

# Proceedings of the Board of Regents Meeting held on October 1, 1976

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# SMITHSONIAN INSTITUTION PROCEEDINGS OF THE MEETING OF THE BOARD OF REGENTS

October 1, 1976

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#### SMITHSONIAN INSTITUTION

# PROCEEDINGS OF THE MEETING OF THE BOARD OF REGENTS October 1, 1976

# Attendance

The meeting of the Board of Regents was called to order by the Chancellor on October 1, 1976, at 4:00 p.m., in the Miller House adjacent to the Cooper-Hewitt Museum in New York City.

Present were:

Chief Justice Warren E. Burger, Chancellor Nelson A. Rockefeller, Vice President of the United States William A. M. Burden Robert F. Goheen Murray Gell-Mann Thomas J. Watson, Jr. James E. Webb, Chairman, Executive Committee S. Dillon Ripley, Secretary

Messrs. Austin, Brown, Haskins, Judge Higginbotham,
Senators Jackson, Moss and Scott, Representatives Mahon, Cederberg
and Yates were unable to attend. The Chancellor announced that he had
proxies in hand from Messrs. Haskins, Moss, Mahon, Cederberg,
Scott and Higginbotham, and that he will vote these in accordance with
the vote of the Board as recorded in these minutes.

Also present were Messrs. Blitzer, Jameson, Wheeler, Powers, Ault, Hobbins, Mrs. Herter and Mrs. Rosenberg.

The Secretary observed that the meeting was being held in the mansion given to the Smithsonian by the Carnegie Corporation.

# Report of the Executive Committee

Mr. Webb reported that the Executive Committee met on September 27, 1976, at 1:00 p.m. at the Smithsonian Institution Building. Attending were:

James E. Webb, Chairman
William A. M. Burden
Caryl P. Haskins
S. Dillon Ripley, Secretary
T. Ames Wheeler, Treasurer
John F. Jameson, Assistant Secretary for Administration

The Chancellor was unable to be present because of a conference of the Court.

The Executive Committee briefly discussed the matter of the GAO audits and the recent articles appearing in the press concerning the Smithsonian. Mr. Webb stated that even though certain difficulties were presented, such as the unauthorized release of the fiscal year 1978 budget submission to the Office of Management and Budget, as well as other documents, the Secretary and his staff were handling the situation. The members of the Executive Committee expressed their strong support for the Secretary in carrying out the proper administration of the Institution's affairs.

Mr. Webb stated that the Executive Committee had considered the items on the agenda, and their recommendations, together with any revisions resulting from their discussions, are contained in the following papers.

# Resolutions acknowledging services of the Vice President and Senator Scott

The Chancellor was pleased to acknowledge the splendid services of Vice President Nelson A. Rockefeller and Senator Hugh Scott as Regents of the Smithsonian Institution. He mentioned the unanimous concurrence of the Board of Regents for the presentation of a citation to each of these outgoing Regents. It was noted that the term of the Vice President would terminate at the end of the 94th Congress and that Senator Scott's service would also terminate at this time since he chose not to run for reelection to the Senate.

The Chancellor read the citation, as follows:

The Members of the Board of Regents and the

Secretary of the Smithsonian Institution
with admiration, gratitude, and respect for
Vice Chancellor Nelson A. Rockefeller
commend him

for his distinguished service as a dedicated member

of the Board of Regents
supporting and advancing the programs of the Institution

and extend

their warmest good wishes.

October 1, 1976

Signed: Warren E. Burger, Chancellor and S. Dillon Ripley, Secretary

The Vice President acknowledged his gratitude for receiving the citation and stated that it had been a very happy association. He congratulated the Chancellor and Secretary Ripley, who is really the motivator of a great deal of the Institution's work, and remarked about the extent and comprehensive nature of the extraordinary work of the Institution. He would now follow it as a citizen with far greater perception of the significance of what it is doing.

The Chancellor conveyed his regrets that Senator Scott was unable to be present to receive his citation, but it was proposed that the Secretary present it to him at a convenient time on behalf of the Members of the Board.

# Minutes of Meeting of May 10, 1976

It was noted that the Minutes of the Regents' meeting of May 10, 1976, had been circulated to the members of the Board.

The Board having no changes to suggest recommended approval of the Minutes. It was

VOTED that the Minutes of the Meeting of May 10, 1976, as circulated on June 21, 1976, are approved.

# Financial Report

The Regents reviewed the Report on the status of the fiscal year 1977 Federal appropriations which was presented by

the Secretary, as well as the recently submitted fiscal year 1978 budget to the Office of Management and Budget. This included the Salaries and Expenses budget, construction, and all other items normally contained in the annual submission.

The private funds budget results for fiscal year 1976 and the transition quarter were discussed, and the unrestricted funds budget for fiscal year 1977 was presented for the approval of the Board.

It was stated that this present budget for fiscal year 1977 is the most optimistic budget which has ever been presented.

Specific comments were made concerning the endowment funds of the Institution, and the thought was expressed concerning a possible goal of a substantial increase in the unrestricted endowment fund to be accumulated over a period of years. Further information on this subject will be presented at the next meeting of the Board in January 1977.

In response to a question as to whether there had ever been an effort to enlarge the endowment, Mr. Ripley referred to the meeting of the Regents with President Coolidge and his Cabinet in 1926, when Charles D. Walcott was Secretary, which sought to initiate a membership and funds drive for building up the endowment of the Institution. He stated that a committee had been appointed to work on this which consisted of Dwight Morrow, Harold Pratt and others. The drive failed upon the death of its originator, Dr. Walcott, the Secretary, and had unfortunately not been resumed until the Board authorized the creation of the Associates in 1965.

Mr. Ripley stated that of a total of approximately \$41 million in endowment funds, only \$8 million is unrestricted, and that we need unrestricted funds for initiating and accomplishing innovative programs. It was suggested that a rather substantial increase in the unrestricted endowment fund, perhaps as much as \$100 million, should be considered in order to have the flexibility that is needed, but that it should be given much thought and done very carefully over the years.

Mr. Goheen, who was unable to attend the May meeting, asked why we appear to be reluctant to change investment advisors when they seemed not to be producing sufficient returns on investments. Mr. Burden, who is Chairman of the Investment Policy Committee, stated that to date there was not enough difference in the returns of the various firms to warrant a change. He concluded that if there does appear to be any reason to change firms at any time, they were free to do so, but perhaps a bit more time would be given them to ascertain that their work is unacceptable. This is being watched very carefully.

Mr. Webb stated that it would be interesting to note that we are changing somewhat from the previous practice of holding back certain of the appropriated funds for contingencies, first commenced in the Nineteen Fifties, to asking the Office of Management and Budget for a modest working fund. There is no indication at the present time that such a fund will be approved.

At the conclusion of the presentation of the private funds budget for fiscal year 1977, approval was recommended and it was

VOTED that the Board of Regents approves the budget of the private funds for the fiscal year 1977

and it was further

VOTED that the Board of Regents appropriates for the service of the Institution, to be expended by the Secretary, with the advice of the Executive Committee, with full discretion on the part of the Secretary as to items, the income of the Institution for the fiscal year ending on September 30; 1977.

#### PLEASE NOTE:

THE NARRATIVE STATEMENT ON THE FEDERAL AND PRIVATE FUNDS BUDGET, INCLUDING EXHIBITS ATTACHED THERETO, IS AVAILABLE UPON REQUEST TO THE SECRETARY BY MEMBERS OF THE BOARD OF REGENTS.

# Lady Regent

The Vice President had mentioned that with seventeen members on the Board of Regents it seemed disproportionately male in composition. He realizes that this in part represents the under-representation of women in the Congress, but he wondered

if at least one of the nine citizen members could not be a woman.

He reiterated that the principle is a very important one.

Mr. Ripley agreed and advised the Vice President that the Board of Regents has from time to time considered this matter but had not yet come up with a candidate. We had hoped that Mrs. Julia Butler Hansen, when a Member of Congress, might have been nominated, but without success.

Since there are no vacancies on the Board at this time and since none are expected for a few years (1978), we might be considering potential women candidates for the future.

As to other Regents' status, as has been mentioned
Senator Scott will be terminating his service in the Senate, so there
will be one vacancy, and, of course, Senators Jackson and Moss
are running for re-election as are House Regents Representatives
Cederberg, Mahon and Yates. It has been customary for the
President of the Senate and the Speaker of the House to reappoint
the Congressional Members of the Board of Regents if they are reelected to office.

The Vice President mentioned that if any Members of the House might be considered sometime in the future, there were several outstanding women, such as Margaret Heckler, Millicent Fenwick, Shirley Chisholm, Barbara Jordan, and Lindy Boggs.

Others mentioned were Nancy Hanks, Margaret Mead, Dixie Lee Ray,

Carla Hills, Hanna Grey, Elizabeth Holtzman, Jean M. Holm, and Fawn Brodie. Particular mention was made of Barbara Jordan's competence and great ability. It was unanimously proposed that information be compiled on these and other potential candidates for presentation to the Board of Regents for their further consideration at the appropriate time.

# Museum Support Facility Status Report

Mr. Ripley reported that the Institution expects no action to be taken before Congress adjourns this fall on bills S. 2949 and H.R. 12507, which would authorize construction of a museum support facility. Similar bills may be prepared for introduction by the Congressional Regents during the first session of the 95th Congress. If the proposed bills are modified, they will be submitted for review and action by the Board of Regents at its January 25, 1977 meeting.

The Smithsonian is continuing to acquire the Federally controlled land in Suitland, Maryland, adjacent to its Silver Hill storage and preservation center, which is necessary for the phased construction of the facility. The Institution now controls three of the five parcels (56 acres) associated with the long-term development of this concept. The fourth parcel (24 acres) was recently declared excess by the Department of Defense to the General Services Administration, and the Smithsonian has requested transfer of the land to the Institution.

The fifth parcel (21 acres) has been declared excess to Army needs by the Military District of Washington. A decision on its disposition is pending within Army Headquarters Command and the Department of Defense. Expectations are that the General Services Administration will take control of the property sometime this winter. The Institution has indicated its interest in the land, and will ask for a transfer at the appropriate time.

Consistent with Public Law 94-98, approved September 19, 1975, which authorized the Institution to plan for this facility and provided for the appropriation of such sums which might be necessary to carry out this authority, the Institution is seeking \$325,000 in the FY 1978 budget to the President to begin the design and to develop specifications for a first-stage building to cost approximately \$15,000,000. The first phase of planned development has been scaled down from original size and cost projections. The initial building will be designed to use available land, and configured in such a way that it can be enlarged and extended in future years to accommodate collections growth as required.

Related to the development of the Museum Support Facility, and essential for its programming, is a collections policy and management study involving the Institution's museums which has been initiated and will be completed in FY 1977 with funds provided by Congress. This comprehensive review is aimed at determining

more precisely the effectiveness of our collection management policies and practices and at providing a clear projection of future needs.

There was further discussion by Dr. Gell-Mann concerning a conservation program to be included in the Museum Support Facility and the importance of a program of research into the origin, substance, dating, attribution, composition, and other aspects of artifacts. It was mentioned that analytical pursuits are frequently pushed aside by the immediacy of need for repairs and restoration of objects. Yet, in line with its traditional interests, this field should be pursued much more vigorously by the Smithsonian. It was suggested that we should pursue the study of artifacts by all technical means available and by developing new technologies. It was noted that except for the Freer Gallery of Art, the Smithsonian now does limited work in this area. The Secretary readily agreed, but pointed out the limitations of personnel and funds that sharpen the competition for available resources for this recognized need. Other means of conservation were mentioned, such as cleaning paintings and sculpture by a new laser beam method, all of which could be explored by the Smithsonian. A suggestion was also made that such a subject might be considered by the Smithsonian Council.

The Regents suggested that an interim presentation on the status and plans for this program be scheduled for the next meeting of the Board.

# Mall Underground Parking

At its May 10, 1976 meeting the Board of Regents expressed interest in the concept of Mall underground parking and directed the Secretary to continue planning for such parking garages and to advise the Regents on the necessary actions to be taken.

Since the May meeting, copies of the Wilbur Smith and Associates feasibility analysis study have been sent to the Department of the Interior, National Capital Planning Commission,

Office of Management and Budget, and the National Gallery of Art in order to inform those agencies of the Institution's interests.

Discussions have been opened with these activities and with other interested parties to obtain advice and assistance in developing a plan. Similarly, various financing plans will be developed. Options for careful consideration include private investment capital, revenue bonds, federal appropriations, or a combination of approach.

Mr. Ripley stated that the financing question is one that we would like to explore in terms of bonds and receipts so as to get minimum financing support from Government and approach it more as a business proposition. We find encouragement in this from our experience with the garage at the National Air and Space Museum and at the Zoo. In terms of numbers of parking spaces, replacement of the parking spaces taken off the Mall would be a good beginning since the substitutes created to accommodate those visitors at fringe parking areas have not been at all successful.

# Smithsonian Popular Book Publishing

A small Task Force began on September 1 a six-month study of the feasibility of launching a popular book publishing operation within the private sector of the Institution. This Publishing Task Force is compiling "market" information from the various bureaux and other activities of the Institution, exploring general industry trends and beginning to frame a number of publishing strategies appropriate to the Smithsonian. An estimate of cost will be developed and, to the extent possible, market tested in order to provide the Institution with a choice of ways to extend its expertise and knowledge to a wider audience.

The Task Force is headed by James K. Page, Jr., a member of the Board of Editors of SMITHSONIAN Magazine and formerly editor and publisher of the Natural History Press, a division of Doubleday that served as publisher for The American Museum of Natural History in New York.

Any publications under the popular book publishing program, if estimated to be successful, would have full editorial scrutiny and would be approved by the Publications Review Board composed of prominent museum directors.

Possible conflicts were recognized of duplicate memberships of Regents on other boards having book publications. The Secretary was cautioned regarding the large sums of development money which would be required by such a program.

The Secretary stated that this preliminary study would disclose the type of publication and subject matter. He also stated that we have told the Associates members that they will have many services, including information pamphlets, bulletins, etc. It is possible that a book publishing program, advertised through the Magazine to the Associates who get a discount as an extension of that membership, would be a further such benefit. We are not yet sure that our product would be worthy, but this feasibility study should give us this information. The format of the themes of the book would follow that of the Magazine, which other publishers would not be able to do.

This is quite different from the Smithsonian Press which publishes the scholarly publications of our curators and scientists.

The Vice President mentioned the publication titled STATUS, which had been sent to the Secretary and which contains in one document statistics compiled by 20,000 government employees in 2,300 departments relating to the socio-economic development of this country. Those plates (statistics updated monthly) can be bought for \$700 each month. It might be that the publication could be published in popular form at no cost for material, available to anyone wanting to buy it. This is in the same vein as scientific-technological information which might be very interesting and useful to the American people. It could be produced and sold by the Smithsonian at a fraction of the cost than could be done elsewhere. It was stated that Mr. Page was already at work with the staff of the Vice President on this matter.

# Legislative Reports

# Enactments

Public Law 94-315, a joint resolution providing for the reappointment of Mr. Webb to the Board of Regents, was approved by the President on June 21.

On July first the President signed into law P.L. 94-336, an amendment to the National Museum Act authorizing appropriations to the Smithsonian of \$1,000,000 annually through fiscal year 1980 to carry out the purposes of the Act.

The President approved P.L. 94-338, the joint resolution expressing to the Queen the appreciation of the people of the United States for the gift of James Smithson, on July fifth.

# Pending Smithsonian Legislation

No action has been taken, and none is anticipated in this Congress on S. 2949 and H.R. 12507, bills currently before the Public Works committees that would authorize construction of a museum support facility.

On September 14 the Senate approved S. 2946 increasing the authorized level of appropriations for Barro Colorado Island from \$350,000 to \$600,000. House action in this session does not appear possible but early action may be anticipated when the 95th Congress convenes.

#### Matters of Interest

Recently enacted legislation authorizes the payment of higher rates of interest on trust funds of the Library of Congress and the National Gallery of Art, which are on permanent loan at the Treasury. Similar legislation for the benefit of the Smithsonian will be submitted for the Regents' consideration in January.

Legislation reauthorizing the National Foundation on the Arts and the Humanities has been passed by the Congress. It establishes an Institute for Museum Services in the Department of Health, Education, and Welfare, and the Secretary of the Smithsonian Institution is included as an exofficio member of the Board of Directors of the Institute.

# Gift from the Duke of Northumberland

In July, the Duke of Northumberland presented to the Secretary a George III shaped circular salver with a gadroon rim on three hoof feet, 11-1/2" in diameter, made by R. Rew, or Rugg, of London in 1765. A photograph of the salver is attached.

On the face of this silver salver appears the crest of
Sir Hugh Smithson Bart, the father of James Smithson, as well
as the father of Earl Percy, who commanded the foot at the
Battle of Lexington and Concord and who succeeded Hugh Smithson

as Duke of Northumberland. This salver, along with two smaller ones, has remained in the possession of the Northumberland family. However, the Duke was anxious to present it to the Regents for use in the silver service of the Smithsonian as a token of his esteem, and gratitude also for attending the Bicentennial events in the spring of 1976.

It was requested that the Regents approve the acceptance of this gift for use and display in the Castle, and also that the Secretary be empowered to present an appropriate letter of thanks on their behalf to His Grace, the Duke of Northumberland. It was then

VOTED that the gift of the silver salver be accepted by the Board of Regents and that the Secretary be empowered to present a letter of thanks on the Regents' behalf to His Grace, the Duke of Northumberland.

# Statue of Secretary Baird

Many people are aware that Spencer Fullerton Baird was our second Secretary, but few now realize how great a contribution he made to the Smithsonian. It was under the guidance of Secretary Baird that the Smithsonian first began to realize its full mission, as described in the organic act of 1846, by seriously cultivating its museum activity.

As a matter of fact the Congressional Record of 1887 describes the introduction of a bill by Senator Regent Justin Morrill of Vermont to memorialize Baird. Another measure introduced by Senator George F. Edmund's provided for a payment of \$50,000 to Baird's family in recognition of his service as U.S. Fish Commissioner. Because of this odd situation, resistance in Congress forced a reduction of the payment bill to \$25,000. Probably proponents of the statue found it inexpedient to press for it, and although the bill passed the Senate several times, it was never passed in the House.

The essential factor in this review indicates the esteem in which Baird was held at that time.

Joseph Henry, of course, first established the research function of the Smithsonian, which it has carefully cherished since his time. Baird, though less well remembered, created the Institution's museum function and appreciated perhaps better than his predecessor how necessary a museum was and that, in fact, the two functions were parts of one whole.

Baird has been called the "Father of the National Museum;" and this claim is literally true, for at first the museum largely consisted of Baird's own private collection. Over the thirty-seven years he spent at the Smithsonian, he oversaw a variety of programs which enriched the collections of the museum. In the 1854 Annual Report he described 26 government expeditions carried out in the preceding two years, including six Pacific railroad surveys which contributed specimens to the Smithsonian. Baird's other duties included acting as a scientific advisor to the government on many problems, such as the purchase of Alaska in 1867 and the creation of the U.S. Fish Commission. All these opportunities were used to enrich the museum, which grew apace as the nation expanded and new areas were settled. Most important of all, Baird, like Agassiz at Harvard before him, gathered at the Smithsonian a cadre of gifted young scientists who were to have a large share in the shaping of the study of natural history in America.

In an address to the National Academy of Scientists not long after Baird's death, John Shaw Billings offered a measure of the man which has proven sound when he said, "The two men who have exerted the strongest influence upon natural history studies in this country are Louis Agassiz and Professor Baird."

It has been our hope to see Baird memorialized in a statue which might be located in the new Victorian garden. For many years a statue of Joseph Henry has graced the north front of the building and there have been several proposals over the years that Baird should be similarly commemorated.

We have chosen the noted sculptor Leonard Baskin, who is highly regarded for his versatile talent in the field of the arts, to execute this statue of Baird. Mr. Baskin is well known for his statuary works such as "St. Thomas Aquinas," "Oedipus at Colonnus," and "Marsyas." Statuary is only one of his gifts, however, for he also works in reliefs, woodcuts, drawings, prints, and bookmaking. We are happy to report that Mr. Baskin is at work on the statue.

VOTED that the Board of Regents approves the memorialization of the second Secretary of the Institution, Spencer Fullerton Baird, and authorizes the Secretary to have a statue created and placed on Smithsonian grounds.

# General Accounting Office Audit

Mr. Ripley referred to his memorandum of September

18 to the Regents enclosing the article appearing in the Washington

Post concerning the review underway by the General Accounting

Office. The review is in response to a letter from the Senate

Subcommittee on Appropriations (Senators Byrd and Stevens) requesting

a general review of certain Smithsonian matters. Additional subjects have been added to the list of items to be reviewed and a brief explanation of those items is described below.

A small team of auditors from the General Accounting Office has been stationed at the Smithsonian for about two months at the request of the Senate subcommittee responsible for the Institution's appropriations - the Subcommittee on the Department of the Interior and Related Agencies. Space in the Arts and Industries Building has been assigned to this team. They expect to be on site until December 1976.

While the group has been with us for some time, it appears that it is not fully into its review. Consequently, some details of the inquiry are not as yet completely known to us. At the request of the team, its first several days were devoted to an information and orientation tour of many of the Institution's activities in Washington, D. C. We believe they were impressed favorably with the scope and quality of our programs and with the responsiveness of bureau directors and others they met. It is likely that they will wish to visit other installations in the Washington area and elsewhere as pertinent to their review.

From discussions with the GAO staff and from the press reporting of their assignment, we now have a reasonably comprehensive understanding of the specific topics on the study agenda. These topics, with background information on each matter, follow.

Contingency Fund - Since at least 1958, the Smithsonian has maintained a contingency fund capability in order to be in a position to cope with unforeseen problems and opportunities. The matter of the approximate

2 percent of the Salaries and Expenses appropriation which is set aside to serve this purpose arose at our Senate appropriation hearing in March.

We reported that these funds had been used for three kinds of needs - cases where we had not been able to predict some two years in advance (the time between the budget formulation and the close of the fiscal year in question) the precise budget needs of some 50 bureaus and offices; cases of real, but unexpected, opportunity, such as the Dibner gift, which required some supportive funds; and cases of real emergency, such as in FY 1975 when the Office of Management and Budget allowed only about half of the \$800,000 off supplementary funds needed to cope with sudden substantial hikes in utility costs occasioned by Middle East problems. These funds return to the bureaus and offices and are spent for their purposes and needs.

Since we had advised both the House and Senate appropriation subcommittees in 1971 of this practice and received no unfavorable reaction and since we regarded the practice as simple prudence considering the scope of our activities, we were a bit taken aback by the Congressional reaction.

The General Accounting Office has asked for some additional details on the sources and uses of the funds which, of course, we are providing.

Since both subcommittees appear to recognize the need for such funds (indeed, the Senate subcommittee provided an amount in its report on the FY 1977 appropriation, which the House subcommittee did not support), but prefer that they appear as a discrete line

item, we have proposed such a fund of \$500,000 in our FY 1978 budget presentation to OMB.

Travel - Over the past several years, during the appropriation process, the Secretary's travel has been questioned. This travel is in support of the administration of the Institution's programs, which have national and international aspects, and in furtherance of his professional research efforts which, as with previous Secretaries, have received the endorsement of the Board of Regents. Substantial materials in full explanation have been provided to both appropriation subcommittees and have appeared in hearing records.

The current GAO effort (on this topic and on others) appears to reflect continued uncertainty as to the nature of the Institution and of its programs. We are now in the process of gathering FY 1974, 1975, and 1976 information on travel by the Secretary, the Under Secretary, and the Assistant Secretaries - dates, destinations, purposes, costs, and sources of funds. We are confident that these records, upon examination, will further clarify the nature of the Institution.

Museum Support Facility - As the Regents know, for some years we have been contemplating the development on federally-owned land (adjacent to our long-time preservation and storage facility at Silver Hill, Suitland, Maryland) of a collection and conservation facility to relieve acute pressures in public buildings on the Mall and to honor our commitment to the training of conservators. To date, Congress has provided legislation to authorize architectural and engineering design

of this facility, has provided a small amount of preplanning funds of a programmatic nature, and has now before it bills which would authorize construction. Furthermore, we are in the process of acquiring tracts of land through the Government surplusing procedure.

No private funds have been invested in planning despite the quote ascribed to the Senate staff assistant in the <u>Washington Post</u> article of September 18 sent to you. Furthermore, not only did the Senate not decide to "stop the project at the outset" as reported, but provided in its FY 1977 bill a small amount of planning funds which, while not specifically identified for this project, were meant to give us such assistance. This item did not survive Conference action on the appropriation. We are advised by the staff aide cited in the newspaper article that he was misquoted.

Other than some very general and exploratory questions concerning the nature and location of the Museum Support Facility and the costs of program planning incurred thus far, the GAO group has not gotten very far into this topic. They plan to visit the site in the near future. We hope that whatever information and conclusions they report will be helpful in advancing this important project to a successful conclusion.

National Zoological Park Research and Conservation Center - Our testimony before the Congress over the past several years as to our plans for the research and conservation center at Front Royal, Virginia, seem to have been received positively. At least, the Congress has been quite supportive of our operating and renovation

budget requests, no doubt reflecting their shared concern about the state of rare and endangered animal life. GAO has indicated that their assignment on this topic is basically one of gathering more information on use. The team has visited the Zoo and has received a file of background information covering site search, communications with Congress regarding this search and the need for such a facility, budgets, and other matters. GAO will visit Front Royal on September 30.

Smithsonian Research Role - Questions by the Congress at our annual appropriation hearing have frequently addressed the Institution's activities in basic research and whether or not these activities duplicate the work of Federal agencies. Many of these questions have concentrated on the work of the Tropical Research Institute in Panama and the Chesapeake Bay center for Environmental Studies - activities now on the GAO agenda. We have tried to be responsive in our answers, describing in some detail the research that is conducted at these facilities and explaining how our work relates to, complements, and is coordinated with work conducted by others. For example, there exists at the Bay Center the Chesapeake Research Consortium composed of the Smithsonian Institution, the Johns Hopkins University, the University of Maryland and the Virginia Institute of Marine Science, which reflects the joint efforts of these activities. Furthermore, both of these field stations receive from time to time special project support from Federal agencies which testifies to the special competence of our facilities.

So far, the GAO group has asked for a list of research projects at the Bay Center and at the Tropical Research Institute. We have provided explanatory materials for the hearing records and have offered to show the subcommittee members and their staffs these activities and other ones firsthand. Generally speaking, our invitations have not been accepted.

Federal Fund/Private Fund Relationship - GAO has been asked to look into the manner in which private funds are used in conjunction with federal funding. Related to this topic is the expressed Senate concern about what they identify as a practice of initiating activities or facilities with private funds that create an obligation of future federal fund support. The Cooper-Hewitt Museum is cited as a case in point. While our budget justifications and other materials have attempted to explain the genesis of the Cooper-Hewitt Museum, we perhaps did not make it fully clear that its situation is not unlike that of the early years of the Smithsonian itself or of the Freer Gallery of Art that started with private support but very soon required some federal funding for general administrative, housekeeping, and protection requirements in support of its public responsibilities. We have told Congress that as far as federal funds are concerned, the Smithsonian adopted the principle that the programs of the Cooper-Hewitt should be operated with private funds and that appropriated funds insofar as possible should be limited in use to the protection and preservation of collections and property. We have, in fact, raised millions of dollars for this museum. Of course, we will provide whatever additional information that may be helpful.

We are concerned about such statements as appear in the <u>Post</u> article to the effect of commingling of funds which, of course, we do not do in an accounting sense. Many of our activities, as shown to the Congress in the financial statement in the <u>Smithsonian Year</u>, do receive funds from a variety of sources. Several of the study

items, but perhaps this one most of all, suggest that there is a continuing need to explain the unique character of the Smithsonian as established by the Congress itself and further defined, during its 130 years of growth, by the Board of Regents, General Accounting Office, Department of Justice, Civil Service Commission, Office of Management and Budget, and the Judicial Branch. Many of those who regard the Institution as a government agency simply do not know that the Smithsonian was established to carry out solemn trust obligations of the United States; that the trust funds which are the foundation for all Smithsonian activities do not belong to the United States except as trustee; that the fundamental purposes of the Smithson trust transcend those of the government itself since all mankind is the beneficiary rather than the United States.

The trust funds are audited by Peat, Marwick, Mitchell and Co., an independent audit firm, rather than the GAO. However, the report of this audit as well as a substantial level of detail on our sources and application of private funds have been given each year since 1971 to the appropriation subcommittees as an appendix to the federal budget document as well as in our comprehensive annual report to the Congress. Where applicable, such as for the Cooper-Hewitt, Freer, and Archives of American Art, federal budget justifications have presented information on private fund finances.

In recent years, most of our private funds have been of a restricted nature not available for general purpose budgeting. With the success of our magazine, concessions, shops, and other revenue-producing activities (which the Regents will learn more about at

the October 1 meeting) we have recently come into the position of being able to consider the allocations of private funds. As has been discussed at previous meetings, such allocations have recently provided for the development of the West Court building and necessary additions to our unrestricted funds endowment. In our discussions with the GAO group and subsequently with Congress, we will have an opportunity to clarify the types of funds in question, their uses, and our budgetary techniques, as well as the innumerable ways in which the Nation has been the principal beneficiary of these trust funds for over 130 years.

<u>Center for Natural Areas</u> - Subsequent to the original Congressional request to the GAO and prompted, we believe, by a disgruntled previous employee of the Center for Natural Areas (who had been asked to leave that organization), the Congress has asked the GAO to add the CNA to its review.

Similar questions as to the Smithsonian's relationship to the CNA had been raised at our House appropriation subcommittee this past spring to which we provided detailed answers. These questions revolve around the apparent conflicts of interest between the Smithsonian and the Center and the extent of financial involvement and/or losses that might be sustained by us with respect to this involvement.

So far we have emphasized to GAO that the Smithsonian started CNA as a way of providing an interdisciplinary capability within the land use planning field since there was not a consistent, integrated

approach to this important kind of planning anywhere in the Federal Government. It is now a private, nonprofit corporation for which the Smithsonian has served as a fiscal agent.

GAO has requested and has been provided with complete background papers which describe its purpose and Smithsonian relationships. This action was taken after obtaining approval from the officers and Board of Directors of CNA and upon GAO's assurance that it would safeguard the private nature of the documents.

Science Information Exchange - Prompted also by statements apparently provided to the press by an employee who was discharged for cause, the Congress has recently asked the GAO to examine the Science Information Exchange. The major allegations concerning the Exchange are: (1) the Exchange has converted the Nation's largest science information resource "into private property which is available to the public only at exorbitant prices"; (2) the Exchange was incorporated without previous study and without the approval of the Congress so that it might embark upon a detrimental commercialized marketing program; and (3) the morale of the Exchange's professional employees is deteriorating, resulting in degradation in the quality of the services the Exchange renders. Briefly on each of these points, the Exchange does not copyright the information it receives from federal agencies or from any other sources. It does copyright its own special compilations. At the insistence of the National Science Foundation with the encouragement of the OMB and the Congress, user charges were initiated to lessen the need for requesting additional

appropriations to cover costs of supplying information from the data bank to outside requesters. On the second matter, the Smithsonian advised the OMB and the appropriation subcommittees of the plans to incorporate the Exchange and received no objections. The purpose of the incorporation was to continue to allow the SIE to be operated under a contract with the Smithsonian by persons who were clearly not employees of the Federal Government. Concerning the third allegation, the Exchange's scientific staff has been relatively stable and a steadily rising record of use attests to satisfaction with the quality of its services.

Smithsonian Research Foundation - This topic also has been added by the Congress since its initial assignment to GAO. Thus far, the GAO effort appears to be to clarify the origins of the Smithsonian Research Foundation and its functions. We have explained that SRF is a non-profit foundation chartered in the District of Columbia for educational, scientific, cultural, and artistic purposes and that it acts to administer four major programs: the Research Awards Program, Special Foreign Currency Program awards to Smithsonian scholars, and the fellowship programs of the Smithsonian and the Woodrow Wilson International Center for Scholars. GAO has asked for documentation explaining SRF's functions and responsibilities, its relationship to the Smithsonian, and the programs it administers; copies of recent year budgets; lists of grants awarded and administered; and other materials. We have explained that the Foundation is subject to an annual audit by Peat, Marwick, Mitchell and Co.

In the course of this review, we have explained the nature of the Institution, and although the GAO staff has concluded that they do not have "audit" authority over our Private Funds, we have cooperated fully with them to assure that their efforts can be fully responsive to Congressional instructions.

These examinations (as, for instance, the GAO review of the Hirshhorn Museum construction in 1975) have, in general, been useful to the Institution. They have informed and reassured the Congress about some areas of concern. They have suggested ways in which we could improve our practices. And they have clarified the nature of the Institution itself.

# Litigation Report

#### New Cases

# 1. Foster v. Ripley et al.

Plaintiff, a former Vice President of the Smithsonian Science Information Exchange, filed this suit in the U. S. District Court for the District of Columbia on August 6, 1976, alleging that his removal from office was in derogation of his right to due process under the Fifth Amendment and his right to free speech under the First Amendment. The removal of plaintiff was precipitated by his having sent correspondence prejudicial to the interests of the SSIE to a party with whom the SSIE has a contractual relationship. The complaint names Secretary Ripley, Assistant Secretary Challinor, Associate General Counsel Ullberg, and President of the SSIE Hersey as defendants, each in their individual capacities as well as in their capacities as Board members of the SSIE. The Department of Justice has agreed to conduct the defense in this litigation.

# 2. <u>Winston</u> v. <u>Smithsonian Science Information Exchange</u>

This "class action" against the SSIE in the U. S. District Court for the District of Columbia, filed by four former SSIE employees, alleges that the SSIE and President Hersey have engaged in discriminatory hiring and promotion practices against black and other minority group members and seeks both injunctive relief and monetary compensation. Since the SSIE is a legally independent corporation, and no Smithsonian employees are involved, President Hersey (after consultation with the Office of General Counsel and the Justice Department) decided to engage Mr. William Carey, former General Counsel of the Equal Employment Opportunity Commission, as private counsel to represent the SSIE in this case. The discovery process has nearly been completed by both parties to the litigation, and an early spring trial is anticipated. Mr. Carey is of the opinion that the SSIE has not discriminated against minorities, but the outcome of a complex suit of this type cannot be predicted with certainty.

# 3. Chedister v. United States

This complaint filed August 5, 1976, in the U. S. Court of Claims, alleges that the Smithsonian committed error in its decision in 1974 to abolish plaintiff's job as Visual Information Specialist, and that the U. S. Civil Service Commission Board of Appeals and Review likewise erred in sustaining the Institution's decision on appeal. The U. S. Attorney anticipates filing a motion to dismiss the complaint on numerous grounds on or about October 4, 1976.

# 4. Horton v. Marriott Corporation et al.

The plaintiff alleges personal injury due to faulty equipment in one of the restaurant facilities of the National Museum of History and Technology, operated as a concession by the Marriott Corporation. Under its contract Marriott is to indemnify and hold the Smithsonian harmless from claims of this type. With the approval of the Justice Department, Marriott's insurer has undertaken the defense in the suit.

# 5. Baran v. United States

This is a suit for damages filed against the United States, the District of Columbia, and the Smithsonian alleging personal injury caused by a public disturbance in front of the National Museum of History and Technology on May 11, 1974, "Human Kindness Day." The Justice Department has filed a motion to dismiss based on the plaintiff's failure to pursue her administrative remedies under the Tort Claims Act. It is believed, moreover, that the facts alleged do not show any negligence on the part of the Smithsonian.

# Cases Previously Reported

# 1. Expeditions Unlimited Aquatic Enterprises, Inc. v. Smithsonian Institution

In this libel action against the Institution and a federal roll employee, summary judgment was granted in favor of the defendants. On appeal, the United States Court of Appeals for the District of Columbia held (June 28, 1976) that the Smithsonian Institution is immune from a libel action under the Federal Tort Claims Act, but it remanded the claim against the federal employee to the district court for further consideration of the scope of his official immunity. On August 17, 1976, the Department of Justice filed a petition for rehearing the case en banc.

# 2. Claims Arising out of Construction of the Hirshhorn Museum

Three of the larger claims filed by the contractor and various subcontractors employed in the construction of the Hirshhorn Museum have been decided in favor of the contractor, Piracci, Inc., by the General Services Administration's Board of Contract Appeals, but only on the question of entitlement to payment. One of the smaller of those claims has been negotiated and paid by the GSA, out of the funds appropriated for construction of the Museum. The exact amount due the contractor on the principal claim is being negotiated between GSA and the contractor; however, the amount due may not be determined for a year or more. As to the other claim, GSA and the contractor have agreed on an amount that is due the contractor. After consultation with the Department of Justice, it is understood that these remaining claims will be paid through the normal procedures established for settlement of claims against the United States.

# 3. <u>Living Window ICC, Inc.</u>, and Joseph Etelman v. <u>James S. Ward</u>, <u>Inc.</u>, James S. Ward and the Smithsonian <u>Institution</u>

This is a suit by a subcontractor against the contractor, James S. Ward, Inc., and the Smithsonian Institution for breach of contract, unjust enrichment, disclosure of trade secrets, and other alleged injuries. The action arises out of the termination of a subcontract for failure to perform its agreement to construct an optical dissolve device for the National Museum of History and Technology. The Department of Justice has filed a motion to dismiss the complaint; however, no action has been taken, possibly due to the illness of the judge to whom the case is assigned.

# 4. Baccar v. Mediterranean Marine Sorting Center

This suit for breach of contract filed in Tunis by a former employee of the Smithsonian Mediterranean Marine Sorting Center was dismissed by the Tunisian Tribunal of the First Instance on May 17, 1975, and the dismissal was affirmed August 24, 1976, by an Appellate Court. The time to file an appeal with the Supreme Court of Tunisia will expire shortly.

# 5. Benima v. Smithsonian Institution

This complaint was filed January 20, 1976, in the U. S. District Court for the District of Massachusetts alleging that the plaintiff had been discriminated against on the basis of age. The Department of Justice shares our view that the complaint is procedurally defective as well as unmeritorious. The U. S. Attorney has filed a motion to dismiss, which will be ruled upon after plaintiff has had an opportunity to receive the responses to interrogatories served upon us and to respond to the motion.

# 6. Mason v. United States

This suit, based upon an allegation of racial discrimination, was dismissed by consent December 22, 1975, with a provision that it could be reopened if a settlement agreement could not be reached between the parties. Efforts are currently being made to reach such a settlement.

# 7. Precure v. United States and John Naveau

This suit, filed April 21, 1976, against the United States and a Smithsonian security guard, arises out of an incident in the Gem Hall in May 1975, when a 17-year-old boy was placed under arrest for tampering with the alarm apparatus underneath a gem display case, and his father for interference with an officer. The complaint alleges false arrest, malicious prosecution, and a variety of other improprieties and seeks compensatory and punitive damages. A claim filed by the plaintiffs under the Federal Tort Claims Act for \$53,351.27 was denied by the Institution in March 1976 as being without merit. This matter is being handled by the Department of Justice. Interrogatories are presently being exchanged.

# Cases Disposed Of

# 1. Clark v. Smithsonian Institution

This suit was based on a tort claim for \$10,000 for injuries suffered in an automobile accident involving a Smithsonian vehicle. The case was settled by the Justice Department for \$600, with no admission of liability.

# 2. Nancy Birdsall v. Smithsonian Institution and Liberty Mutual Insurance Co.

This civil action filed by a private roll employee against the Smithsonian Institution and its insurance carrier, Liberty Mutual Insurance Company, requesting \$3,500 for failure to pay medical benefits and for damages caused by alleged misrepresentations, was settled for \$1,000, without prejudice, by the insurance company.

# Trip to Nepal

In response to the letter sent to the Board of Regents and the National Board of the Associates concerning the trip to Nepal to visit the Tiger Project, a number of replies indicated interest. Of the Regents, ten Regents responded and three were interested. Of the 21 responses received from the 30 National Associates Board members, ten were interested.

We have just received an estimate of the costs of the trip which would cover a 15-day period with stopovers for rest, all meals, camping at the site, elephants and land rovers and round-trip economy air fare for a total of \$3,200 per person. (First class air fare would raise the total to \$4,325.)

Alternative arrangements concerning travel to and from the United States and New Delhi will be possible. It is expected that the group will be in New Delhi on Sunday, February 20, rest until February 22, and then fly to Kathmandu and the camp for about nine days. The group would then return to the U.S. via New Delhi or Bombay on Friday, March 4.

A letter will now be sent to all those interested in the trip informing them of the details and costs of the trip, eliciting their firm commitment.

September 24, 1976

	September 24, 1976		
	(All costs based on two people sharing one room and one elephant)		
	Hotel, New Delhi (three nights on way in, "day-room" on way out)	\$ 53.00	
	Two meals a day in Delhi	12.00	
	5 days in Kathmandu, including meals, special events, estimated by Kirti Man Tamang at \$75.00 a day	375.00	
	4 days at camp, estimated by K.M.T. at $\$200.00$ a day, for all expenses including elephants, land rovers and transportation of supplies from Kathmandu	800.00	
	Bus transportation for sightseeing, official functions, etc., in $\ensuremath{^{\text{Delhi}}}$	20.00	
	Air transportation to and from camp	32.00	
		\$1,292.00	
	First class air is \$3,009.00*		
-	Economy air is \$1,883.00*		
	Excursion rate is \$ 976.00**		
	Therefore, via first class is:	\$1,292.00 3,009.00	
	Actual	\$4,301.00	
	Rounded up for contingencies	\$4,325.00	
	via economy is	\$1,292.00 1,883.00	
	Actual	\$3,175.00	
	Rounded up for contingencies	\$3,200.00	
	via excursion rate (no stop in London)	\$1,292.00 <u>976.00</u>	
	Actual	\$2,268.00	
	Rounded up for contingencies	\$2,300.00	
	* This fare permits certain stops along the way each way if they wish to		

<sup>\*</sup> This fare permits certain stops along the way each way if they wish to break up the two-night flight to and from India.

<sup>\*\*</sup> This fare has several restrictions. The most important one is that they must be in India/Nepal a minimum of 14 days. There can be only one stopover going to India in Europe for an extra \$50 if they wish to break up the flight, but no stops are permitted on this fare when they return to the U.S.

# Awards made to Mr. Ripley

Mr. Webb reported that Mr. Ripley has received three awards from foreign nations in the past six months.

Mr. Webb stated that Her Majesty Queen Margrethe II of Denmark has bestowed on Mr. Ripley the Commander's Cross of the Order of Dannebrog because of his active and continuing role in cultural relations as well as his role in international conservation.

His Majesty King Juan Carlos I of Spain, during his visit to Washington on June 3, decorated Mr. Ripley with the Great Cross of Civil Merit in recognition of his contribution to Spanish-American cultural relations.

His Royal Highness, the Prince of the Netherlands, in 1975 has conferred on Mr. Ripley, with permission of Her Majesty Queen Juliana, the Order of the Golden Ark with the rank of Commander for his more than 25 years of leadership in the field of international conservation. (Mr. Ripley has been Secretary and President of the International Council for Bird Preservation since 1950.)

In accordance with the Institution's practice of reporting this to the Board of Regents, the Executive Committee recommended that Mr. Ripley be permitted to accept these honors and that the concurrence of the Chief of Protocol, Department of State, be sought for retention of these awards by the recipient.

VOTED that the Board of Regents approves the acceptance of the honors bestowed on the Secretary and that the Chief of Protocol, Department of State, be asked to concur for retention of these awards by the recipient.

#### Other Business

Mr. Ripley showed a photograph of the bust of Leonard Carmichael recently created by Una Hanbury and donated anonymously to the Institution. He described the bust as being enchanting, showing Dr. Carmichael in his favorite position, with young Leonard, a baby gorilla, in one arm and another baby chimp in the other arm. We were very pleased to have this commissioned to be done and will, at an appropriate time, have a ceremony unveiling the bust, probably in the Leonard Carmichael Auditorium of the National Museum of History and Technology.

Mr. Ripley announced that Michael Collins, Director of the National Air and Space Museum, has been advised that he will receive the National Civil Service League Award in the category of Special Achievement. Mr. Collins is cited for his superb leadership in opening the National Air and Space Museum.

Mr. Ripley announced that Mr. James M. Symington will join the staff as Director of the Office of Membership and Development. He will be particularly concerned with the National Board of the Associates and general development projects. Mr. Symington, age 56, is a graduate of Groton School and Yale University, B.A. 1943. He served as an Army Captain in France and Germany, 1943-46; was employed in the advertising field, 1946-76. Most recently he was Senior Vice President, Account Supervisor, Wilson, Haight & Welsh, Inc., in Hartford Connecticut. He had previously served as Account

Executive and Vice President for J. Walter Thompson and Young and Rubicam, Inc.; President, Newark Junior Chamber of Commerce and Director, New Jersey Junior Chamber of Commerce; Trustee of Children's Museum, West Hartford; Trustee, Farmington Village Library Association; Trustee, St. Joseph College, West Hartford, Connecticut; Director, Northeast Financial Corporation and Hartford Stage Company; Republican Town Committee, Farmington, Connecticut.

Another new member of the staff is Mr. Jon E. Yellin, who will replace John F. Jameson as Director of the Office of Programming and Budget. Mr. Yellin, age 35, is a graduate of Columbia University, where he received a B.A. degree in 1963 and a Masters' degree in International Affairs in 1965. He has studied statistics, budgeting, and foreign languages more recently. He was employed by the Internal Revenue Service Budget Offices from 1969 to 1975, including three years as Regional Budget Officer in Philadelphia, handling a budget of approximately \$130 million, with a staff of ten, and he was a Staff Assistant to the Fiscal Management Officer in Washington, D.C. Mr. Yellin also served as first Budget Officer of the National Endowment for the Arts from 1975 to 1976.

Mr. Ripley reported that Abram Lerner, Director of the Hirshhorn Museum, is recovering from heart surgery and is doing very well, but will be recuperating for several months.

Mr. Ripley announced the forthcoming meeting of the National Board of the Smithsonian Associates to be held in Washington on October 15 and 16, and that invitations have been sent to all Regents. He urged the Regents to attend if they possibly can both the luncheon on Friday, October 15, and the dinner the same evening at 7:00 p.m., in the Arts'and Industries Building. He mentioned that George McGhee is the present Chairman, and that a majority of the 30 Board members will be present.

The Vice President recalled that the Board of Regents had discussed at their meeting in January 1976 the existence of a superb collection of American Indian art in the Heye Foundation, and that no action or advice had resulted from a motion that had been approved, authorizing the Secretary to explore the status of the New York Collection, evaluate it, and advise the Regents of any viable options; and ensure that the Regents and the Institution are sensitive to including in our diverse spectrum the role of the American Indian. Vice President Rockefeller advised that the organization continues to have problems.

Mr. Blitzer reported that after the meeting in January,

Mr. Yates became interested in this too, and they visited the Museum last spring. They had the distinct impression that the people now in charge in New York would make every effort to keep the Museum in New York and to make a go of it there.

The Vice President described the collection of Indian art as being enormous in extent, with only a small part on public exhibition; that the collection had never been catalogued, but that an inventory was now being worked on; and that the court case is pending with the Attorney General of New York resulting from charges of mismanagement and misconduct by both trustees and staff.

It was the sense of the Regents that this matter should be pursued and that a report be given to the Board at its next meeting. Mr. Ripley stated that the Smithsonian will pursue this matter and give the Regents an interim report before the next meeting concerning the present status of the collection and what the Smithsonian plans to do about it.

The staff of the Smithsonian was excused from the meeting and the Board of Regents went into executive session.

A discussion ensued concerning a resolution which, it was decided, would be presented for final vote at the January 25, 1977 meeting of the Board of Regents, when more of the Regents will be present.

# Dates of Next Meetings

Executive Committee: To be determined.

Board of Regents: Tuesday, January 25, 1977.

# Adjournment

The meeting adjourned at 6:45 p.m.

Following the meeting the members of the Board of Regents and their wives were given a tour through the Cooper-Hewitt Museum, where the first temporary exhibition titled "Man Transforms, Aspects of Design" was being prepared for the formal opening on October 5, 6 and 7, 1976.

Following the tour the Regents, their wives and other guests had dinner at the residence of Mr. and Mrs. Bertrand L. Taylor III. The recipient of the Hodgkins Medal, Dr. E. Cuyler Hammond, also a guest at dinner, was presented with this award. The text of the citation is attached.

Respectfully submitted:

S. Dillon Ripley, Secretary
Smithsonian Institution

#### E. CUYLER HAMMOND

A significant participant in the creation of realization by the medical profession and the public. that there was a formal link between cancer in man, and factors in our environment such as smoke and related chemical inhalations. As a human biologist, he has managed to associate many of the complex relations between the internal biology of man, and the development of malignancies. He has done this in a refined manner as a theoretical mathematical biologist by interpreting human population groups in an ecological context, then proving scientifically what mere conjecture had not allowed to be accepted as fact. Few people have done more to provide the present groundwork for our knowledge of the relation between the atmosphere about us and the health of humankind. It is in this spirit that the Regents of the Smithsonian Institution have conferred on you the Hodgkins Medal for great distinction in this fundamental field.

1 October 1976

/s/ S. Dillon Ripley

Secretary