is not a birdhouse. Once an artwork leaves the hands of an artist to a purchaser, whether it be a private citizen, a museum, or whether it is a gift that the artist gives to someone, that artist is vitally concerned and interested in the work.

It is a product that is not an end result in a way.

Also the product that leaves the artist's hand in art, in art as in no other single career or commodity, no other thing, can affect the career

of the artist in the way that it is handled after it leaves their control or after it leaves their possession. For this reason, I address the other part, that in the bill as it is written you have taken great care, and I appreciate that, and I applaud that, as to how the work would be selected for the bank, how the money would be spent, and how it would be purchased. That is vital and that was necessary to consider with the care that you have given it. But we have to be very concerned with how that work leaves the bank.

In other words, we would suggest, strongly urge there be a similar system of panels and of advisers that would guide the work after it leaves the bank, and that there would be some serious determination as to where the work was going and what was going to happen to it, because each one of us or any other artist in the country that puts work into the bank is dependent on the conduct of the work afterward, perhaps for the way in which it could affect our career.

It is sort of like you do not want something to happen to your career over which you have no control: careless handling, by that I mean selling under sales price. There should be a reserve price on work. We are concerned about auctions. Auctions are capricious. They can be very mischievous to people's careers. I think that should be considered and strongly considered.

In conclusion, I would like to make one other point. If you had asked me, and I assume you have because I had come here this morning, how I see this art bank, I see what you are proposing as a possibility for one of the most exciting things that can happen in the art world today for a number of reasons. Economically and pragmatically it gives money in the hands of the artists, but it has a further benefit to me than that, which I experienced yesterday in a 1½ hour conversation with this panel, by the fact that I think it can become a focus and rallying point for the art community where artists of all reputations would be cooperating together in an endeavor such as the art bank. That lesser known artists, unknown professional artists, or however you want to put it, would be supported and enhanced by being represented equally in a bank, in an art bank situation, with artists of greater reputation than theirs.

We want, and I am sure that you want, an art bank at its best, so that the artists in this country, regardless of the scope of their reputations, will want to participate in that bank.

It will be something that they will know was constructed with their interest in mind and that they want to be part of it.

My last sentence, or my last thought, has to do with your having us here today. It is the beginning I hope, and I urge you for a greater participation in this art bank of the artists of this country. For the first time you have the opportunity in developing this bill to see artists not only as producers of objects, but in their larger scope and in their rightful place as advisers, to use their creativity and their understanding of the impact and the scope of art where it should be in advising and directing the path that this bank will take.

That is why I feel that the advisory panel must be studied. It must be considered as predominantly artists. Yesterday you directed the National Endowment and GSA to study this art bank bill.

Senator Williams, I urge you to ask that the Endowment and the GSA include artists and art organizations, people who can directly

speaking to the concerns of the artwork and the artist to be an equal partner, or at least a major or a significant participator in that study, so that when you put this bill forward, which I am sure that you will, you will get this legislation, you will get the best possible bill and the best possible art bank that this country can have.

Thank you.

[The prepared statement of Ms. Schoettler follows:]

Testimony of
Ellouise Schoettler
Executive Director, Coalition of Women's Art Organizations
Executive Director, Washington Women's Arts Center
Before the
Senate Committee on Human Resources
August 23, 1978

Mr. Chairman, my name is Ellouise Schoettler. I am an artist. I also currently serve, in elected positions, as Executive Director of the Coalition of Women's Art Organizations and Executive Director of the Washington Women's Arts Center.

The Coalition of Women's Art Organizations was formed last year to unite the efforts of the many groups across the country working to achieve equal opportunity for women in art. We currently represent 75 organizations nationwide, The Washington Women's Arts Center, with a membership of 500, is a non-profit educational art center, whose focus is directed toward the professional art center, whose focus is directed toward the professional development of women in art. The Center is a member of the Coalition.

The Coalition of Women's Art Organizations supports the establishment of a Federal Art Bank. We urge this Committee to expedite authorization for S. 2645 and further we would like to see it launched for funding in Fiscal Year 1979.

The Coalition applauds Senator Harrison Willaims for his leadership role in support of the arts by introducing this long over-due legislation which offers direct support for artists through the purchase of their art works and which, further, has the innovative provision which initiates a focus on regional, unknown and emerging artists. The sensitivity for the needs of artists demonstrated by this legislation makes us confident that suggestions will be solicited from artists' groups to insure the protection of the rights of the artists in relationship to their art works purchased by the Federal Art Bank. As a major artists' organization which is committed to artists rights we will welcome that opportunity to offer specific recommendations.

It is our opinion, that in stating a focus on regional, unknown and emerging artists, that S.2645 will have a substantial benefit to women artists as well as to all artists, especially those who have not chosen to or been able to establish their careers within the boundaries of a major art center in the United States. Artists are no different from other professionals in that they want and should be able to support themselves directly from their art work and have the opportunity for gaining recognition for their work and establishing substantial careers and reputations.

The established art system in this country today consists of three components; commercial galleries, critics and museums. To achieve significant recognition and the possibility of financial independence artists must have a good commercial gallery as agent, have critical reviews published on their work and achieve museum exposure. These components of a successful career are interdependent and co-exist predominantly in large metropolitan art centers. Thus the migration of artists to such centers where they cluster, creating significant cultural richness for those few centers, providing large numbers of artists for cross-fertilization of ideas and if unsuccessful flooding the unemployment rolls. Witness last years dilemma for two such centers. In New York City there were 3500 applications for 500 C.E.T.A. artist jobs and in Washington. D.C. 300 applicants for 50 full-time jobs and 10 partime jobs. All these applicants met the criteria of an income of under \$3,750.00 and a minimum number of months unemployed. Direct purchase of art works from artists could be a significant factor in the lives of these artists and another reason for launching the Federal Art Bank in Fiscal 1979.

Artists unable to or unwilling to relocate their careers into large metropolitan areas have generally settled through circumstance for lesser careers, minimum recognition nationally, deprivation of the stimulation of their peers and a lessened likelihood of direct financial support through their art work. The Federal Art Bank offers an opportunity to finally do something substantial about this problem.

The Federal Art Bank does not offer a challenge to the system as it exists nor should it however through a focus on the regional, unknown and emerging artist it does promise an expanded opportunity for those artists to receive encouragement through studio visits from peer panelists, direct financial support and recognition from a new entity which would provide increased exposure and an alternative means of developing significant professional credentials.

While all artists are disadvantaged by the established art system women have faced the most persistent career obstacles through it. It is a well known fact that women make up one-half of the population of our country. What isn't so well known is the fact that women make up one-half of the total number of working art professionals as well. This statistic must be searched for rather than observed. For example, a tour of our major galleries and museums might lead one to assume that there are no women artists. I am happy to reassure this committee that there are...and we are alive and well and working all across the country.

Dorothy Gillespie, a well known New York artist, however, was once moved to remark for publication, "It's a miracle that any woman artist in this country past fifty is still working." Consider if you will what led her to say that:

A number of studies made during the past two years show that only 15% of one-person shows in prestige galleries in major cities are for women artists.

One person exhibitions for women make up less than 2% of all shows given for living artists by major museums. Such exhibitions are proven to effect not only the reputations but also the earning potentials of living artists. One of the most startling examples of this statistic has been generated by the Museum of Modern Art in New York City. Of 1000 one-person shows conducted there over the past 43 years only 5 were for women. Another example was to be seen in the federally supported National Collection of Fine Arts, Washington, D.C. in the Fall of 1977, where, in an exhibition entitled, "The Painting and Sculpture of California: The Modern Era only 19 women were represented out of a total of 200 artists.

Most recently--the new East Wing of the National Gallery is exhibiting the work of only 4 women.

The Federal Art Bank by using blind judging for slide review when selecting artists for purchase consideration would be making a significant step forward in achieving equal opportunity for women artists. It has been proven that on direct jurying of art works women's work moves toward equality with the numbers of works by male artists accepted for exhibition. This is a considerable improvement over the 10% to 15% of works by women artists included when exhibitions are by invitation.

The Federal Art Bank has the potential for significantly affecting the increased cultural richness of the entire United States through:

increased exposure to art for the larger population by placing art in public buildings, traveling exhibitions and leasing arrangements with museums, non-profit institutions and corporations.

encouraging and stimulating all artists especially those outside the major art centers.

providing a means for women to achieve a more equal opportunity for establishing reasonable and even significant careers in art.

providing direct financial support for artists through a purchase of their art works and there-by recognizing the contribution of the arts to enriching the cultural life of the United States.

For these reasons the Coalition of Women's Art Organizations supports S.2645. We urge the committee to act to expedite this bill for authorization so that it can be launched for funding in Fiscal 1979. By such action the Human Resources Committee will move to further the cultural richness of the United States by initiating an innovative means for providing support for the artists of the country who are the creative resource for our visual arts.

The CHAIRMAN. This is a most welcome and constructive supplement to your statement, which I read with great appreciation.

In terms of the advisory council approach—including the artists in a council with the director—there is something comparable in both of the Endowments. Each has a council. I am fairly certain that the National Council on the Arts has strong representation of performers and artists. I do not know what the balance is, but the performers themselves are well represented.

It is gratifying to see how much time is contributed by members of the Council on the Arts. I know that Isaac Stern will come to Washington at any time for deliberations with the Endowment. A very, very constructive idea. It appeals to me personally.

Ms. SCHOETTLE. I am glad for that. That was very reassuring. I was fairly confident from your putting forward a bill like that, that a request like that would not fall on deaf ears.

The CHAIRMAN. Yesterday one of the artists described the strength that must be present in the office of the director. This comment produced good humored references to history and strength in addition to some constructive criticism. Someone even suggested to Mr. Bannard that his approach was Napoleonic.

I agree that you can have strength in the director, but we also realize that wise counsel helps the strong leader, too.

Ms. SCHOETTLE. I think that is the point. If I may just refer back to what Miriam was saying, that one of the things that is necessary is the advisory panel, and you must have strength in your director; and, of course, the best person and good administrator—it is going to be hard enough to find, as I think was mentioned yesterday—but this hooks up, really, with the connection of the review panels for deaccessioning or leaving the art bank. Too strong a director could be arbiter of his own personal, or her own personal taste and, therefore, if you did not have panelists that will advise and deal with how work is going to leave the bank, the artists who have in good faith participated and sold their work or leased their work to the bank, you could find out 2 years later that their presence was not welcome. This is where the problem could come in or the danger to careers.

In other words, to be part of an entity that would have a great deal of prestige and credibility, and then all of a sudden to be disinvented, it would be like a second cousin third removed, who cannot quite get into the dinner.

You must protect the artists from ever having to deal with that; because you are talking about support or encouraging and stimulation for careers. We must also protect and defend against the fact that we might damage careers inadvertently and innocently; but a system might be set up that could be potentially hurtful. I think that is what I am really speaking to.

I would like to see the director about 5 feet 8 inches instead of 6 feet 8 inches. Make him or her a little weaker.

The CHAIRMAN. Legislation, most obviously, cannot describe all the details of operation.

We can structure the activity with the legislation and can even breathe the philosophy for guidelines into that legislation, and then, through other ways—reports we can amplify. What we hope will be, and what we, in a sense, direct shall be, come together in full form—

legislation plus all of its history in development, in debates, in the reports, and then, of course, we follow the activity, once it has become a reality. Our responsibility is to follow it.

Ms. SCHOETTLE. I am sure you will do the best for us.

The CHAIRMAN. It was in 1965 that the Federal Government entered into the world of art and the humanities through the National Foundation on the Arts and the Humanities Act. I imagine there was some apprehension then that there might be a heavy-handed Government intervening upon that activity and a consensus of opinion that there should be no heavy hand of Government in dictating the form of art.

There will be those who will wonder whether the art bank could be an opening wedge to some kind of national art form.

You did something unique yesterday when you all gathered together and had a session, a seminar, a rap, or whatever you call it. That is unique for witnesses coming to a congressional hearing, to gather a day in advance to exchange views. I was impressed with that. Most witnesses get off the plane, get in a cab, come here, speak, back into the cab, and back to the airport. They do not talk with their peers. You did it.

As artists do you feel there is any need for concern that the art bank could lead to a national art form?

Ms. SHAPIRO. I think the significant aspect of this whole business is the process, not the objective. I think Ellouise addressed herself to the process. That is really the kind of information we are trying to give here today: if the process is truly democratic, if it indeed reflects the kind of national body that it should reflect. Again, I refer back to Madame Le Moyne's testimony, that was, as far as I was concerned, a very complete description of how jurying should take place.

The most important thing about jurying is that it should be constantly changed; that one group does not get any kind of firm hold on the cultural taste. If it constantly changes, then we will have a good review. I do not think there is anything possible other than a reflection of the culture, not a forming of the culture, but a reflection of it.

Mr. PEARLMAN. Senator Williams, any time Government, local or Federal, is involved in the arts, this is one of the first red flags that is thrown up, be aware of Government interferences. Sitting next to Gilda Ellis from Philadelphia, and my being from Baltimore, we have the first and second cities in the country to have percent for art bills—Philadelphia in 1959, and Baltimore in 1964.

I think in both cases, one of the first criticisms of the concept was that you would have government interference on the local level, and that for this reason, there would be an attempt to have an official kind of art for public buildings. That has not happened. And Gilda informs me that that has not happened in Philadelphia, nor in Baltimore.

I think while it is a natural concern, and the first thing that comes to people's minds—it certainly was brought up in many cases when the National Endowment for the Arts and the National Endowment for the Humanities were brought into existence, the question whether this was going to cause certain people to get grants and others not to get grants, which would then kind of channel the arts in certain areas—I do not think this will happen.

I really do not think it should be a concern.

Ms. ELLIS. In Philadelphia, it was 1952, not 1959, when the new city charter was put in, and there is a commission, very much as Ellouise would call panels, so that while there is a president of the art commission, who would be similar to perhaps a director on the Federal level, that you suggest in the bill, there is a commission, and everything is handled through—I think the commission may have 12 people on it—and there is very good artist representation on that commission.

There have always been three or four artists, and I might add there are always Artists Equity members.

I am glad you are pleased we got together. You must remember, we are all members of Artists Equity, so we do have common bonds.

The CHAIRMAN. Those were just members of the Artists Equity panel that got together yesterday?

Ms. ELLIS. This is the Artists Equity panel.

Ms. SCHOETTLER. I must say we reflect, although we are all members of Artists Equity, that as reflections of the coalition, we do reflect a wider body, and that I have been over the past several weeks, speaking with art organizations across the country which I sincerely hope your committee office has heard from in support of this bill, and some of whom are also Artists Equity members and some of whom are not.

We have that way taken the pulse of a wider scope of the country, and I add that to what Gilda is saying, just to assure you that this is a broader spectrum than one national organization. It is much wider in spectrum than that.

The CHAIRMAN. If there is any history of the creation of Artists Equity, that material would be of interest to us.

Ms. Schoettler. I think Gilda could supply that.

Ms. ELLIS. Artists Equity was founded in 1947.

The CHAIRMAN. We would like to have it for the record.

Ms. ELLIS. For the record; yes.

[The prepared statement of the Artists Equity Association and material referred to follow:]

ARTISTS EQUITY ASSOCIATION TESTIMONY
NATIONAL ART BANK ACT OF 1978

Artists Equity Association, the national organization for professionals in the visual arts, and its affiliate art organizations across the country respectfully request the Senate Committee on Human Resources to consider favorably S. 2645, The National Art Bank Act of 1978, with the following comments and recommendations.

I. Background

Relatively little is known about professional artists as a population in the United States, their age, race, geographic distribution and income. The limited studies which have been done reveal that the majority of visual artists do not earn enough from the sale of their art to support themselves. Many artists are forced to take on one or two collateral jobs. One survey has revealed that the median cost of artists' materials, equipment, and supplies exceeded their median art income, and for artists whose studio is separate from their residence, annual median rental costs exceeded annual median income from art sales.

A major professional problem of American visual artists is the lack of exhibition opportunities. It has been estimated that there are approximately 50 to 100 good artists in the United

States for every available spot in a gallery. American artists in general lack the opportunity for exposure, sale, critical acclaim, and the building of a reputation, and in classic catch-22 fashion, exhibition opportunities are denied to artists who have not already enjoyed some measure of success. For the most part, galleries are unwilling to show an artist who is unknown.

Exhibition of work outside the traditional gallery system by the creation of the National Art Bank would address these problems and provide a means for financial reward and a chance for exposure to the general public for that majority of artists who cannot penetrate the tightly closed traditional gallery system.

In Canada as an alternative to government support of artists through grants, the Canadian Art Bank was established to provide direct financial aid to visual artists. Successfully operating for six years now, last year's revenues for the Art Bank were up 70 percent over the previous years'. The Alaska State Council on the Arts has administered an Art Bank Program since 1975. The program has been an acknowledged success by making works of Alaskan artists available by lease to agencies of the state and to local governments throughout Alaska. The Art Bank has been enthusiastically welcomed by artists who have been given both dollars and a chance for vital exposure.

The federal government currently has programs designed to address some of the needs of visual artists. The most direct source of aid is through individual grants. But this program is severely limited, and the majority of artists who apply for a grant are unsuccessful. The Art Bank represents a viable

alternative to other forms of support for the visual arts and a means to encourage and stimulate artistic creation and provide artists with reward for their contributions to our society.

Stephen Weil, Deputy Director of the Hirshhorn Museum, speaking for himself in the March issue of Art News, stated,

That American artists should, through their own creative efforts, be able to sustain themselves-- and to sustain themselves with greater dignity and more adequate means than many can do today is not merely socially desirable. It is a national necessity. In an environment that increasingly stresses corporate accomplishment and technical skills, the importance of artists becomes correspondingly greater. They are among the last role models we have of free imagination, transcendent aspiration and--above all--individual effort and responsibility. Beside whatever contributions their work can make to our accumulated cultural heritage, artists in their own selves are more than ever vital to maintaining the balance of our national life.

II. Administration of the National Art Bank

One of the unique characteristics of the National Art Bank Act of 1978 is that it mandates what may ultimately be a self-sustaining program within the federal government. In order to achieve this end and yet operate to the benefit of all concerned, Artists Equity recommends that careful consideration be given to enlisting the cooperation, expertise, and resources of already existing federal agencies and programs.

A. The Role of Federal Agencies

1. The Federal Council of the Arts and Humanities

The Federal Council of the Arts and Humanities was established by the National Foundation on the Arts and Humanities Act of 1965. The present role of the Federal Council is to coordinate the activities of the Endowments and to coordinate the art-related activities within the federal government. The current board of directors consists of the chairmen of both Endowments, representatives of the General Services Administration and the Smithsonian Institution with Mrs. Mondale serving as Honorary Chairperson.

Because of the structure of the Federal Council, its role could quickly and economically be expanded to general supervision and coordination of Art Bank activities and the activities of the various federal agencies involved with implementation and administration of Art Bank.

2. National Endowment for the Arts

As the administrator of the largest and most far reaching series of programs for federal support of the arts, the Arts Endowment is uniquely qualified to play a major role in policy formation, selection of artwork, insuring balance and even representation with regard to a number of factors such as region, sex, race, relative degree of success or reputation, medium, price, and so forth. Already existing offices of the National Endowment could be effectively utilized to administer the Art Bank and minimize costs. These would include the Visual Arts

Program, the Federal/State Partnership Program and perhaps others. Because the National Art Bank will be reflective of the overall quality and strength of American art, it is crucial to its success that work be selected which is reflective of the diversity of the work being currently produced and that it represent the best quality possible. The Arts Endowment has already proven abilities demonstrated over its thirteen year history to seek out and foster the best in American art and make it available to the widest possible audience.

3. The National Collection of Fine Arts - Smithsonian

The National Collection of Fine Arts has operated a museum lending program for the works in its collection for over fifty years. Existing resources of the N.C.F.A. which could be effectively utilized for the operation of the Art Bank include: a registry program for the artworks; a computerized locator system; maintenance and conservation facilities. Storage of the artwork should not be a major problem, but planning will be needed to insure that the majority of the work will be in circulation at all times.

4. Smithsonian Institution Traveling Exhibition Services

The SITES Program of the Smithsonian Institution makes exhibits of art, history and technology available by lease to museums and other institutions and has an established program for crating, shipping, installation, and maintenance. The Art Bank could be accommodated into this program without major modification of the SITES system.

5. General Services Administration

The Public Buildings Cooperative Use Act of 1976 (Public Law 94541) mandated the Living Buildings Program of the General Services Administration--a plan to make the 10,000 federal buildings administered by GSA more accessible to taxpayers by setting aside space within the buildings for exhibit halls or meeting spaces. Public Law 94541 will enable the General Services Administration to schedule and circulate exhibits from Art Bank to federal buildings. The General Services Administration would also be responsible for listing art work in the government procurement catalogs to insure that the availability of the art is well known and so that it may be planned for in budget decisions. Art Bank could be incorporated into the Living Buildings Program with little or no major modification.

6. The U.S. State Department, Art in Embassies Program, The International Exhibitions Committee of the American Federation of Arts, the International Association of Art (UNESCO), the International Communications Agency

The Art Bank will provide an innovative vehicle for demonstrating to the world the scope and and quality of American art and culture. The agencies listed above are suggested as those whose resources should be considered for organizing Art Bank exhibits abroad.

B. Selection/Purchase/Lease of Artworks

Similar to the fellowship program at the Arts Endowment and to the Art in Architecture Program of the General Services

NATIONAL ART BANK - ADMINISTRATION

AGENCY	RESPONSIBILITY
Federal Council of the Arts and Humanities	General Supervision Coordination
National Endowment for the Arts	Policy Formation Selection of Artwork Even Representation
National Collection of Fine Arts	Registry, Locator System Loan Program, Maintenance Conservation, Storage
Smithsonian Institution Traveling Exhibition Services	Development of Shows Crating, Shipping, Installation Leasing Program
General Services Administration	Circulation of Artworks to Federal Buildings
State Department International Exhibitions Committee International Association of Art International Communications Agency	Organization of Art Bank Exhibits Abroad

Administration, the initial screening of artworks for the Art Bank would be accomplished by the viewing of slides. Panels of art professionals and artists selected by the Visual Arts Program of the National Endowment will convene to select the artwork. Every effort should be made to select panelists who will insure both the quality and the balance of the collection with regard to regional representation, media, relative success of the artists; and to insure fairness to women and other under-represented groups during the judging procedure and at the same time maintain a regional balance, the slides should be identified by last name and place of residence only. Artists whose work is rejected by any panel may resubmit slides for the next panel. All slides will be returned to the artist at government expense in the event that the work is rejected by the panel. Panels consisting of new jurors will convene at yet to be determined intervals throughout the year. The Director of the Art Bank will insure that the program is well publicized and that all artists are encouraged to submit their slides for review.

All art work will be purchased by the Art Bank at the established fair market value for the work. In the event that an artist or craftsperson is just beginning a career and a fair market value has not yet been established, we would recommend that every effort be made by the Art Bank to arrive at a fair price in concert with the artist.

In the event that an artist does not wish to sell his or her work to the Art Bank, a lease arrangement will be made. A standard form of agreement will be developed guaranteeing the artist in writing that the work will be returned in the

same condition as when it leaves his or her possession and stipulating the government's responsibility for insurance, shipping, and all other costs. The length of the lease is yet to be determined, and Artists Equity does not wish to suggest what the length of the leasing period should be. However, it is important that all works be leased for the same period of time to insure that all artists are given equal exhibition opportunities. Similarly with regard to a dollar amount for the lease of artwork, we would suggest that a uniform policy be adopted: either a fixed fee which would be assigned to work regardless of size, cost of materials and other considerations or a fixed percentage of fair market value.

- C. The Loan of Art Work to Museums and Federal Facilities;
The Leasing of Art Work to State and Local Governments,
Non-profit Organizations and Private Corporations.

As pointed out earlier, both the NCFA and SITES Programs have demonstrated expertise and experience in lending and leasing of artwork. Care should be exercised in determining the leasing fee so that it will be economically feasible for small non-profit institutions across the country to participate in Art Bank. We believe that the major portion of income for the Art Bank should be derived from the sale of artworks and not from the leasing program. The many smaller institutions across the country such as college and university art museums which cannot afford the costs of mounting an art exhibit of quality will not be able to participate in the Art Bank unless the leasing

fee is kept low.

D. Sale of Art Work by the Art Bank

In order for the Art Bank to provide for maximum participation of American artists and in order to insure that the Art Bank does not become a vast and therefore costly repository of work, it will be necessary from time to time to sell works owned by the Bank. Income derived from the sale of works selected wisely on the basis of their appreciation during the length of time they have been held, forecasts and predictions on their future value, and a thorough knowledge of the art market should insure that the Art Bank derives income necessary to offset a portion of its operating costs and at the same time is sensitive to the concerns of the artists whose reputation and market value of their work could be seriously damaged by the federal government's "dumping" of the work that it owns.

All works of art owned by the Art Bank should be held for a minimum of two years. Subsequently, the works should be periodically reviewed for the factors mentioned above and decisions made which will be protective of the interests of the artists and of the Art Bank itself.

It is quite likely that the market value of an artist's work who is not well known to the public and who enjoys only a regional reputation, will rise when the work is selected for purchase by the Art Bank. This will be of substantive help not only to artists selected but also to the Art Bank when the time comes to consider the work for possible sale. The danger exists that conversely there will be a possible devaluation of the work

when it is known that the Art Bank is divesting itself of the work. Perhaps a viable solution is for the Art Bank to determine a reserve price, below which the work will not be sold.

The sales agreement between the artist and the government should clearly stipulate that the artist must be notified in writing prior to the offering of the work for sale, and the artist should be informed at this time of the price and the reserve, so that the artist may at that time consider repurchasing the work.

E. Repurchase of Art by Artists

As stated in the National Art Bank Act of 1978, artists would be permitted to purchase their work back from the Art Bank "after a reasonable time at a price not less than the cost of acquisition plus 50 percentum of any increase in the fair market value of such works."

Artists Equity suggests that the "reasonable period of time" be fixed at the same period (two years was suggested) that the work would have to be held before the Art Bank could evaluate it for possible sale.

The repurchase provision of the bill is protective of the artists' interests, since they may exercise some continuing claim on the work, and at the same time is financially beneficial to both parties. Again based on the reasonable assumption that the work of artists who are not generally known to the public will appreciate when given the distinction of purchase by the federal government, the following example is offered:

An artist sells a painting to the Art Bank for \$1,500.00. After two years, the artist is notified that the painting will be offered for sale for \$3,000. (Its value has doubled while owned by the Art Bank.) If the artist exercises his/her option to repurchase the painting, he or she will pay \$2,250.00, and then in turn it will be possible for the artist to sell the painting for \$3,000 with a profit of \$750 on the transaction. If the artist chooses not to exercise the repurchase option, the Art Bank's gross profit on the sale would be \$1,500.00.

F. Circulation of the Art Exhibits

Artists Equity believes that it is the responsibility of the Director of the Art Bank to insure that the work is accessible to the largest possible viewing audience. One way of insuring this would be to circulate art exhibits in federal buildings across the U.S. Priority should be given to those buildings which are located in areas where art is not easily accessible to the viewing public and away from the major art centers. The same consideration should be given when determining circulation to museums and federal facilities across the country.

III. Summary and Closing Remarks

Artists Equity earnestly recommends that the Art Bank could and should move ahead at this time without the delay of further study. The idea is not new. Canada has operated an Art Bank since 1972, the State of Alaska since 1975. Mexico has had an art lending program for several years and the N.C.F.A. has operated a lending program for over fifty years. As pointed out

earlier in these remarks, there exist agencies and programs of the federal government with the expertise, facilities and resources to effectively administer and implement a National Art Bank.

Guided by the already proven abilities of the National Endowment for the Arts to seek out and foster the best art and make it accessible to the widest possible audience, Artists Equity does not envision that the Art Bank will ultimately be viewed as government interference and/or manipulation of the art market, or as an attempt to establish the government as an arbiter of taste. Quite clearly the Art Bank will encourage a multi-leveled cooperative and mutually beneficial relationship between both the public and the private sector; the sources of art--the artists and their market outlets; and between art itself and the American public in general.

Artists Equity Association, Inc.
3726 Albemarle Street, N.W.
Washington, D.C. 20016

V. Endorsements

This statement as contained above is endorsed by the following arts organizations:

Alabama Art League
 Art Gallery Originals
 Artists Coalition of Texas
 The Artists Committee of Western New York
 Artists Cooperative Gallery, Ltd.
 AEA of New Jersey
 Chicago Artists Coalition
 Artists for Economic Action
 Coalition of Women's Art Organizations
 Craft Professionals of Vermont
 Federation of Modern Painters and Sculptors
 Foundation for the Community of Artists
 Guild of Natural Science Illustrators
 New Organization for the Visual Arts
 Richmond Artists Association
 Union of Rhode Island Artists
 Verde Valley Art Association

Partial list of artists endorsing:

George Rickey	Harold Vogel
Larry Rivers	Richard Anuszkiewicz
Jack Youngerman	Miriam Schapiro
Robert Rauschenberg	Daria Dorosh
Christo	Sandy Gellis
H.C. Westermann	Carol Steen
Harmony Hammond	Roberta Degnore
Alice Neel	Pete Peterson
Jasper Johns	Dorothy Gillespie
Grace Hartigan	
Isabel Bishop	
Richard Florsheim	
Howardena Pindell	
George Segal	
Robert Gwathmey	

Others:

Stephen Weil
 Ira Lowe
 Tad Crawford
 Marcia Weisman

FOUNDATION FOR THE COMMUNITY OF ARTISTS

August 9, 1978

Ms. Gail Rasmussen
 Artists Equity Association, Inc.
 3726 Albemarle Street N.W.
 Washington, D.C. 20016

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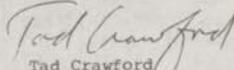
Dear Gail:

The Foundation for the Community of Artists, a national organization concerned with the living and working conditions of artists' lives and having a membership of more than 1,000 professional artists, strongly supports the creation of an art bank for the United States.

The successful Canadian experience with an art bank shows the immense value such an institution would have for working artists and the American public. It would provide a flexible mechanism for the preservation of our living heritage and its transmission from creator to audience. Passage of the art bank bill also provides symbolic affirmation of the value and contribution of artists and art to the quality of life in this country.

We wish you success in the hearings for this important measure.

Sincerely,



Tad Crawford
 Vice President

ARTISTS EQUITY ASSOCIATION, INC.

HISTORY

Artists Equity Association was organized in New York in 1947 by a group of prominent painters and sculptors who were aware that visual artists were the only professionals who had no organized protection or voice in the economics of their occupation. Artists Equity was conceived as a national, nonpolitical, and aesthetically non-partisan organization representing the professional artists of America. Its purpose was to help further the economic interests of its members and give strength and effectiveness to their united professional aims. Artists Equity hoped to achieve for visual artists the professional strength and respect provided by allied creative groups such as Actors Equity, The Author's League, The American Institute of Architects, and similar groups.

In the same year that it was founded, Artists Equity was instrumental in organizing the first Woodstock Art Conference in Woodstock, N.Y., attended by 4,000 professionals in the art world and the prototype for those which would follow. In the postwar years, Artists Equity worked to consolidate artists behind common goals who were often divided into separate aesthetic and stylistic schools, and during those early years also, Artists Equity addressed and defended charges of Communist affiliation which were leveled at painters of the then little understood or appreciated American abstract expressionistic style.

National ethical guidelines were established and model contracts provided to artists which were clearly protective of their interests. Local chapters were established throughout the country and the regional structure organized.

While Artists Equity grew, it received support from not only the arts community but also from those who championed its efforts. Large fund raising balls were held at major New York hotels. Among those who participated were Morey Amsterdam, Johnny Carson, Gypsy Rose Lee, Steve Allen, Robert Merrill, Herb Sheldon, Ben Grauer, Joey Adams, among others.

In 1958, the national organization was incorporated in Minnesota while, the New York Chapter continued as a separate organization--Artists Equity of New York. Shortly thereafter, the national headquarters were moved to Seattle, Washington, and in 1972, the national office was relocated in Washington, D.C., increasing Artists Equity's ability to make the voice of the artist heard both before the Congress and at various federal agencies with responsibility for arts policies and programs.

On the national level, Artists Equity has testified in support of the creation of the National Foundation on the Arts and Humanities, sent representatives abroad to attend UNESCO conferences, and since 1969, has testified on several occasions to protest the inequities in the tax laws as they affect artists, two years ago, because of Artists Equity's efforts, the National Endowment for the Arts has taken a stand against entry fees for

competitive exhibitions.

Artists Equity's present advocacy program includes the creation of a National Art Bank; a mandatory one percent of all federal building allocations reserved for works of art; changes in the Internal Revenue Code which places a disproportionate tax burden on artists with regard to studio deductions, capital gains, and estate taxes of artists' heirs; the reintroduction of a provision which would allow an artist a tax deduction for work donated to museums and other public institutions; a moral rights law which would protect the work of an artist from alteration and destruction; increased funding for the arts from both the public and the private sector.

At the state and local levels Artists Equity has worked both independently and with state arts councils and other institutions to promote change. Recent developments include the passage of California's artists' resale royalties legislation; support for funding of state and local projects through CETA and the Office of Education; the resolution of disputes between member artists and their commissioned buyers--notably the George Sugarman sculpture which had been rejected by a group of federal judges in Baltimore, Maryland. Chapters of Artists Equity have formed cooperatives for the discounted purchase of art supplies; have received grants from foundations and private companies for locally supported projects, educational programs and workshops; have raised funds for the flood disaster relief project in Florence;

have rallied against policies discriminatory to artists; and through the forum of the chapter itself have provided for the exchange of information, ideas and experience.

Services to members include major medical, life and hospital indemnity insurance which are usually unavailable to artists at group rates because they lack the traditional employer-employee relationship; dissemination of information through Artists Equity News and the Legislative Update; a series of "action kits" on topics of concern to visual artists; legal referral services; model contracts.

The goals of Artists Equity Association are contained in the Declaration of Artists Rights. This document has been widely circulated and has received the endorsement of the country's most distinguished artists. Artists Equity believes that through a combined effort, artists can achieve these goals and can improve the climate in which they live and work. Artists Equity Association continues to work vigorously toward that end.

DECLARATION OF ARTISTS' RIGHTS OF THE ARTISTS EQUITY ASSOCIATION (A.E.A.), U.S.A.*

For over thirty years, Artists Equity has represented the best interests of practicing artists throughout the country [U.S.A.] on many significant economic and legal issues. Now, our national Executive Board has adopted this Declaration of Rights to serve as a guide to artists and artists' organizations in developing their own economic and legislative programs. No attempt has been made here to raise all the issues facing artists or to represent every interest of artists. Instead, the following nine problems have been selected and a line of solution has been indicated for each. Artists Equity realizes that many of these proposed solutions can become accepted only if the artists work together in their own behalf.

We urge the immediate acceptance of the following program:

1 Business Practice with Art Dealers

Artists equity has always opposed improper and abusive art dealer practices. Few merchants outside the art world would expect to finance their inventories at the suppliers' expense. When an artist finds it necessary to consign works, thus stocking the dealers gallery, the artist should require proof of full-risk insurance coverage plus full and prompt payment for sold work. Artists should receive a copy of the sales invoice with payment.

2 Freedom of Expression

Artists as citizens of a free society have the right to freedom of expression without fear of government reprisal or censure. Furthermore, artists must be free to exhibit their works for that audience that wishes to see it without the censoring intervention of the state.

3 Guidelines for Juried Exhibitions

Artists Equity is unalterably opposed to artists' bearing the cost of exhibitions in the form of entry fees. Furthermore, Equity expects exhibiting sponsors will provide insurance and adequate security while juried work is in sponsors' possession.

The selection of judges and jurying of exhibitions should be accomplished so that aesthetic considerations are maximized and extraneous biases are minimized. To this end, judging should be done in terms of the work itself. Neither age, sex, religion, nor the race of the artist should be a qualification or deterrent for work submitted to any government supported exhibition. In general, local judges should not be selected because of a possible bias.

4 Clear Documentation of Artworks

Legislation is needed which requires that all works of art and reproductions which somehow resemble works of art, are labeled fully and explicitly. The details of how a multiple was made should be very clear. Too often, an art dealer offers to sell a work of art without stating whether it is a unique work, a handcrafted multiple original, or an inexpensive mass-reproduced copy. The artist and the art-collecting public need protection against misrepresentation and incomplete disclosure of the facts regarding the originality of an art work or any work that seems to be an art work.

5 One Percent for Art in Building

Our urban areas, new and old, need art to lift the spirits of the people who live and work in them, to affirm humanistic values and to individualize the environment. In a culture which too often emphasizes crass or gross values, the need to employ fully the special vision of artists has never been greater. All planners of publicly funded building enterprises should be required to allocate at least one percent of their construction budget to art. Architects engaged in planning privately funded major construction are urged to adopt a similar policy.

6 Artist Representation on Boards of Art Institutions

The art museums, art institutions, and art schools exert a powerful influence over the visibility of the output of contemporary artists. Professional artists, however, have had little influence over the policies and practices of such organizations, despite the artists' potential unique contribution. Artists must join together in insisting on strong representation on the boards of these public institutions, whether supported by government fund or tax-deductible donations.

7 Media Coverage of the Arts

A recent Harris Poll indicates that 89% of the American public believes that the arts are very important to the quality of life in their communities. And yet television, radio, newspaper, and magazine facilities are typically miserly in allocating budgets, staff time, and space to the work of artists. Vastly expanded coverage by the media is urgently needed at the level of both news and features, designed to bring contemporary art to the broader public which has both the need and the right to such materials.

8 Restore Tax Deductions for Artists' Gifts

The present income tax law discriminates against artists. It is not fair that the artists' donations of their work should not be deductible from income tax, while other citizens may deduct the full market value of the same donation, as provided in the 1969 Tax Reform Act.

This law has already cost the American public many major cultural gifts. An important example is the loss of the manuscript library of Igor Stravinsky which was originally destined to be given either to Yale or to the Library of Congress. When Stravinsky learned that the gift of his papers, which were worth more than three and a half million dollars, would bring no tax benefits to his heirs, he changed his bequest so that the collection went to the USSR instead. A major artist often retains important and pivotal works, hoping to make this work available for public viewing and scholarly study at a later date. But the denial of tax benefits to the artist makes such strategies economically unsound. These provisions should be repealed in fairness to artists and to promote the cultural well-being of the public as well.

9 Fair Estate Tax Policies for Artists

In recent years well-established artists have been burdened with a strange estate planning problem, imposed upon them by apparently uninformed and short-sighted Internal Revenue agents. Failing to recognize many of the differences between the art market and the other markets, these tax collectors have demanded (as in the case of the David Smith estate) huge estate tax payments based on inflated appraisal practices and the assumption that a large collection of an artist's work — sometimes a major portion of the artist's life-time creative effort — could be readily and profitably liquidated to satisfy their claim to estate taxes. Confiscatory estate tax policies must be replaced with more evenhanded regulations which provide for taxing of heirs, who can reasonably be expected to pay taxes on a collection only as the works are sold. Unrealistic appraisals and forced liquidation of an artist's estate are not the practices which advance the best interests of the government or the heirs. In a similar fashion, municipalities should not tax unsold works of a living or dead artist as "inventory."

PARTIAL LIST OF ARTISTS SUPPORTING THE A.E.A. DECLARATION

Sigmund Abeles	Bernique Longley
Albert Alcalay	Maurice Loriaux
Harold Altman	Marcia Marcus
Richard Anuszkiewicz	Robert Motherwell
Karel Appel	Mike Nevelson
Ruth Asawa	Kenneth Noland
Will Barnet	Georgia O'Keefe
Billy Al Bengston	Jules Olitski
Elmer Bischoff	Philip Pearlstein
Isabel Bishop	Gabor Peterdi
Nell Blaine	Richard Pousette-Dart
Alfred Blaustein	Rudy Pozzatti
Peter Blume	Mel Ramos
Aaron Bohrod	Robert Rauschenberg
Stanley Boxer	Fred Reichman
Robert Brackman	George Rickey
James Brooks	Larry Rivers
Paul Cadmus	Theodore Roszak
William Calfee	Lucas Samaras
Kenneth Callahan	Fritz Scholder
Jean Charlot	George Segal
Judy Chicago	Paul R. Smith
Christo	Raphael Soyer
Russel Cowles	Theodoros Stamos
Gene Davis	Clyfford Still
Elaine de Kooning	George Sugarman
Edwin Dickinson	Jack Tworok
Richard Diebenkorn	Esteban Vicente
Richard Florsheim	Vaclav Vytlacil
Sam Francis	John Philip Wagner
Antonio Frasconi	Sylvia Wald
Sue Fuller	June Wayne
Ronald H. Goodman	Joyce Weinstein
Chaim Gross	Lee Weiss
Robert Gwathmey	Tom Westermann
Grace Hartigan	H. C. Westermann
Jasper Johns	William T. Wiley
Gyorgy Kepes	Edmund Yaghjian
Jacob Lawrence	Jack Youngerman
Jack Levine	Adja Yunkers
Roy Lichtenstein	

Mr. **MAYER**. This issue of representation has come up. It is an appropriate time for me to acknowledge that my representation here, coming from the west coast, has a dimension beyond the members of Artists Equity Association that I represent, in that my trip has been assisted by the interest and generosity of a number of west coast art collectors.

Your legislation has, indeed, a broad range of support, not just from within the community of visual artists themselves. Additionally, Peter Coyote, chairman of the California Arts Council, asked me to convey to you and the committee, the interest and best wishes of the council.

Tomorrow, I will be reporting on these proceedings to the meeting of the California Arts Council in San Jose. There were some references to what will happen to the artists, as a consequence of this program, and that is a proper concern; and I have, before coming here of course, talked with as many artists as I could on the west coast; and I would like to convey this concern for the issues of deaccessioning the acquired works. In our prepared comments, we have referred to the possibility of utilizing reserve protection with the auctions to insure market values, so that works are not sold below original purchase price.

There is concern there that proper means be established to insure equitable regional representation. It is not insignificant that I am the only individual on this panel that is from an area other than the east coast.

Am I correct in that?

And then there is the concern expressed by a number of artists not represented by galleries, that they be assured equal access to art bank acquisition, and there are mechanisms that might be implemented.

For example, there is a center for the visual arts in Oakland which has a comprehensive slide registry that would have certainly been of interest to regional juries.

I would like to offer a specific recommendation of change or addition to the language of the bill, if I might. It has relation to Artists Equity Association's total legislative program, which is dedicated as expressed in our articles of incorporation to address the ethical and economic needs of artists.

I would like to see language inserted on line 2 of page 3, so that it would read, beginning after the word—after the comma on line 1, would say, “* * * which purchase agreements shall * * *” and then the insertion “* * * reflect the highest ideals of ethical business practice.”

Then going on, “* * * including the right to purchase * * *”, et cetera.

The **CHAIRMAN**. That says more than I understand.

Mr. **MAYER**. If I can offer some tangible indications of what that implies.

I would like to offer for the record, if I may, an agreement that has been developed between the city of Seattle and artists whose artworks are acquired under their art and public buildings program. Part of what this contains are provisions such as, on page 2 of this document, referring to nondestruction, alteration or maintenance; it says:

The city agrees that it will not intentionally destroy, damage, alter, modify, or change the work in any way whatsoever. If any alteration of any kind occurs to the work after it has been finally completed by the artist, whether such change is intentional or accidental and whether done by the city or others, then the work will no longer be represented to be the work of the artist without his/her written

consent. The city agrees to see that the work is properly maintained and protected.

Under "Repairs," it says:

All repairs and restorations which are made during the lifetime of the artist shall have his/her approval. To the extent practical, he/she shall be given the opportunity to accomplish said repairs and restorations at a reasonable fee.

There are other provisions similar to this; and also I would like to offer an agreement that has been developed through the State of California art and public buildings program, which has to do with the purchase of artwork for that program and includes a section beginning on page 5 having to do with tangible and intangible property rights that are reserved to the artist.

I would also just in concluding like to offer—I cannot resist this opportunity because the quotation appealed to me so much because it is so consistent with Artists Equity programs—and this comes from a recent meeting of the California Federation of the Arts, which is also very much interested in this legislation.

At this meeting they had a seminar in California and there are two conclusions that came from this meeting.

It stated that the roots of freedom in a democratic society are anchored firmly in the arts. And the welfare of the arts is directly dependent upon the welfare of the individual artist.

The CHAIRMAN. Excellent. We will include all of that in our record. [The documents referred to follow:]

ARTISTS EQUITY ASSOCIATION, INC.
 NORTHERN CALIFORNIA CHAPTER
 81 LEAVENWORTH ST.
 SAN FRANCISCO, CA 94102
OFFICE COPY

Richard Mayer
 Artists Equity Assoc.
 West Coast Regional Vice President
 27 - 5th Ave.
 San Francisco CA 94118

AGREEMENT BETWEEN THE CITY OF SEATTLE AND ARTIST

THIS AGREEMENT is made by and between the City of Seattle acting through the Seattle Arts Commission, hereinafter referred to as the "City," and the "Arts Commission," respectively, and hereinafter referred to as the "Artist."

WHEREAS, the City is now implementing a public art program as set forth in Ordinance 102210 as amended allocating certain funds for the establishment of artworks in public places and authorizing the Seattle Arts Commission to make payments for the design, execution and placement of works and payments for the support of an artist-selection process; and

WHEREAS, the Seattle Department of Lighting has allocated funds for the selection and purchase of artwork, hereinafter referred to as the "City of Seattle Selects II Project;" and

WHEREAS, the Artist was selected by the City through procedures duly adopted by the City; and

WHEREAS, both parties wish the integrity and clarity of the Artist's ideas and statements in the work to be maintained;

NOW THEREFORE, the parties mutually agree as follows:

1. The Artist has created the following work of art:

Title: _____

Materials: _____

Dimensions: _____

The above work of art shall be referred to as the "Work."

2. The Artist shall sell the Work to the City, subject to the conditions herein, for the price of _____

3. Sales Taxes. Sales taxes shall be payable by the City in addition to the actual final cost set forth above.

4. Notice. A public notice including the Artist's name and mention of the City's ownership shall be publicly displayed and identified with the Work, and shall be paid for by the City.

Agreement: City of Seattle And Artist
Page 2

- ★ 5. Use. The Work shall be properly installed and displayed by the City at a facility frequented by and open to the general public. The Artist shall be notified if the Work is to be relocated, and in any case the Work shall remain in a location frequented by and open to the general public for a minimum of two years from the date of this Agreement.
- ★ 6. Non-destruction/Alteration/Maintenance. The City agrees that it will not intentionally destroy, damage, alter, modify or change the Work in any way whatsoever. If any alteration of any kind occurs to the Work after it has been finally completed by the Artist, whether such change is intentional or accidental and whether done by the City or others, then the Work will no longer be represented to be the Work of the Artist without his/her written consent. The City agrees to see that the Work is properly maintained and protected.
- ★ 7. Repairs. All repairs and restorations which are made during the lifetime of the Artist shall have his/her approval. To the extent practical, he/she shall be given the opportunity to accomplish said repairs and restorations at a reasonable fee.
- ★ 8. Disposition. While recognizing that the City does not currently have the legal mechanism permitting the sale of works of art, the City agrees that if in the future the City does sell the Work, the City shall pay the Artist a sum equal to Fifteen Percent (15%) of the appreciated value of the Work.
9. Waiver. The Artist agrees to notify the City of changes in his/her address and failure to do so shall be deemed a waiver of the Artist's rights in Paragraphs 7 and 8 above.
10. Records. The City agrees to maintain on permanent file a record of this Agreement and of the location, condition and disposition of the Work.
11. Reproduction. The Artist hereby reserves all rights to copy or reproduce the Work, but shall not unreasonably refuse the City permission to reproduce the Work for non-commercial purposes.
12. Possession. The Artist and the City agree that the Artist shall have the right to possession of the Work for a period not to exceed sixty (60) days for the purpose of exhibition of the Work to the public, at no expense to the City. The Artist shall provide proof of sufficient insurance and pre-paid transportation. The Artist shall have such right of possession for one period not to exceed sixty days every five years.
13. Non-discrimination. In carrying out the performance of the services designated above, the Artist shall not discriminate as to race, creed, religion, sex, age, national origin or the presence of any physical, mental or sensory handicap, and the Artist shall comply with the equality of employment opportunity provisions of Seattle Ordinance 101432 as presently existing or hereafter amended.
14. Changes. All changes in this Agreement shall require written agreement signed by all parties.

Agreement - City of Seattle and Artist
Page 3

For Seattle Arts Commission:

John Blaine

Date: _____

For Artist:

Date: _____

Address: _____

Approved: _____
Gordon Vickery
Seattle City Light

Date: _____

OFFICE COPY



Seattle Arts Commission
John Blaine, Executive Secretary

305 Harrison St., Seattle, Wa 98109
~~683-6420~~ (206) 625-4223

ARTISTS EQUITY ASSOCIATION, INC.
NORTHERN CALIFORNIA CHAPTER
81 LEAVENWORTH ST.
SAN FRANCISCO, CA 94102

THIS AGREEMENT, dated _____, 1976, between the City of Seattle, acting by and through the Seattle Arts Commission, hereinafter referred to as "City," and _____, hereinafter referred to as "Artist."

WHEREAS, the City is now implementing a public art program as set forth by Ordinance 102210 as amended allocating certain funds for the establishment of artworks in public places and authorizing the Seattle Arts Commission to make payments for the design, execution and placement of works and payments for the support of an artist-selection process; and

WHEREAS, the Seattle Department of Lighting has allocated funds for the selection and purchase of artwork, hereinafter referred to as the "City of Seattle Selects II Project;" and

WHEREAS, the Artist was selected by the City through procedures duly adopted by the City; and

WHEREAS, both parties wish the integrity and clarity of the Artist's ideas and statements in the work to be maintained;

NOW THEREFORE, the parties mutually agree as follows:

1. The Artist has created the following work of art:

Description or Title: _____

Materials: _____

Dimensions: _____

Purchase Price: _____

The above work of art hereinafter to be referred to as the "Work(s)."

2. The City will acquire the Work(s) from the artist for the purpose of public exhibition from November 5 to November 28, 1976. The City will also acquire the first option to purchase the Work, at the abovementioned purchase price until December 3, 1976. Said option will be exercised by the City by written notice to the artist by November 26, 1976. Said notice will be deemed given as of the date of deposit thereof in the U.S. Mail.

City of Seattle

Wes Uhlman, Mayor

City of Seattle Agreement
Page 2

3. The artists will be required to deliver the Work(s) to the exhibition site at 1601 2nd Avenue, 3rd Floor, on either October 31 from 10:00 a.m. to 4:00 p.m. or November 1 from 10:00 a.m. to 4:00 p.m.
4. Artists shipping works from outside King County must pay shipping costs and ship works at such a time as to assure their arrival on or by October 29. Shipments should be addressed to Tom Peterson, 206 3rd South, Seattle, Washington 98104, 4th Floor. (206) 624-1695. The City will pay the cost of return shipping of works not selected for purchase.
5. Artists will be notified of the jury's selection by mail by November 26, 1976. Works not selected for purchase must be picked up on November 29 from 10:00 a.m. to 4:00 p.m., or 7:00 p.m. to 9:00 p.m.
6. All Works selected for this exhibition will be considered for purchase by the City of Seattle under the 1% for Art program.
7. A handlist of the exhibition will be published by the City and distributed free to the public at the exhibition.
8. All Works in the exhibition will be insured against loss or damage for the duration of the exhibition through the City's policy with the Western Association of Art Museums.
9. Artists are required to submit along with their Work a written statement about the Work.
10. Artists are required to fill out the attached catalogue information sheet.
1. As payment for the Artist's services and to acquire first option to purchase the Work as set forth herein, the City shall pay the Artist the sum of \$50.00 upon receipt of the Work and the written statement and catalogue information sheet.

For Seattle Arts Commission:

John W. Blaine

Date: _____

Date: _____

Address: _____

CATALOGUE SHEET

1. Accession # _____

2. Artist _____
3. Dates b. _____, d. _____, 4. Nationality _____
5. Title/Description _____

6. Signature _____
7. Date _____ 8. Place Executed _____
9. Inscription/Marks _____

10. Medium _____

11. Dimensions:
- | | | | | | | |
|---------|-----------|------------|-----|------------|-----|----------|
| Support | _____ in. | H. X _____ | in. | W. X _____ | in. | d. _____ |
| | _____ cm. | H. X _____ | cm. | W. X _____ | cm. | d. _____ |
| Frame | _____ in. | H. X _____ | in. | W. X _____ | in. | d. _____ |
| | _____ cm. | H. X _____ | cm. | W. X _____ | cm. | d. _____ |
12. Condition _____

13. Remarks _____

14. Definitive Catalogue _____
15. Purchase Price _____
16. Purchase Project _____
17. Exhibitions _____
18. References/Reproductions _____
19. Collections _____

Catalogued By _____ Date _____

V. O. No. _____

Department of General Services

Richard Majer
 ARTISTS EQUITY ASSOCIATION, INC.
 NORTHERN CALIFORNIA CHAPTER
 81 LEAVENWORTH ST.
 SAN FRANCISCO, CA 94102

*Sample*

PROJECT AGREEMENT BETWEEN
 STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
 OFFICE OF THE STATE ARCHITECT
 1500 FIFTH STREET
 SACRAMENTO, CALIFORNIA 95814
 AND ARTIST

THIS AGREEMENT, made on the ____ day of _____, 19__, by and between
 DEPARTMENT OF GENERAL SERVICES, OFFICE OF THE STATE ARCHITECT, hereinafter
 called STATE, and _____

and hereinafter called ARTIST.

STATE OF CALIFORNIA

ARTIST

AUTHORIZED SIGNATURE(S)

BY (AUTHORIZED SIGNATURE)

TITLE

DATED ON ____ SHEETS

ADDRESS

Do Not Write in This Space

AMOUNT OF THIS ESTIMATE	APPROPRIATION		FUND		
	UNENCUMBERED BALANCE	ITEM	CHAPTER	STATUTES	FISCAL YEAR
\$					
\$					
ADJ. INCREASING ENCUMBRANCE	FUNCTION				
\$					
ADJ. DECREASING ENCUMBRANCE	LINE ITEM ALLOTMENT				
\$					
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.			T.B.A. NO.	S.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER			DATE		
I hereby certify that all conditions for exemption set forth in State Administrative Manual Section 1201.13 have been complied with and this document is exempt from review by the Department of Finance.					
SIGNATURE OF OFFICER SIGNING ON BEHALF OF THE AGENCY			DATE		

page no. 2

For the creation, delivery, and installation of a full-scale work of art (Hereinafter called "Work") for placement in a public building, pursuant to the provisions of California Government Code, Title 2, Division 3, of Chapter 2.1, commencing with Section 15813, relating to art in public buildings.

WHEREAS, the Legislature has empowered the State Architect to determine and implement procedures governing competition among artists to select works of art which shall be commissioned for placement in the public buildings of the State of California; and

WHEREAS, Artist has submitted a proposal for consideration by the State; and

WHEREAS, Artist has been selected pursuant to procedures adopted by the State Architect to create, deliver, and install a full-scale work of art for placement in a public building; and

WHEREAS, Artist acknowledges receipt in writing from the State of his/her rights pursuant to Section 15813.5 of the Government Code;

NOW THEREFORE, the above-designated parties do agree:

Page no. 3

1. That Artist shall create a full-scale work of art, which Artist shall install at the _____
(Building)

at _____ in _____
(street address) (town)

a. Artist shall commence creation of the work only upon receipt from State of written notice to proceed.

b. The full-scale Work shall be substantially a replica of the proposal as described in Exhibit "A".

c. Work shall not be moved to the site or installed until Artist has received written approval from the State Architect.

d. If State so elects it may specify the manner in which the work shall be transported to the site.

e. Following delivery of Work, Artist shall install Work at the site in such a manner as State shall approve.

2. All risk of destruction of, or damage to, the Work or any part thereof from any cause whatsoever shall be borne by Artist until delivery, installation and written acceptance of Work by the State Architect.

3. At all times prior to installation and acceptance by State, Artist shall cause Work to be insured in a form acceptable to State, copy of which shall be provided to State, against all risks, with loss if any payable to State as its interests may appear, proceeds to be paid into a Special Fund established for repair and recreation of the Work. The cost of such insurance shall be borne by Artist until the Work has been installed and accepted by the State Architect.

4. Artist shall be bound by the terms of Fair Employment Practises Addendum Standard Form 3, which is attached hereto and forms a part of this agreement.

Page no. 4

5. In the event the Work as installed could pose a risk of damage to the environment, persons or property in the opinion of the State it may require from the Artist submission to, and the approval from the State Architect in writing of a plan regarding the means and methods proposed for meeting such risk prior to installation of the Work. In such event the Work shall be installed pursuant to the approved plan.

6. In consideration of the above described services to be rendered by Artist, State agrees to pay Artist the total sum of \$ _____ in four installments as follows:

30% upon certification by the State Architect that 30% of the total quantum involved to create the Work has been completed or no later than 45 days after submission of the invoice and approval by the State Architect.

30% upon certification by the State Architect that 60% of the total quantum involved to create the Work has been completed or no later than 45 days after submission of the invoice and approval by the State Architect.

30 % upon certification by the State Architect that the Work is completed and ready for delivery and installation or no later than 45 days after submission of the invoice and approval by the State Architect.

10% upon installation and acceptance by the State Architect or no later than 45 days after submission of the invoice and approval by the State Architect.

Page no. 5

Partial payments may be subject to a site visit by the State Architect or manufacturer's verification.

The total amount payable under the agreement shall be \$_____, which constitutes the total obligation of the State under this agreement.

7. TANGIBLE AND INTANGIBLE PROPERTY RIGHTS

a. Artist hereby agrees to exercise the option to:

1) retain ownership of the proposal/drawing/model and all tangible property rights therein,

_____ (Signature of Artist)

or,

2) transfer free of any charge therefor all tangible personal property rights in the proposal/drawing/model to the State for the purposes of permanent display in the public building in which the full-scale Work shall be installed,

_____ (Signature of Artist).

b. Artist hereby retains the following intangible rights with respect to the Work:

1) The right to claim authorship of the Work.

2) The right to reproduce such work of art, including all rights to which the Work may be subject under any copyright laws; provided however that the State shall own and possess such rights to photograph or describe the Work as may be reasonably required to expand public awareness of art.

3) If the Work is to be sold by the State, such sale shall be made to the highest bidder, conditioned on the Work first being offered to the Artist at the bid price.

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4) The right to collect resale royalties upon sale of the Work as specified in Chapter 3 (Commencing with Section 986), Title II, of Part Three, of Division I of the Civil Code.

5) The right to approve or disapprove in advance any manner of artistic alteration of the Work.

All tangible and intangible rights herein granted to the Artist extend to such artist's heirs, assigns, or personal representatives, until after the end of the 20th year following the death of such Artist.

8. Artist warrants by execution of this contract, that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Artist for the purposes of securing business. For breach or violation of this warranty, the State shall in addition to other remedies provided by law, have the right to annul this contract without liability, paying only for the value of work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

9. The Artist warrants by execution of this agreement that he/she is not related to an employee of the California Arts Council or Office of the State Architect nor employed himself/herself by

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the California Arts Council or Office of the State Architect.

10. Artist shall not make any public information release in connection with services performed under this agreement without advance written permission of the State Architect.

11. Artist agrees to indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all persons, firms or corporations furnishing or supplying services or supplies in connection with the Artist's negligent performance of this contract, and from any and all claims and losses accruing or resulting to any person, firms or corporations who may be damaged or injured by Artist in Artist's negligent performance of this contract.

12. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

13. Artist, his/her agents and employees in the performance of this agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.

14. This agreement may be amended by mutual consent of the parties hereto in writing.

15. State has and retains the right and privilege of cancelling, suspending, or abandoning the execution of all or any work in connection with this Agreement for cause, upon written notice to the Artist. The Artist may obtain termination only if the State should substantially fail to perform its responsibilities as provided herein.

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16. In the event of termination, all finished or unfinished work relating to the preparation of the Work shall become the property of the State.

17. Neither the performance of this Agreement, nor any part thereof, nor any monies due or to become due thereunder may be assigned by Artist without the prior written consent and approval of the State.

18. In the event of death or incapacity of the Artist,

_____ (name)

_____ (address)

is designated to complete the Work. Approval for completion of the Work by the designated Artist is withheld by the State until such time as the State and the Designated Artist reach a written agreement. State is in no way obligated to employ the services of the Designated Artist.

19. The death or incapacity of the Artist shall automatically terminate this contract. Neither the Artist nor his/her estate shall have any further right to perform hereunder. State shall pay the Artist's estate or the Artist the compensation payable for any services rendered prior to such termination not heretofore paid reduced by the amount of additional costs which shall be incurred by State by reason of such termination.

20. For purposes of this agreement, the State's liaison shall be the Deputy State Architect. All information, invoices, requests, etc., shall be coordinated through him or his designated representative.

(Include in all contracts of \$60,000 and \$100,000.)

21. Artist hereby agrees to sub-contract for the services of Apprentice(s) as described in Exhibit "B" which is attached hereto and forms a part of this agreement.

Mr. ANUSZKIEWICZ. Would it be too forward for me to ask the question of—realistically, what are the chances for this bill passing and when, if indeed, do you have an idea?

The CHAIRMAN. That is a fair question and I will give you a dogmatic answer.

This bill will pass. The art bank will be created.

And now you ask when. As you know we have to work within our established timeframe. Now, let me back up a moment.

A year ago, I thought we would be able to have this art bank studied, developed in legislative form, digested, discussed, debated, and eventually part of the legislative calendar this year. There were many reasons why that did not come to pass, and most of them had nothing to do with the art bank. A couple of filibusters can throw everything off the track here.

I happened to be in one, not as a filibusterer but filibusteree. That is a total occupation. We were all off the track we had hoped we would be on. But we never like to foreclose opportunities to see miracles happen.

If this Congress stays in session until Christmas Eve, which is not really expected, but has happened in other years, there will be some time for consideration of the proposal in November.

But it would take a return after the elections which could extend through November or into December. That possibility has quickened everybody's senses around here.

Ms. SCHOETTLER. I would like to just clarify or refine, suggest one refinement of terms. It is that this, I think, has been thought of as a bill for artists. I would like to suggest a change in one word, and I think it is coming out of this panel today, that this is an art bank with artists, and I think that puts a much different slant on the whole thing. I do again request respectfully and urge you—I will just lay it on the line—I am personally asking you to request of the Endowment and of GSA that there be consultation with artists as they are directing. They are good about that. There is not a problem. But I think this is an innovation.

Innovations come slowly. Our position as being an art bank with artists would be furthered by requests from the committee and sponsorship of the participation of artists coming from the committee as well. I personally would appreciate it.

I imagine that all the other artists would appreciate that equally.

The CHAIRMAN. I appreciate that. I certainly agree with you.

When you started, I thought you were coming to another point that was made yesterday suggesting that this is a measure with its basic objective to support and to be basically supportive of artists. We should understand that the basic objective here is to bring art to people. That is what it is all about. That idea plus an art bank with artists. If we put that all together, I think we have the foundation for the philosophy that will guide us.

Mr. VOGEL. Senator, I would like to get back to a previous question you had on Government dictating tastes.

I think the American artist is just too bullheaded and too independent to have anybody tell them what to do. I do not think there is any problem there. I think further the director should not be cut down from 6-foot 4 to 5-foot 8. I think he should be scooped up to 10-foot 8 because then he is highly visible. He has to behave.

Ms. BRODSKY. She can, too.

Mr. VOGEL. I am sorry.

I have another item here.

I was looking through the testimony of NEA yesterday and I saw they spent \$8 million from 1967 to 1978. They spent \$8 million on 1,600 visual artists in 47 States. Now, if I divide \$8 million by 1,600 by 11 years, it amounts to \$454.55 each.

The CHAIRMAN. As you know, the bill would allow the art bank to lend or lease works to State and local governments, nonprofit institutions, private corporations, and museums, as well as within the Federal agencies.

Does this idea to have that broad an opportunity for the bank to make its art available impress you as worthy?

Ms. BRODSKY. I think this fits in with the point I was trying to make, yes, and the comment I had.

There are so many different areas of opportunity for exhibit of work beyond Federal buildings alone that would benefit from having these works in those particular places.

One of the things that has come up in the course of the last 25 years in the redevelopment of cities has been the fact that areas that have not been developed in terms of their esthetic possibilities do not work. They fall apart after a period of time.

I think it is urgent to have these things more widely distributed than just through Federal installations. I will come back also to the possibility of gifts from the bank to certain areas that might otherwise not be able to have permanent works of art as being one of the ways of deaccessioning some of the works.

The CHAIRMAN. How would artists feel about that? You mentioned an auction can be a capricious thing from the viewpoint of the artist.

Ms. SCHOETTLER. Mischievous.

Mr. ANUSZKIEWICZ. Auctions—usually prices are much lower in auctions than sale prices. Not very many paintings actually go up in value in auctions.

You have dealers and speculators looking for something for half the price, whatever. It is a bad scene for many artists, since it can be used against the artist when he has set a certain price level for his work; and if a piece of his at auction brings half of the selling price that he normally has, that can be used against him by collectors and by galleries.

So there is a lot to be fearful about auctions.

Ms. BRODSKY. On the other hand, a gift from the bank, the work—

The CHAIRMAN. It will not have this problem.

Ms. BRODSKY. It will not have this problem. It would be considered a prestige thing if the work went to a museum, or went to a municipal building, or were a piece of sculpture installed in a public plaza permanently.

Mr. PERLMAN. On the bottom of page 3—I was previously going to mention this, and since this is the topic now, I think that the last two lines on page 3 might be rewritten to say: “* * * select periodically works from the art bank for donation to American Embassies and/or museums.”

You see, the problem now is, while I can understand the appeal of the present wording to the Senate, because there are not many possibili-

ties of legislation where you get your money back, and I think that is what is suggested here—somebody would say, well, we only have to fund this for 3 years, after which they start selling off their works. They are going to get more than what they paid for it, and it will take care of itself which, as you already know, is not the case.

I think leaving "public auction" in there is a little repulsive to me, but leaving it by itself is even more so; because that suggests the only way you can rid yourself of works of art, as was said, is auctions, which will never bring the price that art bank paid for the work.

On the other hand, you are saying the artist has a prerogative to buy the work back.

There are some works that are going to be purchased where the artist will have passed away after purchasing and the accession. The heirs of the artist will probably not be in a position to buy the work back because they will have a whole room or storehouse full of work. You get back to the same thing, where the artist's work is taken out of the prestigious realm of being in the Government collection and being sold at lower than market value for the heirs to the estate.

This is not just a random possibility. This is a very real possibility.

I think the whole idea of the art auction—well, Artists Equity is opposed to auctions as such—but I think in this case it really should be stricken from the bill.

Ms. SCHAPIRO. You asked about how we felt as artists about the larger dissemination of the work into all the various agencies and so forth. I just want to put in the record a quotation from Phillip Hersty [sic], who said one of the greatest problems that artists have is the problem of storage.

So, how do I feel about it?

I think it is wonderful. I think it is great.

My work right now is in any number of small museums and university collections all over the country, as well as in museums in urban centers. I just feel great about it.

Ms. SCHOETTLER. There is one question I have about that aspect of the bill which has to do with the leasing. It is a very minor thing. I think it will be taken into consideration in regulations and probably will not be addressed in the legislation.

I do think it is valid to raise that in leasing artworks to nonprofit institutions, that will have to be qualified, I believe, in some way, because nonprofit institutions, by their nature—and I represent a nonprofit institution; I know the struggles that we have financially, et cetera—there will be many institutions classified as nonprofit that may or may not be able to afford to lease—schools, small private schools, things of this nature.

It would be certainly unfortunate to not have them have the opportunity to have work from the art bank for financial consideration. We realize that this could be an entity that pays for itself; \$9 million really is not a great amount of money when you consider—I was talking to somebody from California last week who said, "My Lord, we just spent \$3 million for a local overpass," a little small aqueduct thing in their town. So, \$9 million is not a tremendous amount of money for this type of cultural investment.

I think you get the flavor from the panel that artists' concern is in seeing their work out; and there has been talk here this morning about

donations of artworks, giving artwork; we are concerned about people not being restricted from having it because they cannot pay. This is a conflict, I think, between what might be construed or could be misinterpreted, maybe not misunderstood, as business interests of the art bank versus the art or cultural interest. I think there is a wrinkle that just has not quite been ironed out yet. I am sure you will be dealing with that.

The CHAIRMAN. We could benefit greatly here by continuing to learn from you, but time marches on.

We will be in communication.

Ms. SCHOETTLER. Yes.

Ms. ELLIS. Thank you.

The CHAIRMAN. We would still like to count on your ideas.

Thank you very, very much.

Ms. ELLIS. Thank you.

The CHAIRMAN. The next witness is Barbara Fendrick of the Fendrick Art Gallery.

We welcome you.

STATEMENT OF BARBARA FENDRICK, DIRECTOR, FENDRICK ART GALLERY, WASHINGTON, D.C.

Mrs. FENDRICK. Senator Williams, thank you for the opportunity to testify on the proposed art bank. I am the director of the Fendrick Gallery of Washington, D.C., which was established in 1960. We exhibit major contemporary American artists from all over the United States, represent a number of Washington painters, and participate in international art festivals to make American art better known abroad.

As an art lover, collector, and dealer, I consider the national art bank an exciting step forward in the support of the visual arts in America. The bill has some weaknesses that I will discuss later, but the basic concept has much merit.

Jo Ann Lewis pointed out in her Washington Post article on the Canadian Art Bank that the Federal Government has spent millions of dollars on art through a complex system of direct grants, indirect grants, commissions, and so forth. But very little money has been spent buying what artists make—their art. Grants and commissions are important, but sales and visibility in the market place are critical in our society.

Not only has the Government bought very little art, it has borrowed thousands of works from artists and galleries for exhibition overseas without remuneration. I am referring to the art-in-embassies program of the State Department which furnishes our embassies abroad with paintings and prints by American artists. Although this is not specifically mentioned in the bill, this could be another very useful function of the art bank. There is no reason why loans from the art bank have to be limited to institutions in the United States. Every American embassy could be a showcase of American art, and I would hope this would be one of the major purposes of the art bank. The same could apply to the art program of the United States Information Agency, now known as the International Communications Agency, which exhibits American art all over the world.

How could the art bank further the visual arts in the United States? The essential problem of the art market is that there are too few collectors for the large number of skilled artists producing competent work. Every year I must look at the work of 300 to 400 artists who come to my gallery hoping that I will give them a show or at least accept a few pieces on consignment. In addition, I must see the work of several thousands more when I jury in museums and other institutions.

There is no dearth of good art being produced today. On the contrary, we may be living in a golden age if one considers artistic creativity. The problem is simply that only a few people in this country can afford to pay the prices necessary to assure the artist a standard of living above the poverty level. Art continues to be produced by hand, using preindustrial technology, and there is no way that more than perhaps 1 percent of our artists can make a living from their art.

In this situation, any Government initiative that holds promise of enlarging the art market, increasing the small number of art buyers who make the market, and giving more visibility to more artists, is to be commended. Whether or not the art bank will in fact be useful will depend on the basic guidelines laid out in this bill and, of course, on how it is run.

The most serious deficiency of the bill is the scope that it gives the proposed art bank to become a colossus commercial art gallery, competing both with taxpaying businesses and with the artists themselves. Why should a Government agency lease art to private corporations, for example, as is authorized in this bill? This service is already provided by the private sector, both by museums and commercial galleries. For many museums their art rental galleries are important sources of income and serve the purpose of bringing people into their museums.

Why should the proposed art bank sell by public auction or otherwise works in its collection? It is one thing to allow an artist or his estate to buy back his own work if it is no longer needed. It is quite another thing for a public institution to dump on the market for whatever the traffic will bear the work of artists who may be out of favor. This provision suggests a real misunderstanding of how the art market works and could give tremendous power to some vindictive bureaucrat.

Finally, I would like to see some recognition in the bill of the importance of maintaining the present artist gallery system. I am not here to extol the role of art dealers or to support the status quo in the art market. But the present system, for all its shortcomings, is the only one we have. It provides a livelihood to thousands of American artists and gives the American art market a vitality unmatched anywhere else in the world. It would be a sorry day indeed for American art if Government employees could decide what art should be bought, from whom, and at what price.

The bill needs a section defining the role of the private sector in the management of the proposed art bank. The use of private collectors, art dealers, and museum curators for their expertise in selecting the art to be purchased should be affirmed. The bank director should be advised by a committee representing the private art community, again including collectors, dealers, and curators, as well as artists. The bill

should state explicitly that the proposed art bank will not compete with commercial art galleries.

Such changes in the bill should help ease whatever fears may exist in the art community with regard to the proposed art bank. It could be an exciting innovation in government support for the arts. I hope the bill will obtain much support. Thank you again, Mr. Chairman, for this opportunity of speaking.

The CHAIRMAN. We thank you very much, Mrs. Fendrick, for your contribution to our deliberations in perfecting this proposal for final legislative processing.

Let me ask you, do you believe that by identifying emerging or unrecognized artists through the jury selection mechanism proposed here in this program, that the art bank would be performing a positive service for art dealers?

Mrs. FENDRICK. Yes, I do, because, at least personally, I spend a great deal of time tracking around the United States looking for artists, other than those that come to me. I would assume that would be a filtered process by which I would have an opportunity of seeing the best that has already been juried, and by, say, a regional area. I believe very strongly this would be a terrific benefit to art dealers. Then we would not have to hotfoot it around quite so much.

The CHAIRMAN. But you have suggested there are problems for the artist-dealer mechanism in this bill. Basically, is the problem in the method of handling the art that has been on display, and for one reason or another is leaving the art bank? Is the resale of art work the critical point where you feel that problems could be caused for the artist-dealer mechanisms?

Mrs. FENDRICK. Yes, I believe it could, because what is very important is maintaining the reputation of an artist. One of the ways of doing that is by being very careful that nothing happens to his pricing and keeping a status quo. The previous artists spoke and were very vehement about selling by auction. I am also very opposed to that. The idea of giving away a work of art to a hospital or something like that would never damage the artist's reputation. The concern of a gallery is always maintaining the reputation of an artist in every aspect. So nobody wants to see art dumped on the market in the grandeur which I think this bill envisages.

The CHAIRMAN. What would be the market if there were an auction? Would there not be the dealers that would make the market?

Mrs. FENDRICK. No, not necessarily. It also depends where it would be held. All of these things have to be solved, I do not believe, like the Library of Congress gives away its books. I believe the sale should be a definitive thing where the works of art would be kept sort of in trust over a period of time.

One of the earlier gentlemen spoke about selling the works for very little. I am really very, very opposed to the idea of an auction. These things should be kept in trust like WPA works and never placed back on the marketplace.

The CHAIRMAN. Of course the handling of the WPA program was sad indeed, because art works often were not properly cared for and preserved.

Mrs. FENDRICK. This is what is of concern. Taste in art does change. It changes by generation, changes by decades. Apparently in America it changes very rapidly.

Everyone is concerned about the idea. Unless it is done again by a jury-deaccessioning committee, that one person would have the right to say we do not like Mr. X's work anymore, therefore let us get rid of it. That will hurt his reputation, and I think hurt all art sales. What you really want is to create art buyers, other than the art bank, by exhibiting works of art throughout the United States, and by lending—maybe, say, put them in the post office. Always look for the place where the majority of Americans go during their daily work, and expose more people to art. The more people that are exposed to art, the more potential art buyers there are going to be. I started out this way. I put the first exhibition of American art in the State Department. There was 7,000 employees there of whom probably very few ever saw artwork in their life. And 3 years in a row I was invited back to exhibit, and show original American prints, the best of the original American prints in the early sixties.

That was a terrific benefit to all the people who came to look. People actually remember me from those exhibitions that I mounted at the State Department. We did the same thing at the Federal Reserve Building here in town. We set up exhibitions at the Arena Stage. In other words, one of the reasons I went into business was the desire to take art where the people are, and that could be one of the purposes of the art bank.

The CHAIRMAN. Maybe you touched on this, but a very persuasive viewpoint came to us that the art bank director should have an advisory council. I meant to pursue that a little further. An advisory council would be there in connection with the acquisition of art. But should there be another advisory council for the later distribution of art? Maybe people with talents in one area would not be best equipped to advise on how the distribution of art should be for the bank.

Is the art dealer an integral part, in your judgment, of necessary advice and counsel to the art bank director?

Mrs. FENDRICK. I would feel very unhappy if no art dealers were ever invited to participate on such panels. After all, this is where our expertise is supposed to lie. It is the training of our eyes to select what we consider to be outstanding, and the fact that many of us are asked to participate in jurying exhibitions, have major jurying shows around the United States. We are invited for our eye and not because of some system for which we stand.

I believe we probably, as a group, have as good an eye for collecting art as any other group in the country. After all, that is our profession. I would hope art dealers would be invited to participate.

The CHAIRMAN. Thank you.

Mrs. FENDRICK. Thank you.

The CHAIRMAN. Our next witnesses are a panel of museum officials: Tom Messer, who has been introduced by Senator Javits; Peter Marzio, Jane Livingston, Leah Phyfer Slosberg.

I am glad to see the Guggenheim director here, the director of the Corcoran Art Gallery, the curator of the Corcoran Gallery of Art, and the director of the New Jersey State Museum, which I enjoy so much.

Mr. Messer, you were introduced earlier by Senator Javits. Why don't you start this panel, please.

STATEMENT OF THOMAS M. MESSER, DIRECTOR OF SOLOMON R. GUGGENHEIM MUSEUM; PETER MARZIO, DIRECTOR OF CORCORAN GALLERY OF ART; JANE LIVINGSTON, ASSOCIATE DIRECTOR OF CORCORAN GALLERY OF ART; AND LEAH PHYFER SLOSHBERG, DIRECTOR OF NEW JERSEY STATE MUSEUM, A PANEL

Mr. MESSER. I hope I may be allowed to speak from notes. We talked about this last night at some length. The issues have become more alive. I think it would be more useful to you if I could speak extemporaneously.

Let me say at the outset, I understand the premise for the bill to be one that assumes art, presumably good art, is desirable for many people to see and to be exposed to. And the bill as proposed is a program furthering this particular end. It is not a unique program. Many such efforts are taking place in the private sector, some of which are supported by Government funds. The art bill as proposed has the capacity to deepen and magnify this particular objective, to show good art to people throughout the land. It is difficult to see how anyone would not be in agreement with such a purpose. I certainly am. The question is how this is to be achieved, by whom it is likely to be carried out specifically, and to what specific ends such a program may lead.

Let me try to differentiate between the various beneficiaries of the program. In the first instance it would be the living American artist. The art bank would mean for many artists, an additional outlet, an increase of their market range.

The dealer of course is an incidental beneficiary in partnership with the artists.

The second major beneficiary category is simply the recipient site; whether this went to a building or an office, public or private, it would enrich the site itself, whether on a permanent or temporary basis, and would embellish the particular situation.

Third, and perhaps most importantly, the program could and should represent a benefit for the people, for the public. It should result in enjoyment, and edification through exposure.

Now these three beneficiaries have to be carefully harmonized. What is good for one is not necessarily to the same degree good for the other. Producer, consumer, and middleman relations have to be taken into consideration. Edification is contingent upon the excellence of the presentation; the excellence of choice as well as the excellence of procedures that make these works of art available in a meaningful context.

It is, therefore, of very great importance not only to have people who know how to select, and who have sturdy notions about excellence in art—a very difficult concept—but that the program be operated by individuals who are knowledgeable about the uses of this art, who have clear notions about what a particular work can or cannot achieve in a particular site in a particular situation.

Underlying such capacities must be a sense of responsibility for the work of art itself. It has been stated by artists primarily, and I think very correctly, that the ultimate destination of their work beyond the program is of very great importance. Unlike most items that government or institutions in general deal with, a work of art is a permanent

presence. It is not self-liquidating. Once sent into the world, it remains the responsibility of those who have assumed auspices over the work itself and over the program. So that the use, the proper use within the proper context, the ultimate destiny of the work of art, and the awareness that there is a value here which is not ever going to, or should not ever disappear from our awareness and from our responsibility, is very important.

So the question is, who is capable of doing this? Who is likely to bring this proposal to a successful consummation?

Let me try to distinguish. In the question of the overall auspices—the organization in whose name this should be carried out—there is the problem of establishing rational and effective selection policies. It is not enough to say that one should select good works of art. This is too broad a mandate. Good is relative in this respect and has to be adjusted to the particular situation. So the selection policy is something that must be in the hands of a group of people, preferably a changing group of people who will always consider the fundamental aspects as well as the changing dimensions of this problem. Besides the formulation of selection policies, then there is the question of the actual selecting agent and who appoints him.

Next in line is the need of developing presentation policies, setting up a network, and an organizational system within which the art bank could usefully and effectively function. Partly this is conceptual, partly this is procedural. To give you just some distinction between the two, on the procedural side, there are highly complex and technical questions. They involve the packing, the shipping, the scheduling of works of art, their insurance, the installation, the preservation and sheltering against damage, the restoration of a work of art if damage occurs, the sensible placement within a sensible context, loans, gifts, sales, catalogs. There is a very large range of issues which I hope would not, for this occasion, be left to whomever is charged with the administration of such a program but would be handled by people who have demonstrated ability to do so. I agree fully that the artist should be very much a part of this, because after all is said and done, it is his issue and her expression and certainly the artist is the conscience of such a program.

I certainly would identify myself with the notion that the National Endowment of the Arts is the appropriate agency under whose auspices it should be carried. I would state from my knowledge of the operation of NEA, and I speak here as a former panelist of the museum program, that NEA is exceedingly well suited for the conceptualization of that process, for the definition of selection procedures, and for appointment of selection agents.

As you know, NEA relies on individuals from the professions who serve on rotating panels, meaning that policies have continuity, while taste and, in particular, predilections change for people who substitute for each other. I have no question but that NEA is the agency which would certainly have the confidence of the museum profession to do this. At the same time I am not at all certain, to put it mildly, that NEA, as presently constituted, can operate such a program. I think there is a great difference between funding and setting it up on the one hand, and carrying through the operation, which I tried to sketch out by pointing to some of the areas that are necessary to control. For

this I think you do need a group of people who are habitually doing such things, who are knowledgeable in the placement, in the circulation of exhibitions, and who carry out the general policies established on the top. I do not know of a Government agency who has proved its ability to do this sort of thing, and the agency that comes to my mind as most likely to succeed in this is the American Federation of Art, which was created in 1909 by Elihu Root, which for decades has been placing traveling exhibitions and has been in charge of such logistical tasks as are inherent in this problem.

By way of closing I mention one or two problems, just to indicate the range of the issue. These are merely examples, because there are actually scores of unresolved problems in the bill as it now stands. The scope of this whole program, simply in numbers of works of art, could become quite staggering in a short time. It seems to me, without having been able to analyze this, that the limitation of a quarter million dollars for administrative costs annually may be much too low. If \$4 million are spent for works of art, and if we do not limit this to a maximum allowable number of \$23,000 per work, it is likely that in a short time thousands of works of art will be in the custody of the agency in charge of this.

The Guggenheim Museum has a collection of less than 5,000 works that are statically printed more or less within control of the premises. The annual cost to the Guggenheim Museum is \$2.5 million. I am not suggesting the situation is identical. It seems to me very wrong if comparisons of that kind are invited, but I think this figure is up for study.

I would like to say, therefore, that while I am very much in favor of this, it seems to me that it does need technical, close and professional study before it is launched, a study that would require, take several months, which might be helped by a study grant from NEA or some such agency. And that would guard you and all of us against a situation in which a good and desirable and vulnerable idea would suffer a setback.

Thank you.

The CHAIRMAN. Would you describe the American Federation of the Arts?

Mr. MESSER. The American Federation of the Arts, abbreviation, AFA, is what I would call a cultural transmission belt which has in the past decades made as its main concern organizing traveling exhibitions. It puts together works of art where they can be found in museum collections, in private collections, arranges them in exhibition form, establishes schedules throughout the country, and in some instances abroad; sends these things under controlled circumstances, usually to museums and art centers, but perhaps also to other recipients.

The CHAIRMAN. Who are the members of the American Federation?

Mr. MESSER. The American Federation of Arts has two kinds of members: charter members who are mostly museums and art centers throughout the country. There are perhaps a thousand of those; and individual members who are typically lay people or professional members of the art world. There are collectors, and critics and writers on the one hand, and there are museum directors and curators and artists on the other hand. Out of those are chosen a board of trustees,

which are assigned responsibility for policies and procedures of the federation.

The CHAIRMAN. Ms. Slosberg.

Ms. SLOSHBERG. The primary benefit of a national art bank would be its support of living American artists and the public's greater accessibility to the works they create. Both results are badly needed in our national cultural scene.

Few American artists can support themselves by selling their works because even though as a culture we speak of art for everyone, this is not the case, and the acquisition of original art is still the province of museums and of our economic elite. The placement of contemporary art in the work place would assist in breaking down this cultural barrier. The primary benefits that I initially mentioned would be realized immediately. More important, however, is that our visual arts could begin to be homogenized into our cultural makeup.

In speaking to the specifics of the proposed legislation, I would like to call to your attention several operational administrative directives that I feel must occur if the agency is to fulfill its ideological purposes.

First, in selecting the works for inclusion in the national art bank, administrative measures must be established to give consideration to artists not represented in the major market places. Many talented and competent artists are teaching and working in jobs that militate against their establishing such market context. However, local markets never develop for them because of the false values placed on having a New York dealer. Recognition by acquisition into a national art bank could do something to correct the situation.

Second, in the use of the collection of the National Art Bank, administrative measures must be established to insure that priority be given to placing works in areas of the greatest worker-public accessibility. This will necessitate that forms for display be made available in keeping with good security standards and with good conservation care standards. Also, funding must be provided for the educational component of this use.

I agree with Mr. Messer that \$250,000 administrative funding is really quite unrealistic.

Third, in the area of updating and maintaining the collection as a collection of contemporary American art, consideration should be given to making works to be cycled out available to museums, either because they have become too valuable, too fragile, or because the artist has died. The development of such a component in the program could make a logical conclusion to the cycle.

As an added comment to my testimony, I would like to say that the New Jersey State Museum has operated a State offices loan program for about 5 years now, and the value that the government employees place on having art in the workplace is surprising. We experienced first in placing works in the workplace derisive comments. They sometimes did not like contemporary art. But when we would go to exchange it or remove it, it was like leavetaking from old friends.

The CHAIRMAN. Very interesting. How large a program do you have in New Jersey, lending to State buildings and State offices?

Ms. SLOSHBERG. Beg pardon?

The CHAIRMAN. How much of a program do you have?

Ms. SLOSHBERG. I would say we have about 300 works out on loan now to State offices. It is a strain. We do it even though it is terribly underfunded. I am not pleading for money. I do that in other halls.

The CHAIRMAN. What kind of rotation do you have?

Ms. SLOSHBERG. We like to leave a work in a location for 1 year. That is a long time, but it is long enough for people to get emotional attachment for it. I think if we left it there any longer, we really might not get it back.

The CHAIRMAN. How does your acquisition program operate?

Ms. SLOSHBERG. Well, these works are taken from our regular collection. They are acquired by gifts from the private sector and by purchases which are made with funds, both from the private and the public sector. We have not experienced any adverse comments on lending works to these public places that have been given to us by the private sector. That criticism has never surfaced. I am very pleased to see that people who have made a donation to a museum in the form of a work of art do not object to this use, because I think it is a good use for a work of art.

The CHAIRMAN. Great. Thank you very much.

Ms. LIVINGSTON. I did prepare a short statement, shortly after hearing about the introduction of this bill.

The CHAIRMAN. Excuse me for interrupting, but does anybody have a time problem?

I would like to recess to go to the floor for a vote for 15 minutes.

[Short recess.]

The CHAIRMAN. With some reluctance, I say the recess is at an end. I have never seen a gathering for testimony at a hearing where recesses brought forth so much interplay that looks exciting to me. You all have a lot to talk to each other about.

We will now return to our statements.

Ms. LIVINGSTON. I did prepare a statement very hastily. It has the virtue of being brief and also is very general. Rather than make a more elaborate statement at this time, which I think is called for, given a great many of the interesting details which have come out, I will briefly paraphrase and read this with few modifications. It does reflect, I think, my basic, initial reaction; and most of the main points I would still feel are the ones that seem to me important, but I would like to refine the discussion of some of our points.

The CHAIRMAN. Is there a longer statement for our record?

Ms. LIVINGSTON. No, this is the short one.

The CHAIRMAN. Do you have a longer one prepared that you would like to include?

Ms. LIVINGSTON. Not necessarily.

I feel that the basic idea of a Federal art bank, with its implication of increased government support of living American artists, is in principle eminently to be commended.

The program's uniqueness vis-a-vis other U.S. Government-supported arts programs, in my view, needs to be clearly established, both in the perception of the various professional groups involved, and even more important, in the perception of the American public.

In carrying out the art bank selection process, two factors should be continually emphasized. First, there should be an insistence that the art works are of the highest quality. I will go so far as to say the criterion

ion for quality would ideally be that based upon standards set by the museum profession. Second, these programs should represent great diversity in terms of style, media, and geographic representation. I would hope artists of all ages and various stages in their careers would be represented.

The selection process might, as has been suggested, be carried out by rotating panels comprising artists and curatorial professionals under the aegis of the National Endowment of the Arts. It has been pointed out that the administration then of the gathering and dispersal and circulation of works probably would be best undertaken by another agency. In my original statement I suggested General Services Administration. I would think this question needs much more study. I think also that the provisions for the possible reacquisition of future works of art by artists or others needs careful study. It seems to me important that American art works belonging to the public, that is owned by the national art bank, should thoroughly represent the entire Nation. That is not as easily done as said. I think Darby Bannard addressed this point very interestingly yesterday.

I would urge the art bank to make every effort to actively show and circulate its works, rather than to allow things to languish in dead storage, which could happen without anyone realizing it.

A few points by way of qualification.

First, I think that a very well-structured approach to the selection, whether by rotating panels or whatever, needs to be established at the beginning. I think the program could fail miserably without such a well-structured approach.

It is very easy to do things on a piecemeal and ad hoc way.

The state of visual arts in America is immensely complex, and really vast in America, so that one would need some kind of policy that insures coherence in the selection process. There are various things that could be done to help this. Exhibitions could be organized or groups of works based on various premises, whether geographic or by medium. I think it would assist immensely in the sort of basic structure and coherence of the formation of a large art bank.

I would also suggest that—this is rather a fine point—but the maximum amount allowed for the purchase of a single work of art be not \$25,000 but rather perhaps \$75,000 or more. I think if one uses \$25,000 as the figure, you automatically from the outset exclude a great number of very many key American artists, artists as de Kooning, for example. Even a very small work of art on paper would be impossible to acquire for that figure, much less a major painting. Perhaps however you could limit the number of works over \$50,000 in a given year, so you would still have a large allowance for less expensive works of art. I think that is important.

Also I want to emphasize again, as many others have done, that the art bank must be very concerned with the proper care of its works in terms of storage and handling and conservation, insurance and documentation, all of which are themselves a very intricate profession, and the intricacy and complexity of this is not as easily recognized by people outside the profession. I think the input of museum professionals in this is critical, and maybe even museums themselves in terms of physical use of their plants, but I would not want to put an additional burden on museums to do this without compensation from the art bank

itself. Museums are already very burdened, and in many cases they have terrible storage problems. To increase that would be very counter-productive.

Finally, I would want to stress that I think it is terribly important that the art bank, if it is instituted, be an entirely new art program, supplemental to other already existing programs under the National Endowment for the Arts and Humanities, and other Government arts agencies. I would see a slight danger in perhaps robbing Peter to pay Paul in this. I would very much urge it be a new appropriation.

I think for now that is all I want to say.

The CHAIRMAN. Excellent. Thank you very much.

Now, Mr. MARZIO.

MR. MARZIO. First of all, as a former resident of New Jersey for 22 years—

The CHAIRMAN. I do not like that "former." [Laughter.]

MR. MARZIO. My comments more or less follow Jane Livingston's comments. I support what she has said. I would like to add a few of my own points; namely, the art bank is, in my mind, fundamentally a good idea. Its purpose, as outlined in section 2 of Senate bill 2645, has deep philosophical precedents. Making fine art as public and as democratic as possible has been an explicit goal for Americans since the 1830's.

In this brief statement I cannot explain the details of the art bank as I envision it, but I do wish to make one main point. Namely, that a truly vital, responsive, up-to-date, and fair art bank should be a combined public and private activity. A troika made up of the Government Services Administration, the National Endowment for the Arts, and 10 or so regionally oriented private/public museums would provide a combination of solid funding, clear ownership, fair purchasing and distribution, professional fine art standards, and sensitivity to local needs.

The National Endowment for the Arts would supervise the purchase of art. The Government Services Administration would oversee the problems of storage, transportation, and insurance. The private/public museums would provide their knowledge of fine art and local taste to help NEA purchase and distribute the art; and also advise GSA on the very important issue of proper storage and care.

I wish to emphasize that urban and regional museums are run by professionals who understand their audiences. Any Federal art program should, in my opinion, include the experience and knowledge in its programs which is to be found in these private/public museums.

Ideally, the art works should be stored in the regional museums, but most institutions' facilities are already overcrowded. Professional art storage, then, should be sought under the supervision of the regional museum. Art demands personal attention and supervision. The precedent set during the WPA years should have taught us that too much government art goes to wrack and ruin too quickly. The impersonality of most government projects is not compatible with fine art demands.

To repeat—an art bank which is an imaginative administrative mix of public and private strengths will avoid the very real danger of becoming too fickle because of political pressure and too paralyzed because of heavy bureaucracy. A public and private program will automatically have built-in checks and balances. Most importantly, it

will genuinely serve the American people by placing the finest of America's recent art works into public places. It would be the attainment of an 140-year-old American ideal.

Although these comments are brief, I would be happy to provide greater detail at your request.

The CHAIRMAN. Thank you very much.

We will start with questioning prompted by your statement. Your formal statement notes the need to insure that the inventory of the art bank be properly stored, inventoried, and insured. You cite the example of the WPA arts project. The WPA program and its successor, the Federal Art Project, helped to sustain and nurture such artists as Pollock, Shahn, and many others. Regrettably, some of that work has been lost to our society. Could you detail the problems of storage, inventory, display in the WPA, and FAP programs, which the art bank program should seek to avoid?

Mr. MARZIO. The major focus in terms of the funding and excitement, the glamor, the publicity that went with WPA activity was putting artists to work. And I think to that extent the legacy it left in America was tremendous. It provided a phenomenal injection of encouragement into American art, and we are still benefiting from that input.

The program, as I understand it, and it has been some time since I have looked at the material, did not with equal enthusiasm go about the problem of how to protect the works once they had been constructed, once they had been created, nor did it deal with very simple elements of what sort of light is on the work of art. Will it survive in the environment in which it has been placed?

We all know that as buildings have grown old, whether they exhibit/display murals, paintings, or statues, there is no one any longer who feels a sense of responsibility toward them. If there are, we have had to revive an interest in them.

My main point is that in the WPA attitude, all of which was very positive, very uplifting and beneficial, we did not build in the safeguard for the maintenance of those works, once they had been created.

Mr. Messer made, I think, the key point; namely, that a work of art is like a living thing. It needs constant attention and care, and the minute you stop tending to it, it begins to die. And it is not like a desk, it is not like a filing cabinet which can go in a warehouse somewhere and stay there for a long time or just be kicked around in an office. It is something that must always be looked at. I guess my main point is that I would deeply hope that the art bank would use the tremendous expertise which already exists and which to some extent the government has made possible by its support through NEA and NEH to seek the advice of the people whose job it is to care for works of art.

So if my regional museum idea were accepted, with central depots in maybe 10 areas in the country, I could easily see how museum "X" in the Northwest might for a 5-year period be under contract to the Federal Government to be caretaker for works of art related to the art bank program.

If that particular museum did not have its own physical plant to house the works of art, they would have to find some commercial storage, and there would have to be sufficient elements in the program

so that from time to time it would be that museum's responsibility to send out curator "X", or expert "B", or whoever, to check on the placement of works of art, to see that the environment in which the works were placed did not hurt those works of art.

That is my main concern in that part of my proposal.

The CHAIRMAN. Again, ours is in part a technical problem, how much detail we can legislate, and how much we can talk about and make a record on, and then leave to administration a lot of these things which most properly would be in the realm of wise administration of the art bank program.

What role do all of you see for the art bank in augmenting the art display programs in private and public museum collections? I guess all of you can amplify on that a bit.

Ms. LIVINGSTON. In augmenting, you mean degree of art in society generally?

The CHAIRMAN. Yes.

Ms. LIVINGSTON. I do think that the knowledge of simply being surrounded in public places by contemporary works of art excites all of us. Even in the space in which we are sitting right now one could imagine a very different kind of environment, and a very interesting kind of environment, existing, were there to be certain objects on the walls which do not exist.

I think that the first and most obvious consideration is that public places which now are perhaps even oppressive can be humanized by the presence of works of art. Everyone seems to be very much helped in that process.

I myself am a little confused and would like comments about the part of the bill which suggests that museums themselves are recipients of works of art under the art bank. I do not quite know whether I feel that is necessarily desirable or quite why it is there. It seems that the initial idea is to get art to places where it does not already exist, and I am wondering about that.

Mr. MESSER. May I add something to this, Senator? I agree with Jane Livingston, I think it is a mistake to think of the art bank as a museum program. I think museums will support this out of their sense of solidarity with the artist on the one hand, and because it is a good complementary, essentially extra institutional addition to what exists.

But it is important to point out that an accumulation of works does not constitute a collection, let alone an exhibition. The fact that some works are gathered somewhere does not yet make them suitable as an exhibition feature. They are perhaps raw material for exhibition features, but there are many other sources upon which museums can draw, and I do not think that the museum professional considers this an important source for their own program. It should be kept in mind that if this is done, it should be thought of as a general art program, and in no sense accrue to the credit that art museums are claiming.

In other words, it would be detrimental from our point of view if funds allocated for this were considered to be part of the museum support that we have been receiving from the National Endowment in the past. I just do not think that it has a direct benefit for a great number of museums throughout the country. It may help some very small art centers perhaps. But museums, as we know, are concerned with many other things, perhaps than contemporary American art. They tend to have very distinct profiles. They know what they need

and what they want. They are not going to benefit from a more or less mechanical enrichment of their art supplies.

The CHAIRMAN. As currently drafted, the art bank bill specifically mentions museums as possible recipients of art works loaned by the art bank.

Mr. MESSER. I think the emphasis is misplaced.

The CHAIRMAN. I see. I am glad you raise this.

Ms. SLOSHBERG. I agree with Mr. Messer. However, I think that there are larger numbers of smaller museums and art centers than one might first perceive, that would be interested in the program. I think university and college museums would welcome the use of this type of program, too. The large museums, no. They really do not need it.

The CHAIRMAN. Thank you so much. Most helpful.

Mr. MESSER. Thank you.

[The prepared statements of Mr. Messer and Ms. Livingston follow:]

Statement of

Thomas Messer, Director

The Solomon R. Guggenheim Museum

New York, New York

before the

Committee on Human Resources

United States Senate

on

S.2645

a bill to establish a

National Art Bank

August 23, 1978

I am Thomas M. Messer, director of the Solomon R. Guggenheim Museum, New York, during the past seventeen years. I have served as President of the Association of Art Museum Directors. As well as on various government panels including the National Endowment for the Arts, The Internal Revenue Service, and others. During the past two and one half years, I have chaired the Quasi official International Exhibitions Committee which, with the support of the two Endowments, advises on U.S. art representation abroad.

I have to state that while I have familerized myself with Bill S2645, created to establish an Art Bank, I did not have a chance to discuss its' provisions in detail with those concerned.

As I understand S2645 I believe it to be feasible, distinctly helpful to living American Artists, the recipient premises, and to the general public. I therefore identify myself with its overall purpose and certainly would work with conviction toward its' passage. The proposal is procedurally complex and in need of careful analysis and definition. It seems altogether fitting to me that the program should be placed under the umbrella of the National Endowment for the Arts, which as presently constituted, is well equipped to assume general responsibility for it. On the other hand, N.E.A. as presently constituted does not appear to be able to carry through the program in its administration and logistical aspects but could of course sub-contract these to such existing organizations that have the structure and expertise to deal with the movement of works of art, there placement, maintenance, distribution, sales, loans, etc. Among institutions that come to mind to undertake such tasks the American Federation of Arts, created in 1909 by Elihu Root, and habitually involved comparable activities, would seem to be best suited.

It would seem desirable in any case to ask the chairman of N.E.A. to appoint a sub-committee with the mandant to define in detail the foreseeable realization so that at the time of the bills passage a realible blue print would be at hand. The preparation of such a proposal may require several months of work and should be supported by a study grant for optimal results.

Should you wish to pose any questions at this time, I am at your disposal to the best of my ability.

Statement of

Jane Livingston

Associate Director, Corcoran Gallery and School of Art

Washington, D.C.

before the

Committee on Human Resources

United States Senate

on

S.2645

a bill to establish a

National Art Bank

August 23, 1978

I feel that the basic idea of a Federal Art Bank, with its implication of increased government support of living American artists, is in principle eminently to be commended.

The program's uniqueness vis á vis other United States government supported arts programs, in my view, needs to be clearly established, both in the perception of the various professional groups involved, and, even more important, in the perception of the American public.

In carrying out the Art Bank selection process, two factors should be continually emphasized. First, there should be an insistence that the art works are of the highest quality. The criterion for quality should be based upon standards set by the museum profession. Second, these programs should represent the greatest possible diversity in terms of style, media, and geographic representation. Artists of various ages and degrees of recognition should be represented.

The selection process might be carried out by rotating panels comprising both artists and curatorial professionals, under the aegis of the National Endowment of the Arts. The administering of the gathering, dispersal, and/or circulation of art objects would then be undertaken by the Government Services Administration. The G.S.A. would own the art works.

It seems to me important that American art works belonging to the public - that is, owned by a National Art Bank - should thoroughly represent the entire nation; I would also urge the organization to make every effort to actively show and circulate its art works, rather than allowing objects to remain for long periods in dead storage.

I would make the following three points by way of qualification: first, I feel that without a well-structured approach to the selection and disposition of art works the program can fail. It is too easy to fall into a piecemeal approach, whereby art works are selected on an ad hoc, one-at-a-time basis. A policy that insures coherence in the selection process is advisable, so that a sense of order and unified thinking characterizes the Art Bank collection, even though it represents an underlying commitment to breadth and diversity. This might be accomplished by organizing exhibitions or at least assembling groups of work based on which acquisitions are then made.

I would suggest that the maximum amount allowed for the purchase of any single art work be \$75,000 rather than \$25,000; at the latter figure, one is effectively excluding major works by many key American artists. Perhaps the number of works over \$50,000 in any fiscal year could be restricted.

The Art Bank must be concerned with the proper care of its works of art, providing for adequate storage, handling, conservation, insurance, and documentation of all objects. The input of the museum profession in this regard is critical; but the museums should not be asked to assume the burden of this responsibility without compensation. The suggested figure of \$250,000 annually allocated to administer the Art Bank strikes me as being dramatically unrealistic. I would guess that it will cost a great deal more.

Finally, I would want to be assured that any appropriation for the establishment of a government Art Bank would constitute a new arts program, supplemental to and not substituting for other previously established government art programs.

Jane Livingston, Associate Director
Corcoran Gallery of Art

The CHAIRMAN. We now invite Ira Lowe, visual arts attorney, Washington, D.C. and New York. My question to Mr. Lowe is, first of all, now who do you want to be represented by? Your U.S. Senators from the District or from New York?

Mr. LOWE. I will take the District.

The CHAIRMAN. All right. We moved rapidly in your direction to give you two Senators. I am glad to see you approve. I voted that way.

**STATEMENT OF IRA LOWE, VISUAL ARTS ATTORNEY,
WASHINGTON, D.C., AND NEW YORK**

Mr. LOWE. Senator, by way of introduction, let me say that as an American, a lawyer and a long-time amateur of art, the proposed American art bank impresses me as an extraordinary step forward and upward in our cultural development.

In discussing the pros and cons of the art bank, one must begin with the recognition that patronage of art by governmental entity is as old as our Western tradition of art itself. Whether one looks at the Italian Renaissance and the "funding" provided by a Lorenzo the Magnificent or a Catherine de Medici; or at Elizabethan England where theater arts flourished or at Mozart and his royal patrons in the 18th century, the principle has been a continuous one; it has been the monarch's role—indeed, in prerepublican times his prerogative—to subsidize art in all its forms.

In the 20th century, however, it is no longer a royal prerogative to sponsor and subsidize art, for in most of our Western countries the monarch has been replaced by the republic. The responsibility of patronage and subsidization, however, remains. In our country, the tax structure has long permitted the wealthy to fulfill this responsibility through individual gifts to museums or through foundations which support the arts. There have also been various governmental programs in past years. After the WPA program in the thirties, the concept of governmental art patronage in this country continued with the end of World War II and flowered in the sixties. Indeed, it is no coincidence that it is precisely during the decade of the sixties when the United States began to take seriously its responsibility towards its artists, that its role as international frontrunner in all fields of art began. Thus, since the sixties, we have led the world in visual arts, in theater, in dance, and in music. None of this could have happened without the official sanction and support of the Government.

A lot has been said about the WPA today. I want to add a footnote that one of my first major jobs after I finished high school, I went directly from high school to the Work Projects Administration [WPA], and worked under Holger Cahill, who was head of the arts program. That was a long time ago, 1940.

Until today, however, and the promise of the proposed art bank, subsidies in the form of grants to artists have been aimed at paying the electric bill or providing groceries while the artist continued to paint. The art bank, however, is a new concept: It does not envisage a subsidy for daily existence while a work is being created, but, rather, is a recognition of a finished work. Thus, on the one hand, the bank will pay an artist for work well done; and, on the other, will provide the

purchaser; that is, the Government, with a work in hand. There are several good reasons for supporting this concept.

First: The idea of the art bank is a true continuation of the American combination of frontier innovation and practical know-how. The innovative quality is obvious from the unique character of the bank, a concept which, until now, exists only in Canada. On the practical side, the fact that the United States will own the purchased work and will recycle it back into the community—indeed, possibly the very community from which the artist sprang—will encourage others to paint and to purchase in their own right, thereby creating a new market and a new audience. Established collectors, also, will note this official recognition, and act accordingly.

Second: The importance of such a program to enable the United States to maintain its role as leader in the international art world cannot be overestimated. It is a means of encouraging young artists to continue; it is a means of reaching artists all over the United States; it is a means of encouraging regional art centers. Until now, an artist has been obliged to move to one of the two or three centers in the United States in order to survive. To remain at home meant inability to contact dealers, collectors, other artists, or, in other words, the means to sell, to earn a livelihood, to be recognized, to be appreciated. But thanks to an art bank which would examine the works from artists all over America and then recycle their works back into the communities of America, the need to live and paint in New York or perhaps Los Angeles will no longer be prime. Those artists who choose to live outside the art world of New York will be able to do so and know that they, too, will have the opportunity to be seen.

There have, of course, been small private foundations which have sponsored this concept for some time. The Samuel and Blanche Koffler Foundation in Chicago, for example, purchases works for its collection from artists who live in the Chicago area in order to keep artists working there. But this will be the first time that the Government itself will assume that role, and this bill is the means of doing so successfully.

Third: Politically, the bill is an appealing one since it affects people in all regions of the United States, both as producing artists and as the public which will borrow the artwork once it has been purchased. Hopefully, there will be a connection between the two, so that unlike some of the existing art projects, a town or city which wishes to have an artwork on view will have a say in the type of work it is to receive and a correlation can be made between the artist and the borrowing community.

Fourth: The art bank represents a recognition by the United States that ours is a civilization based not purely on material values; that the support of beauty and individual expression is as important to us as the automobile, the blender, and the man on the moon. It is an official recognition of the importance of the human soul and the concept of beauty in the survival of our civilization.

Fifth: It is an opportunity for the cities and towns of America, which do not have the resources and population to warrant museums of their own, to borrow paintings and sculpture and expose their young people to artworks rather than only to reproductions on the library wall. The recycling of art in this manner can only contribute to the

growth and education of the citizens of the country, as well, of course, as providing revenue and recognition for artists in areas throughout the country.

Sixth: A program of this type, where Government serves merely as an art purchaser, minimizes any possible influence the Government might have on the artist. The possibility of "governmental art," that is, art dictated by the Government, would be practically eliminated. Here, the Government, as purchaser of a completed work, will be advised in its selection by on-Government experts who will be choosing works after completion. The artist thereby remains free from any desire to serve "governmental" purpose.

Finally, the bank will serve as a method of equalizing the inequities of the tax laws as they pertain to artists. Let me give you an example: Having represented the estate of the late sculptor, David Smith, I use him as an example. Smith died during the night of May 25, 1965. The inheritance tax on all of his works was based on the fair-market value at the time of death. Yet, if earlier that evening Smith had decided to donate his works to a museum, he would have received a charitable deduction of only his cost of material and supplies. On the other hand, had he decided that afternoon to give his work to a friend, he would have been assessed a gift tax based, again, on the fair-market value of the works. Finally, had he awakened on that morning and found his entire work had been destroyed by fire, he would have been able to take a casualty-loss deduction of only the materials used.

The foregoing shows clearly that in tax concepts the artist's idea, thought, vision, and talent is not considered important—nor, indeed, is the time and training which has gone into the creation of the work. Hopefully, the supportive trend started by the creation of the endowment and now the art bank, as well as other pending legislation, will continue, and serve to rectify these tax inequities. In addition, the provision of the bill enabling the artist to repurchase his painting at a later time is meritorious.

There are certain caveats. A program of this sort must, however, beware of certain innate dangers. It is the general national experience that art—or literature, or dance, or theater—becomes centralized and that certain imposed attitudes, ideas, and interests control what is known as "the art world."

It is, therefore, essential that the Director and the advisers chosen to select the works to be purchased not only avoid overt political ties, but also represent a varied regional spectrum. In addition, it is important that the selection committees, without derogating the excellent work done by the established museums, galleries, dealers, and collectors, consist of a broad variety of persons knowledgeable in the field of art. Although everyone, of course, has some vested interest in a project of this kind if he is an expert in the field, it is extremely important that artists, journalists, critics, and art historians be represented on these committees from as many places and schools of art as possible. In that manner, the single art center cycle will not be continuously self-propagating, and these interests will be minimized.

In concluding, may I add that we have shown the world what we can do on a private level in the field of art with the spectacular east wing of the National Gallery; we have shown what we can do in a governmental-private partnership with the generous gift of Joseph Hirsh-

horn's art collection and public funds used to house that collection. The National Endowment has shown us that the hand of Government in the arts need not be a heavy one. Let us now go on and show the world that we can continue this tradition of innovation and excellence by setting up an art bank to support and encourage young or previously unrecognized artists by purchasing their works. The recycling of these purchases into the communities of the Nation will enrich the towns and cities of the country and will stimulate others to create and to support art in their own right.

The proposal is a winner, all the way around.

Thank you.

The CHAIRMAN. Excellent. Thank you very much, Mr. Lowe.

We have heard a great deal about the provision for the repurchase by the artist of a work of art. We have a provision in there of purchase price plus 50 percent of appreciated value. How do you approach this question of the artist being able to reacquire?

Mr. LOWE. Under the act, and as it is presented, I am in favor of it. I am not sure of the technique of determining what is the fair-market value at a particular time, because it may be an amount determined, but yet not a purchaser in sight. That may be a little difficult to determine. Whether 50 percent or not, I am not even too sure whether that figure is a good or the best figure.

In principle I think the reacquisition by the artist himself is good. I like the principle of it. I think some workable method of bringing that about can be easily done.

The CHAIRMAN. The tax equities or inequities in connection with art, of course, are not a subject matter really germane to the art bank. Maybe somewhere along the line we can find some nexus but I cannot think of it right now. This is a tax matter, and there is another committee.

Mr. LOWE. There are several bills pending.

The CHAIRMAN. Senator Javits hoped this would be discussed here today. You have discussed it. What is the best approach just for general education for our record now that we are talking about art?

Mr. LOWE. If you are talking about the present laws, in each instance they are inequitable. I would like, if they are going to tax artwork based on fair-market value, to do it in all instances including deductions or if they are going to say material and supplies for deductions do not say fair-market value at time of death. Congressman Brademas has a couple of good bills in, and Congressman Richmond has a very good bill on this point, concerning date of death valuation.

I think the idea coming across from your bill will give them more food for thought about how to treat art. I think it will have that peripheral effect, and I hope it will.

The CHAIRMAN. Well, we benefited greatly by your statement. It will be helpful when we continue our deliberations, and then ultimately go to marking up a bill.

Thank you again, Mr. Lowe.

Mr. LOWE. Thank you.

The CHAIRMAN. In order to allow those who were not able to testify at the hearings to present their views on the art bank legislation, we are going to keep the hearing record open for 2 weeks. I would welcome any statements for our record during that period.

A concluding word of great appreciation from our committee for all of those who participated in these hearings on a measure that we knew was important, but now we know how important.

At this point I order printed all statements of those who could not attend and other pertinent material submitted for the record.

[The material referred to follows:]

National Gallery of Art

Washington, D.C. 20565
Office of the Director

August 21, 1978

Dear Senator Williams:

I am pleased to learn that you are holding hearings this week on S.2645. I strongly urge the enactment of such legislation to establish an Art Bank within the Federal Government for the purpose of purchasing works by contemporary artists and displaying them in public buildings. This seems to me an excellent way of getting financial help to struggling artists and at the same time providing the maximum public enjoyment of their work.

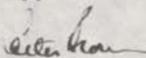
We at the National Gallery of Art are well aware of the need for such a program. Each year we receive numerous requests from officials in all three branches of the Federal Government for loans of works of art from the Gallery's collection to decorate their offices. Such loans are strictly forbidden, in most cases, by Gallery policies, but the increasing number of such requests indicates the growing need for legislation such as this.

I would strongly encourage, to ensure maximum appreciation of the art and of the program, that wherever possible the individual in whose office the work is to be placed be personally involved in making the selections. I would also urge, for the protection of the works themselves, that there be a minimum lease or loan period of one year and that the Art Bank assure that professional art handlers are employed for every installation and deinstallation of such works.

If the Art Bank could also be made available, as proposed, to public schools and hospitals and even to museums with limited acquisition budgets, it would enhance even more the public's knowledge and appreciation of contemporary art.

I hope that your subcommittee will report favorably on this bill.

Sincerely,



J. Carter Brown
Director

Honorable Harrison A. Williams
Chairman
Labor Subcommittee
Senate Committee on Human
Resources
Washington, D.C. 20510

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

August 14, 1978

WILLIAM E. FOLEY
DIRECTOR

JOSEPH F. SPANIOL, JR.
DEPUTY DIRECTOR

WILLIAM JAMES WELLER
LEGISLATIVE LIAISON
OFFICER

RECEIVED FOR
WILLIAMS, N.J.
AUG 15 11 33 AM '78

Honorable Harrison A. Williams, Jr.
Chairman
Senate Committee on Human Resources
4233 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

Re: S. 2645 - National Art Bank Act of 1978

In April your Committee staff forwarded S. 2645 to the Administrative Office for comment. In accordance with established Judicial Conference procedures, the bill was then routinely forwarded to the appropriate Conference committee for evaluation and a recommendation for Conference action. At that time my office should have written to you, acknowledging the referral, and explaining the Conference's procedures for responding to it. I neglected to do so, and I sincerely apologize for that error.

I discovered the oversight when I reviewed our file in order to write this letter, which is, in turn, being written because the *Congressional Record* has noticed your Committee's scheduled hearings on the bill later this month. Although the Conference's review procedures have not yet been completed, I believe an accurate prediction can now be made of the action which will be taken when the Conference next meets in late September, and I would like to inform you of that probable action before your Committee's hearings commence.

Upon receipt of your request for views, S. 2645 was referred to the Judicial Conference's Court Administration Committee's Subcommittee on Judicial Improvements. When that Subcommittee met in late June, it unanimously recommended that the Judicial Conference formally ask your Committee to strike the words ". . . and the Director of the Administrative Office of the United States Courts, . . ." from lines 12 and 13 of page 3 of the bill. Last week, when the parent Court Administration Committee met, it unanimously endorsed that recommendation for approval by the full Judicial Conference in September. I know of no reason why the Conference would not adopt its Committee's recommendation.

Honorable Harrison A. Williams, Jr.
page two

Today the General Services Administration exercises full supervisory authority over all of the publicly owned physical facilities utilized by the Judiciary. Under Public Law 92-313, our federal courts are literally "tenants" and G.S.A. is effectively their "landlord." Under currently prevailing Federal Property Management Regulations (§101-26.103.2), all authority for "objects of art" in all courthouses is vested in G.S.A. In fact, only in recent weeks, has a related question, arising under Public Law 95-541, the Public Buildings Cooperative Use Act, (40 U.S.C. §601(a)), concerning the use of courthouse facilities for "cultural, educational, and recreational activities," been resolved by the Administrator of G.S.A. notifying the courts that:

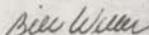
In all cases when . . . court space is involved . . . the G.S.A. Buildings Manager coordinates with and obtains permission from the courts.

. . . .
Let me assure you that any activities involving court-rooms or court related space will be *closely coordinated with the Chief Judge or local Judge as the case may be.* (emphasis added)

In light of those realities, the Judicial Conference's Committee has concluded that the designation of "the Administrator of the General Services Administration" at lines 10-11 of page 3 of the bill will adequately achieve the objectives of S. 2645 in relation to court facilities. It has further concluded that specifying the Director as a supervisory authority in the bill will actually result in unnecessary correspondence and delay in the administration of the Art Bank program. To bring the Director into matters which, in all other cases, are fully arranged by G.S.A. field personnel and court personnel at the local level, would appear to serve no useful purpose.

Let me again apologize for having failed to acknowledge your transmittal of S. 2645 earlier this year. Should this letter raise any questions, please have a member of your staff notify me by telephone at 633-6040.

Sincerely,



William James Weller
Legislative Liaison Officer

FREDERICK WEISMAN
1140 ANGELO DR
BEVERLY HILLS CA 90210



Mailgram



4-063375E230 08/18/78 IC8 IPMMTZZ C8P W8HB
2132714166 MGM TDMT BEVERLY HILLS CA 100 08-18 0510P EST 1978 AUG 19 AM 9:40
NEW YORK, N.J.

SENATOR HARRISON A WILLIAMS JR
US SENATE
WASHINGTON DC 20510

DEAR SENATOR WILLIAMS

I RESPECTFULLY REQUEST THAT THE HUMAN RESOURCES COMMITTEE CONSIDER FAVORABLY S2645 A BILL TO ESTABLISH A NATIONAL ART BANK. THE ART BANK WOULD PROVIDE NEEDED FINANCIAL ASSISTANCE TO ARTISTS THROUGHOUT THE COUNTRY WHO DO NOT HAVE AN OPPORTUNITY FOR EXPOSURE OR SALES OF THEIR WORK, AND GIVE THEM NEEDED RECOGNITION FOR THEIR CONTRIBUTION TO THE QUALITY OF AMERICAN LIFE. THE AMERICAN PUBLIC, THE AUDIENCE OF ART, WILL BENEFIT BY INCREASED EXPOSURE TO THE SCOPE, QUALITY AND DIVERSITY OF AMERICAN ART.

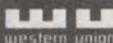
SINCERELY YOURS

MRS FREDERICK WEISMAN

17110 EST

MGMCOMP MGM

LARRY RIVERS
92 LITTLE PLAINS RD
SOUTHAMPTON NY 11968

western union

Mailgram



4-048024E233 08/21/78 IC8 IPMTZZ CSP WSHB
5162833062 MGM TDMY SOUTHAMPTON NY 123 08-21 0239P EST

ARTISTS EQUITY
CARE DARYL RASHUSSEN
3726 ALBERMARLE ST NORTHWEST
WASHINGTON DC 20016

SENATOR WILLIAMS AND MEMBERS OF THE HUMAN RESOURCES COMMITTEE; AS AMERICANS AND AS ARTISTS WHO HAVE SEEN A LOT OF LIFE AND A LOT OF ART ~~WE~~ SUPPORT YOUR ART BANK BILL S-2645. YOUR BILL WILL FREE THOSE INSUFFICIENTLY RECOGNIZED ARTISTS TO PRODUCE A GREAT VARIETY OF ARTHWORKS AND IN OWNING AND PLACING THIS ART, THE FEDERAL GOVERNMENT WILL NOT ONLY SIGNIFICANTLY ENLIVEN THE WORK SURROUNDINGS OF MILLIONS OF ITS EMPLOYEES AND VISITORS, BUT AT THE SAME TIME WILL ACCRUE A NATIONAL COLLECTION OF CONTEMPORARY ART, CREATING FOR THE FIRST TIME THE RARITY OF AN APPRECIATING INVESTMENT OF TAXPAYERS MONEY.

NOT ONLY NO MAN, BUT NO SOCIETY, LIVES BY BREAD ALONE, BUT IN THIS CASE, SENATOR WILLIAMS, GOVERNMENT BREAD ALONE WILL BE ENOUGH. WE BOTH PERSONALLY LOOK FORWARD AND WELCOME THE CHANCE TO PARTICIPATE IN YOUR PROGRAM

LARRY RIVERS AND JACK YOUNGERMAN

14139 EST

MGMCOMP MGM

Visual Arts Center of Alaska

4911 International Airport Road
Anchorage, Alaska 99502

August 18, 1978

Hon. Harrison A. Williams, Jr.
Chairman, Committee on Human Resources
United States Senate
Washington, D.C.

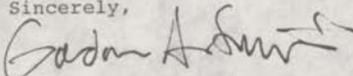
Dear Senator Williams:

Attached you will find by formal testimony regarding the "National Art Bank Act of 1978". I will not be able to attend the Committee hearing in person, and hope that my written comments will be of assistance.

Please contact me if you require additional information or have any questions regarding my testimony.

I thank you for your consideration.

Sincerely,



Gordon A. Smith
Executive Director

TO: Senator Harrison A. Williams, Jr.
Chairman, Committee on Human Resources
United States Senate

FROM: Gordon A. Smith
Executive Director
Visual Arts Center of Alaska

RE: S. 2645, "National Art Bank Act of 1978"

DATE: August 19, 1978

I am pleased that you have invited me to provide testimony regarding the above-mentioned legislation and regret that I am not able to appear in person, as you requested.

I would like the members of the Committee on Human Resources to know that I support the concept of a National Art Bank because it will encourage the growth of American art, in a most logical and forthright manner, by the purchase or lease of the efforts of creative people. A National Art Bank would also provide a wider public audience for works of art, and it would go far in efforts to humanize the often sterile interiors of many federal buildings.

As the Visual Arts Director of the Alaska State Council on the Arts, it was among my duties to oversee the operation of the Alaska Contemporary Art Bank. This Art Bank, the only one of its kind in the country, is patterned closely upon the Art Bank of the Canada Council. A much more modest effort than either the Canadian model or the proposed National Art Bank, the ACAB contains over 300 works of art by artists residing in our state. The works of art are available for loan to agencies and offices of the state government for display in public areas. Requests for placement of art works have exceeded the number of works available.

Acquisition of art works for the ACAB is substantially different from that outlined in S. 2645. Our system provides for recommendations for purchase from the jurors of a number of competitions and exhibitions of visual arts throughout the state. This system was devised to strengthen the concept of juried visual art exhibitions and because many of the individuals knowledgeable of the visual arts in Alaska are themselves practicing artists whose work could rightfully be considered for purchase.

The ACAB is by all accounts a very successful program in that it has accomplished its major goals of fostering the growth of the individual visual artist, providing a greater public

Re: "National Art Bank Act of 1978"
August 19, 1978
Page 2

audience, and relieving the visual monotony of state offices.

My support of this legislation is, however, not unqualified. There is a potentially fatal mistake with the administrative structure proposed in S. 2645. By establishing in Section 14(b)(1) the position of Director of the Art Bank as a presidential appointment, reporting to the Chairman of the National Endowment for the Arts, already a presidential appointment, the inevitability of conflict between the two appointments is built into the legislation. A more logical structure would be to make the Director of the Art Bank an appointment of the Chairman of the NEA.

I would also question making available works from the Art Bank for loan to private corporations (Sec. 14(c)(5)). The increase in corporate collections of art in recent years has occurred largely because collections such as the proposed Art Bank have not been available to private corporations for loan. To make the Art Bank available might remove some of the incentive for corporate collecting, and decrease the opportunities available to artists.

I urge the Committee to support the creation of a National Art Bank. The products of creative people have historically provided societies with their identity and their inspiration. The investment represented by a National Art Bank would be of lasting value and significance.

Submitted by:
GORDON A. SMITH
Executive Director
Visual Arts Center of Alaska
4911 International Airport Road
Anchorage, Alaska 99502

Biography

GORDON ALAN SMITH

B. Sept. 11, 1948, in Boulder, Colorado. Has been resident of Alaska since 1957. Graduate, East Anchorage High School, 1966; attended University of Iowa, Anchorage Community College, Alaska Methodist University.

Artist-in-schools program, Alaska State Council on the Arts, 1975-1976. Practicing artist in film, video, photography in rural Alaskan communities.

Staff writer, Tundra Drums, Bethel, Alaska, 1976.

Visual Arts Director, ASCA, 1976-1978. Responsible for acquisition, storage, circulation of Alaska Contemporary Art Bank; development of administrative procedures for Percent for Art; organization of workshops, exhibitions, and competitions.

Executive Director, Visual Arts Center of Alaska, March 1978 to present. Responsible for administration of studio/workshop for professional and developing professional artists; public gallery, workshops, and outreach programs.



WOMAN'S CAUCUS FOR ART
NEW YORK CHAPTER

RECEIVED FOR
WILLIAMS, N.J.
1975 SEP -6 AM 10:45

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Linda Cunningham
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Sylvia Pauloo-Taylor
Susan Schwalb

Sept. 1, 1978

Senator Harrison Williams
Drickson Building
Washington DC

RE: Art Bank

Dear Senator Williams,

I would like to go on record as supporting the proposed bill to create a National Art Bank. I, however, can only support this measure if 50% of the artworks are by women artists! This opinion is held by members of Women's Caucus for Art/ New York Chapter.

Sincerely,

Susan Schwalb
233 East 21 Street
New York City 10010

THE FINE ARTS FEDERATION OF NEW YORK

NATIONAL ACADEMY OF DESIGN
 NEW YORK CHAPTER OF THE
 AMERICAN INSTITUTE OF ARCHITECTS
 THE ARCHITECTURAL LEAGUE OF NEW YORK
 MUNICIPAL ART SOCIETY OF NEW YORK
 NATIONAL INSTITUTE FOR ARCHITECTURAL EDUCATION
 NATIONAL SCULPTURE SOCIETY
 NATIONAL SOCIETY OF MURAL PAINTERS
 BROOKLYN CHAPTER OF THE
 AMERICAN INSTITUTE OF ARCHITECTS
 THE ASSOCIATES OF THE ART COMMISSION
 NEW YORK CHAPTER OF THE
 AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
 THE DECORATORS CLUB



NEW YORK STATE CHAPTER OF THE
 AMERICAN ARTISTS PROFESSIONAL LEAGUE
 NEW YORK METROPOLITAN CHAPTER OF THE
 AMERICAN SOCIETY OF INTERIOR DESIGNERS
 AMERICAN ABSTRACT ARTISTS
 SCULPTORS GUILD
 HARLEM CULTURAL CENTER
 NEW YORK METROPOLITAN CHAPTER OF THE
 AMERICAN INSTITUTE OF PLANNERS
 THE AMERICAN FEDERATION OF ARTS
 THE PARKS COUNCIL
 ARTISTS EQUITY ASSOCIATION OF NEW YORK INC.
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131 EAST 39TH STREET
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 MU 4-4580

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 EDMOND FITZGERALD, *Director*
 ELEANOR FRYER, *Director*
 RICHARD FISHMAN, *Director*
 MARSHALL VOGL, *Director*

September 29, 1978

RECEIVED
 SENATOR
 WILLIAMS, N.J.
 OCT 5 AM 10 18

Senator Harrison A. Williams, Jr.
 352 Russell Senate Office Building
 Washington, D.C. 20510

Dear Senator Williams:

Your legislation to create a National Art Bank was brought to the attention of the Board of the Fine Arts Federation of New York, and it was wholeheartedly endorsed by the members present.

We would welcome the opportunity to give further support to this matter, if your office would inform us of the status of the bill, and a list of your colleagues to whom we might write.

The Fine Arts Federation is an eighty-three year old assembly of twenty-two organizations in the fields of art and architecture, dedicated to public art, public amenities and the welfare of the arts in the City of New York.

Very sincerely yours,

Jack Lowery
 President

JL:hjm

COMMITTEE ON
 MAN RESOURCES

JAN 11 1978

1978

Lula Mae Blocton
Regional Coordinator
District #2
Coalition of Women's Art Organizations
P.O. Box 3304
Grand Central Station
New York, N.Y. 10017

Aug. 31, 1978

Senator Harrison Williams
Dirkson Building
Washington, D.C. 20009

att: Art Bank Legislation

Senator Harrison Williams:

I represent women's groups in New York State, Connecticut, Puerto Rico, New York City, Canal Zone, and the Virgin Islands. We support the Art Bank Bill (no. 2645), and would like this statement included in the Congressional Records.

Sincerely,

Lula Mae Blocton

Lula Mae Blocton
CWAO
Regional Coordinator



the artists committee of western new york
30 essex street • buffalo • new york • 14213

1-716-886-3616

August 25, 1978

SENATOR
WILLIAMS, N.J.

1978 AUG 29 AM 11: 24

The Honorable Harrison A. Williams, Jr.
U. S. Senate
Chairman, Committee on Human Resources
Washington, D.C. 20510

Dear Senator Williams:

Yesterday I was able to attend the hearings on S.2645. It was most encouraging to hear the testimony from the artists and witness your and Senator Javits' interest in the Art Bank. Enclosed are letters that I sent to New York State Senator William T. Conklin, Chairman of the State Special Committee on the Culture Industry, concerning a similar idea for a New York State Art Bank. The letter in reference to the Art Bank is what most concerns me. Details can be worked out; however, the philosophical base for action is most difficult to put into words. It was touched on at times in Wednesday's hearing. The United States of America is the greatest material power on earth, but to fulfill the dream that created our country, it must also become a great spiritual and cultural power. The Art Bank is one more step in this direction.

Most impressive to an artist not living in the nation's capitol, is a journey to the National Gallery. The words United States of America on the building are of meaningful significance. The Art Bank will extend this impact out from the capitol and into the four corners of the nation. As an artist, artist representative, and a member of the Erie County Art & Culture in Public Places Board, I would like to share some thoughts with you on my experience in putting on exhibitions in public buildings.

Since 1975, the Artists Committee of Western New York has, with the cooperation of the County of Erie, sponsored exhibitions in the legislative halls of the County Legislature. This has been done voluntarily by the artists of the community without compensation. Prior to this, the walls of the building were bare and no testament was available in county government to the fact that art was indeed flourishing in our county. This year a new law was enacted creating an Art and Culture Board to whom responsibility was given to put on exhibitions and performances in existing county buildings such as the holding center, hospital, home and infirmary, and the correctional facility. This program is done on a voluntary basis. There are nine members of this Board, four of whom are practicing visual and performing artists. The first exhibitions and performances were warmly received by the residents of these institutions and those who care for them. However, this program has had difficulty because of the lack of funding to support it. There is little insurance to protect the art works; no dependable transportation is available to move the art works; no real compensation is given the artists who

support this program. Further, those Board members who are not artists do not easily grasp the problems involved when artists are asked to lend their works in support of a community program. They feel, and it is a common enough concept, that the mere chance to exhibit is compensation enough. This callous view would hardly be acceptable in other professions which service the community. Lawyers, doctors, teachers, governmental representatives are compensated. Why are artists not compensated? Don't we also contribute to our community in a meaningful way?

An example, of the lack of understanding of the problem of artist compensation, was recently put forth by an action of the Art & Culture Board when a Board member who is the executive director of our local arts council (Arts Development Services), put forth a suggestion of using reproductions to tour county facilities instead of original art works. This was done to help solve the insurance problem. Of course, it is easier to exhibit any reproduction rather than original art, but what does this do to the working artist? It cuts into what little economic base he already has and takes away a chance for recognition that is so desperately needed. Recognition, not by the art institutions, but by the community in which he lives. I bring up this example because you must be very careful in how you staff advisory committees who will be selecting the individual participating artists. To allow the arts institutions whether it be the National Endowment of the Arts, state councils, museum directors, or commercial gallery owners, to control the Art Bank is simply to create another elitist club which will shut out the vast majority of artists from having any real opportunity to exhibit in the Art Bank Program. The excuse the art institutions will use will be "quality". This same elitist club now shows Vincent Van Gogh drawing in the new East Building, but Vincent in his life time could not get any testimonial from a gallery director to support his work. He sold one painting during his life. He could have used an Art Bank. The East Building also has a Edward Munch on display. Edward Munch couldn't buy an exhibition in his native Norway, and had to go to Germany for his recognition. He, too, could have made use of an Art Bank.

It would be counter productive to let the museums control this program. Let them control their own game, and let the artists with the assistance of the government make the Art Bank work. If you need the museum's advice on how to protect or ship works fine, ask for it, but artists also know how to do these things.

What is really needed, is to get the great diversity of American art out into the public sector; to help make art as important as sport is to the American scene. New York City is not the only center of art in America. Important as it undeniably is, it in itself, cannot represent the output of a nation of 220,000 people. The famous artists who are promoted by the New York galleries are only a fraction of the artists working in our country. Only time and the needs of the individual communities will ultimately determine

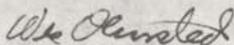
Senator Harrison A. Williams, Jr.

the value of any artist.

It is my hope that these criticisms will be taken in the spirit that is meant. We in the art world-- artist, curator, dealer, critic, patron, all serve the great cause of art. We are all its servants. Some day in history what the artists in America are doing--what we express in our work--will represent our country. The Dresden show in the East Building is an example of how the artists work become the statement of a people, for a period of time.

The knowledge of the museums and dealers is helpful, but the important thing is to keep the control of the Art Bank in the hands of the people and their representatives. Art is too important to be left solely in the hands of the so-called professional.

Good Luck,



Wes Olmsted
Executive Director

encls.

cc: Senator Jacob K. Javits
Senator Daniel P. Moynihan

FOUNDATION FOR THE COMMUNITY OF ARTISTS

Sept. 1, 1978

Hon. Harrison Williams
 U.S. Senator
 Chairman, Senate Committee on
 Human Resources
 Dirksen Bldg. 4230
 Washington, DC

Honorable Senator Williams:

It was indeed a pleasure to meet you at the reception given by Artists Equity (with whom we are affiliated) during the hearings on the Art Bank Bill. Like the artists who testified, we congratulate you on introducing this most significant bill for both artists and the public. Tad Crawford, a board member, was called to testify but was unable to go to Washington for the hearing, which was unfortunate. Although I was not among those who were called on to testify at the hearing, I had studied the bill carefully, made notes at the hearing and would like to have my comments entered in the hearing record, which you said would remain open for another two weeks.

1. I do not believe it is wise to make the director of the Art Bank a Presidential appointee because this throws the administration into the political arena. Rather, I think the President should select an Advisory Board, in consultation with Congress, composed of artists, curators and critics, someone from the National Endowment for the Arts and others with experience in the valuation of art, art as investment, art history, etc. This board should in turn appoint the director.

2. With regard to acquisitions for the Art Bank, it is most important that the rotating juries have people on them who represent non-mainstream as well as mainstream artists who have already had their work accepted and promoted by major galleries and museums. The juries should of course look for the best examples of a trend or tradition or even of a "loner" with no group or following to support him or her. Art representing certain ethnic groups, female vision or other non-traditional viewpoints should be included. Given the well-documented exclusion of women and minority artists from the usual private patronage systems and lesser acknowledgement by even publicly-supported art institutions, the Art Bank can serve a major role in the rectification of the record of the total artistic expression and production of our culture. Care should be taken to include artists working in these areas because the fact that commercial galleries have not picked up their work means merely that there is not a commercial market of any size yet for it, not that it is any less valid as art nor that it does not have an audience. In other words, the ability to attract the private art dollar should not be a criterion of selection although there will undoubtedly be great pressure from the art business quarter in this direction. Whenever possible, work should be bought from artists

rather than galleries.

OFFICERS

220 Fifth Avenue
 New York, NY 10001
 (212) 689-6558

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Eliot Barowitz	Abe Lubelski	Larry Rosing
Pamela Siskin	Ann Nakazato	Aida Walsh
Tad Crawford	Cynthia Navarrete	Robert Walter
Harvey Horowitz		Walter Weissman

Also, I think acquisitions during the first year should be concentrated on the work of our older artists, many of whom are in difficult financial situations, are concerned about what will happen to their work when they die--especially if they have no heirs or whose heirs cannot tolerate a high tax liability for inherited work and yet cannot sell it to pay the taxes--and who deserve that recognition for their years of sacrifice in order to make an artistic contribution to our culture.

3. I agree with artists who testified that auctioning off of work can have nefarious effects. I would rather see the work deemed most important by art historians, artists and critics be given to the National Gallery of Art as part of our national heritage--say every ten years--and that other work be given or offered at reasonable cost to local museums, universities or art centers.

4. While I agree with Thomas Messer of the Guggenheim Museum that you need "knowledgeable people" to select and display or advise on how to display the art, museum people are not the only knowledgeable ones, especially for purposes of selection. They frequently depend heavily on the commercial gallery network and have little direct knowledge of what is happening currently in art. Only the artists and maybe a few critics know that. Like published books, the art seen in museums is frequently several years old and does not represent current expressions. Not that all that is new and fresh is necessarily the best and that which has been around awhile of less value, but when seeking out what younger people are doing or those otherwise outside the so-called mainstream of gallery-represented art, go to the artists' community for news.

5. Along with the lending or leasing of work by the Art Bank there is an enormous need for a public education program and preference should be given to institutions or organizations that will not only display the work but also sponsor lectures, discussions, etc. to help the public understand what contemporary artists are trying to do in art, especially when they stray from the realist path stylistically. Contemporary artists often use a visual "language" with which the public is unfamiliar because there is so little art education in our schools (even in north Jersey where per-capita income would seem to make it more possible, I discovered when teaching students at Ramapo College a few years ago). Our population is generally artistically deprived when it comes to an ability to appreciate visual art of the past 30 years, or even of the 20th century as a whole, except for artists who maintain the tradition of 19th century realism.

6. I hope that rental of works will not be limited to businesses that take the legal form of "corporation" as the bill now reads. There are other legal statuses for business--sole ownership, partnerships, etc. "Corporation" should be changed to "business," shouldn't it?

7. I hope that there will be different rental scales for non-profit groups according to size and budget and also for businesses of different sizes.

In closing I would just like to stress that artists should be heavily represented at all stages of policy development and implementation in the development of the Art Bank, with equitable representation of male and female, Black, Hispanic, Asian and Native American artists for there to be a truly representative collection in the Art Bank.

And a final word on the maximum amount proposed for expenditure on any one artist's work per year--\$25,000. This seems much too high for all but the most expensive sculpture which would be so cumbersome that it would hardly be "lendable" except on a semi-permanent basis owing to costs of transportation and installation as well as the possibility of damage to the work in transporting it often. I think that if you are truly concerned with giving recognition to unknown artists of great talent, the maximum could easily be \$5,000 for purchase and \$2,000 for lease of their work because it has not been artificially inflated in value by the gallery system in 'conspiracy' with the critics and museums. This lower ceiling would permit purchase or lease of many more works and income for many more artists, not to mention the boost to their morale and ability to go on producing, despite the shabby way in which our society treats artists generally.

Hooray for the Art Bank! May its passage be swift and implementation through adequate appropriation guaranteed.

Sincerely,

Jacqueline Skiles

Jacqueline Skiles
Former President and current
Program Developer and
Project Director of FCA's
Task Force on Discrimination Against
Women and Minorities in Art
(staffed by CETA-VI workers)

P.S. I am also on the board of directors of Women in the Arts Foundation, N.Y. City's largest women artists organization, president of the smaller Creative Women's Collective and a member of the Women's Caucus for Art as well as an artist. I am also about to begin work on my Ph.D. dissertation at the New School for Social Research on the impact of government funding for the arts on art history and cultural change. (Do government funding patterns now determine art history to any great degree?)

CWAO

COALITION OF WOMEN'S ART ORGANIZATIONS

Post Office Box 3304 • Grand Central Station • New York, NY 10017 • 212 / 666-6990

9112 Brierly Road
Chevy Chase, Md. 20015
August 22, 1978

Senator Harrison Williams
Chr. Senate Committee on Human Resources
352 R.S.O.B.
Washington, D.C.

Dear Senator Williams,

The Coalition of Women's Art Organizations applauds your role in introducing S.2645. There has long been the need for a National Art Bank. Artists appreciate your efforts.

There are some concerns about the bill as presently written. As responsible professionals we are calling these concerns to your attention.

The bill as written does not take into consideration how artists would suffer should the work be sold in an off hand manner (e.g. at auction). Artists who have built reputations through the Bank or otherwise, might suddenly see a diminution of value which would be detrimental to future sales.

We direct our questions to the following:

1. The power of the Director as an art dealer.
(Yet again another commercial hazard in an artist's career)
2. The lack of a support system to hold artists' prices in the precarious situation of an auction sale. (As written S.2645 does not provide the Director with the means to protect the artists' prices at auction)
3. How will the Director select the works to be deacquired? In other words will this be a unilateral decision?

We are confident that you will accept these questions as a healthy indication of the artists genuine concern within their support of the bill. We are available for any further discussion.

Sincerely yours,

Judith Brodsky
Judith Brodsky

Miriam Schapiro
Miriam Schapiro

Ellouise Schoettler
Ellouise Schoettler

NATIONAL ACADEMY OF DESIGN

1083 Fifth Avenue
New York, N. Y. 10028
212-369-4880

The Honorable Harrison A. Williams
Senate Office Building
Washington, D. C.

September 28, 1978

Dear Senator Williams,

I have been following with great interest the testimony given to your Committee on Human Resources regarding the development of an art bank. The idea of purchasing or borrowing works of art which then could be loaned to local governments and museums is certainly a laudable one. Despite an increasing interest in art during the past ten years, there has not been a similar increase in the number of galleries and centers where art can be shown. Further, the profit margin for these galleries and centers is so small that they cannot accept unknown artists. The result is that many good artists can find no occasion to exhibit and sell their work.

The National Academy of Design was founded in 1825 by Samuel F.B. Morse. The guiding principle of the Academy was clearly stated in the charter. It was to serve as a public gallery where contemporary works by American Artists could be exhibited. In addition, the Academy was to establish a school for the study of the arts of design, then defined as painting, sculpture, watercolor, graphics and architecture.

The Academy will hold its 154th Annual Exhibition this March where artists from across the country are included. Other organizations hold similar exhibitions at the Academy throughout the year. The Academy School has approximately 200 full-time students and a faculty of sixteen artists.

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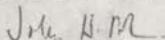
NATIONAL ACADEMY OF DESIGN

In addition to the exhibition and school programs, the Academy administers two purchase funds. The first is the Henry Ward Ranger Fund, established in 1916. The Academy has purchased approximately 500 paintings since 1919, and these paintings have been given to museums throughout the country. Mr. Ranger's intention in establishing the Fund was to assure that American artists would have their work included in American Museums during their lifetime.

The Academy also administers the Edwin Austin Abbey Fund, established to commission murals for public buildings throughout America, and to further the study of mural painting.

The establishment of the art bank would do in a major way what private institutions such as the National Academy of Design have done with their more limited resources. The bank would assist the artist, the museum, and the public interested in the appreciation of contemporary art in America.

Sincerely yours,



John H. Dobkin
Director

The CHAIRMAN. Thank you very much.
[Whereupon, at 12:50 p.m. the hearing was adjourned.]

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