National Foundation on the Arts and Humanities Act and Museum Services Act: Extensions (1979): Report 09

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potsentially place persons in imminent lan-
gener of death or serious bodily injury. It up-
grade all offenses under this section to a federal
offense; and... statute: the list of offenses it cross-references Sec. 1853
as well.

Senators Leahy and Baucus added to Sec.
1981, to make following federal acts for which a
person could be charged with endanger-
ment: the Occupational Safety and Health Act
1911, the Hazardous Sub-
stances Act, the Federal Food, Drug and
Cosmetic Act and the Federal Metal and

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this has been
clarified with Mr. STEVENS, and if it has
not I will undo it, but on my word it has
been or I will vitiate it—that the Senate
proceed to the consideration of Calendar
Orders S96, S97, and 601.

ARTS AND HUMANITIES ACT OF 1980

The PRESIDING OFFICER. The clerk
will state the first bill by title.

Calendared are bill (S. 1386) to amend
and extend the National Foundation on the
Arts and Humanities Act of 1965, and
for other purposes.

The Senate proceeded to consider
the bill which had been reported from
the Committee on Labor and Human
Resources with an amendment to strike all
after the enacting clause and insert the
following:

That this Act may be cited as the "Arts
and Humanities Act of 1980".

DEFINITION OF HUMANITIES

Sec. 2. Section 2(a) of the National
Foundation on the Arts and Humanities
Act of 1965 (hereinafter referred to as the "Act"),
is amended by striking out "theory, and prac-
tice" and inserting in lieu thereof "theory and
practice".

POURS OF ARTS GRANTS

Sec. 3. Section 3(b) of the Act is amended
by adding at the end thereof: "...through a recognition of the diversity
that comprises American creativity."

(b) (1) Section 3(c) of the Act is amended
by inserting after clause (8) "as clause (8) and by inserting after clause (4) the follow-
ing new clause:

(6) for programs for the arts at the local
level.

(b) The last sentence of section (5) (c) of
such Act is amended—

(1) by striking out "clause (5) and in-
serting in lieu thereof "clause (8);" and
(2) by striking out "Labor and Public Welfare" and inserting in lieu thereof Labor and Human
Resources.

STATE ARTS GRANTS

Sec. 4. Section 5(g) of the Act is amended
by striking out all that follows "State plan"
The following paragraph (2) (A) and
inserting in lieu thereof a semicolon and
(3) by striking out the end of paragraph (4)
the following new subparagraph:

"(E) For the purpose of paragraphs (3) (B)
and (D) of this subsection, the term 'State' includes, in addition to the federal States or the Union, only the special jurisdictions listed in
section 3(g) of this Act having a population of
300,000 or more, according to the latest decennial census.".

INTERGOVERNMENT AGREEMENTS

Sec. 5. Section 5(k) of the Act is amended
by adding at the end thereof the following:

"The Chairman may enter into interagency
agreements to promote or assist with the
arts-related activities of other Federal Gov-
ernment agencies that may be reimburse-
ably basis, and may use funds au-
thorized for the purpose of section 9(c) of
this Act for such purposes and activities."

CHALLENGE GRANTS

Sec. 6. The matter preceding paragraph (1)
of section 15(i) of the Act is amended by in-
serting strengthening" by after "for the purpose of.

REPEALER

Sec. 7. Section 8 of the Act is amended by
repealing subsection (a).

NATIONAL COUNCIL ON THE ARTS

Sec. 8. Section 6 of the Act is amended by
inserting after the first sentence of subsec-
tion (c) thereof the following: "The term of
office of all Council members shall expire on
the third day of September in the year of
expiration."

ACTIVITIES OF THE NATIONAL ENDOWMENT FOR

THE HUMANITIES

Sec. 9. (a) Section 7(c)(2) of the Act is amended
by inserting after the word "loans," in the
matter preceding the word "in," deleting all
that follows the first semicolon.

(b) The last sentence of section 7(c) of
the Act is amended by inserting after clause (4)
thereof the following: "...after the enacting
clause..."

DEFINITION OF HUMANITIES

Sec. 10. (a) Section 7(h) (B) of the Act is amended
to read as follows:

(3) (A) Whenever a State desires to design-
ate or to provide for the establishment of a
State agency as the State agency for the
administration of the Act, such State shall
make application for such programs at such
time as shall be specified by the Chairman.
Each such application shall be accompanied by a
plan which the Chairman finds—

(A) provides assurances that the grant
recipient will comply with the requirements of
paragraphs (2) (B) of this subsection;

(B) provides that funds paid to the grant
recipient will be used solely on programs
which carry out the objectives of subsection
(c) of this section;

(C) establishes a policy which is designed to assure broad public representation with respect to programs
administered by such grant recipient; and

(D) provides a nomination process which
assures opportunities for nomination to membership from various groups within the
State involved and from a variety of seg-
ments of the population of such State, and
including individuals who by reason of their
race, creed, sex, age, national origin, includ-
ing, but not limited to, individuals of various
humanities, are especially qualified to serve;

(E) provides for a membership rotation program which provides for the regular rotation of the membership and officers of such grant
recipient;

(F) establishes reporting procedures which are designed to inform the chief execu-
tive officer of the State involved, and other
appropriate officers and agencies, of the
activities of such grant recipient;

(G) establishes procedures to assure pub-
lico access to information relating to such
activities.

(2) (B) provides that such grant recipient will make reports to the Chairman, in such
form, at such times, and containing such
information as the Chairman may require."

(c) (1) Section 7(j)(3) of the Act is amended—

(A) by inserting "State" and "immediately before the grant recipient" each time it appears

(B) by inserting "and State" and "immediately before grant recipients" each time it appears

(C) by inserting before "entities" the follow-
ing: "States and regional groups and"

(2) Section 7(j)(5) (A) of the Act is amended
by striking out "Whenever the pro-
visions of paragraph (5) of this subsection
apply in any State, that part of any"
and inserting in lieu thereof the follow-
ging: "The provisions of paragraph (5) of
this subsection shall apply for any fiscal year under this subsection shall be available to each State or grant

February 7, 1980
fraud" that Daniel Ellsberg could be prosecuted?

It is important to note that a very important improvement found in § 130(b) which makes it a bar to prosecution if the obstruction is committed "solely for the purpose of obtaining a direct or indirect pecuniary benefit to himself or to the public." Such a bar does not now exist in current law and is aimed at avoiding a repetition of the Ellsberg for his acquisition of the Pentagon Papers.

"Eighth. If you have a material wrong diagnosis or are guilty of "obstructing a government function by fraud"?

No. You have to have specifically intent to

Ninth. Does the offense "obstructing a government function by physical interference" apply to all public officials?

The provision is now narrower than existing statutes insofar as the general term "public servant" in (a) (1) has been replaced with a term specific, defined term of "United States official, a judge, a juror, a law enforcement officer, an employee of an official duty facility, a former employee of the Probation System." That change substantially reduces the number of federal officials subject to obstruction under existing law.

The specific reference to "obstructing government function by physical interference with basic free speech?"

In First Amendment rights" (p. 5), the criticism ignores § 1002(b) which makes it a bar to prosecution if the obstruction were not thus protected by rights of free speech or assembly", did not involve violence and "did not significantly obstruct or impair a government function or service in current law; It is a recognition for the first time in federal criminal law that an obstruction would not be barred to first amendment activity in certain cases.

Eleventh. Wouldn't the section of "obstructing government function by physical interference" mean that a person who rings a wiretap off his phone be guilty of an offense?

One can always think up some fact situation which would lead an unsuccessful prosecutor to invoke a provision never intended to be used in such a manner. There is no specific concern. The 1002(b) provisions impose no new local community standards?

It is true that the current federal obscenity law contains a provision that has existed almost 100 years makes no reference to "local community standards." But the Supreme Court case of Miller v. California, 418 U.S. 1 (1974); Smith v. United States, 381 U.S. 201 (1966); Committee Report at 870-880. But beyond the single-illuminating change from current statute law S. 1927's "new" obscenity provision operates on evidence that would be excluded under any 100 years makes no reference to "local community standards." But the Supreme Court case of Miller v. California, 418 U.S. 1 (1974); Smith v. United States, 381 U.S. 201 (1966); Committee Report at 870-880. But beyond the single-illuminating change from current statute law S. 1927's "new" obscenity provision operates on evidence that would be excluded under any 100 years makes no reference to "local community standards." But the Supreme Court case of Miller v. California, 418 U.S. 1 (1974); Smith v. United States, 381 U.S. 201 (1966); Committee Report at 870-880. But beyond the single-illuminating change from current statute

Fifteenth. Do the extortion provisions make it a federal crime to extort or obtain political contributions for a political, religious, charitable or any other not-for-profit organization against labor union member with a bribe or under color of official right?

This year's labor extortion provision is limited to "labor conduct causing "death or severe bodily injury," i.e., property damage is assumed. In addition, the provision is only applicable if state or local authorities are unable or unwilling to prosecute.

Sixteenth. Is the crime of perjury subject to the same limitations?

As reported out of the Committee under a Baucus amendment, attempted perjury is a lie in all cases is an important improvement over existing law.

The remaining criticisms of the section concern the introduction of new affirmative provisions of existing perjury statutes. Opponents are wrong in stating that S. 1927's "definition of perjury" is "unconstitutional" (Federal Corrupt Practices Act of 1910). Oppositions acknowledge current actual in terms of perjury "capable of influencing the tribunals" S. 1927 speaks in terms of regulations which "could have affected the course of the matter. There is no difference between requiring paragraphs S. 1927 require that any perjurious harm actually ensue. Nor can it possibly be reasonable would have a "federal crime" and an "act of Congress". This is the universal rule in all federal courts today (see e.g., Sinclair v. United States, 278 U.S. 263, 298-299 (1929) and its progeny). Nor are opponents on sound footing when it argues that materiality should require a "reckless" state of mind on the part of the defendants.

Not only is this not the law today in any federal court, but it is no longer the rule in state courts, for even where materiality is a question of law; the defendant's state of mind is and should be irrelevant. There is good authority for the "2-witness rule" for perjury prosecutions (Committee Hearings at 1018). But the 2-witness rule has already been repealed in the Federal Corrupt Practices Act of 18 U.S.C. 1923). There is simply no sound, logical reason for retaining the 2-witness rule for other non-judicial proceedings.

Seventeenth. Did the Committee weaken environmental protection?

The Senate Judiciary Committee adopted two significant amendments in this area.

The underlying philosophy was to strengthen the environmental enforcement law and to stiffen first offense penalties by changing them from indeterminate to Class III felonies. As a result, some of these statutes would be considered felonies.

(1) Sect. 1883, this amendment raised from one offense a maximum of two years in the federal criminal law to a maximum of four years for the crime of pollution.

(2) Sect. 1883, this amendment addresses crimes against the environment which also
February 7, 1980.

CONGRESSIONAL RECORD—SENATE

S 1281

recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than $60 per centum of the total proceeds described in paragraph (1) The amount of any.

(3) Section 7(a) (1) (B) of the Act is amended to insert "State agency or before "grant recipient.

(4) Section 7(f) (8) of the Act is amended by inserting "State or before "grant recipient" in clause (B) of paragraph (1) of the Act is amended—

(a) by inserting "group or" before "grant recipient" and

(b) by inserting ", State agency or before "grant recipient" in clause (B) and inserting in lieu thereof ", State plan or grant recipient application application;"

(c) by striking out "grant recipient" in clause (B) and inserting in lieu thereof "grant recipient application application;"

(d) by inserting "agencey or before "grant recipient" in clause (C) and inserting in lieu thereof "grant recipient application application;"

(e) by striking out "grant recipient" in clause (C) and inserting in lieu thereof "grant recipient application application;"

(f) by striking out "grant recipient" in clause (C) and inserting in lieu thereof "grant recipient application application;"

(5) Section 7(g) of the Act is amended by inserting "State agency or before "grant recipient application application;"

(6) Section 7(h) (5) of the Act is amended by inserting the following paragraph:

"(f) The purposes of the paragraph (5) of Section 7(h) of the Act are to be fulfilled by the following:

(1) The Secretary of the Treasury is authorized to make interagency agreements to promote or sustain the humanities-related activities of other agencies of the Federal Government on a reimbursable or nonreimbursable basis, and may use funds authorized for the purposes of section 7(a) of this Act for the costs of such agreements.

GRANT BY THE CHAIRMAN

Sec. 11. Section 8(f) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$5,000".

Guardian Protections

Sec. 12. Section 10(a) (4) of the Act is amended by inserting "and culturally diverse" after the word "geographic.

(2) Section 10(c) of the Act is amended by striking out "January" and inserting in lieu thereof "April.

AUTHORIZATION OF APPROPRIATIONS

Sec. 13. (a) (1) "The first sentence of section 7(a) of the Act is amended to read as follows:

"(B) The purposes of the Act are to be fulfilled by the following:

(1) The Secretary of the Treasury is authorized to make interagency agreements to promote or sustain the humanities-related activities of other agencies of the Federal Government, as the case may be, shall issue guidelines to implement the provisions of paragraphs (3) and (4) of section 7(d) of the Act, consistent with the requirements of sections 5, 7(f), 5(c), and 7(d) (2), as the case may be.

(b) Section 11(c) of the Act is amended to read as follows:

"(1) There are authorized to be appropriated to the National Endowment for the Humanities $132,500,000 for fiscal year 1981, $132,500,000 for fiscal year 1982, $153,500,000 for the fiscal year 1983, $178,000,000 for the fiscal year 1984, and $206,000,000 for the fiscal year 1985.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $132,500,000 for fiscal year 1981, $132,500,000 for fiscal year 1982, $153,500,000 for fiscal year 1983, $178,000,000 for fiscal year 1984, and $206,000,000 for fiscal year 1985, to assist at the discretion of the Chairman, and such grants shall be made only to such States or plan or grant recipient application application;”
thought and concern. As some of my colleagues may recall, I have been especially interested in the success of State humanities programs for many years. The 1976 reauthorizing legislation which I sponsored, helped bring the programs of the humanities committees in each State to a broader and a very receptive public. I believe the ever-increasing diversity of humanity programs is tremendously encouraging to me.

I am disappointed, however, in one important aspect of their growth in the 1976 reauthorization, and that is the general lack of communication between the humanities committees and the State governments and, often, the citizenry of the State.

The legislation under consideration today provides an option which, I believe, will strengthen humanities programs at the Federal, State, and local levels by allowing the governor of a State to establish a full-fledged State humanities council. For such a council to be designated, the humanities organization already exists and the State's allotment of funds must be named. In addition, the State must match 50 percent of the minimum State grant or 25 percent of the total amount of Federal assistance, whichever is lower, for that fiscal year. These moneys must come from newly appropriated State funds and should not be transferred from other State programs such as those in the arts. The committee believes that separate programs are important to the continued strength and vigor of each area.

Should a State elect to establish a State humanities council, the Governor will be entitled to appoint new members to the council as the terms of current members expire. Moreover, it is important that these State humanities councils continue to carry out humanities programs that are accessible, useful, and meaningful to as broad a public as possible.

If a State should fail to meet any of these requirements for a State humanities council, the existing humanities organization will continue to operate as it is now doing, using privately raised funds for entertainment and other representational purposes. In order to avoid any situations involving a potential conflict of interest, the committee bill bars other than the reservation of administrative funds for representational purposes. It is the intent of the committee that all independent fund raising by the endowments for these purposes be encouraged and the reserve fund be ample to meet all entertainment and other representational needs.

Mr. JAVITS. Mr. President, as an author, with Senator Pell, of the original National Foundation on the Arts and Humanities Act of 1965, and as the author in the other body, 31 years ago, of legislation designed to establish ongoing Federal support to the arts, I am pleased to support these extensions of Federal support to the arts, and I am even more pleased to support these extensions of Federal support to the arts, and I am even more pleased to support these extensions of Federal support to the arts. I believe, as Senator Pell and I initiated in 1976, and which has proven to be a critical link in establishing a cultural partnership between the public and private sectors—to include a greater diversity of cultural institutions, while maintaining the highest standards of quality we have come to expect from public institutions.

The bill encourages the endowment to establish a highly successful Challenge Grant program—which Senator Pell and I initiated in 1976, and which has proven to be a critical link in establishing a cultural partnership between the public and private sectors—to include a greater diversity of cultural institutions, while maintaining the highest standards of quality we have come to expect from public institutions.

The principal feature of our reauthorization of the Humanities Endowment programs relates to the role of the State humanities programs. Current law provides that the Governor may appoint two members to a public State humanities council, unless the State chooses to match Federal financial assistance, in which case the Governor may appoint one-half of the members of the council.

My friend, and the initiator of the humanities endowment concept, Senator Pell, especially gratified, I think, in the thought of a significant increase in the development of State humanities programs, similar to their activity in arts programs. Accordingly, the committee believes that the State may establish an official State humanities council based upon a requisite level of State appropriation for the humanities and the designation of the existing humanities organization as the State council. If a State elects to meet these criteria, the Governor of that State will be entitled to appoint new members as terms of current members expire. It is especially important that the Governor have the authority to allow for a change in the status of the State humanities councils, the committees designated that the public, "cultures and communities" be better represented in the existing councils be retained, while the observational guarantee that State councils be more assertive in their stewardship of public funds. The committee also emphasized that any officially designated committee is to be the central, policymaking committee for a State humanities agency, rather than an advisory adjunct of a new State bureaucracy under the aegis of a State's Governor.

Mr. President, S. 1429 reauthorizes the Institute of Museum Services for a period of 2 years, rather than a longer period, to allow the subcommittee to determine the appropriate place for the Institute in the Smithsonian, as part of a trial with the two humanities, or in the Department of Education, which is its current home. As the Institute is a fledgling entity, established only 2 years ago, we have the opportunity to require the next 2 years to examine its functioning as a relatively autonomous segment of the new Department, and whether the
The amendments were agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MUSEUM SERVICES AMENDMENTS OF 1980

The PRESIDING OFFICER. The clerk will state the next bill by title.

The legislative clerk read as follows: Calendar 367, a bill (S. 1429) to extend the Museum Services Act for 2 years, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Museum Services Amendments of 1980." Sec. 2. Section 308 of the Museum Services Act is amended by adding at the end thereof the following:

"(c) The Director may appoint without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 3 of part 3 of title 5 of such title relating to classification and General Schedule pay rates not to exceed one-half the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate provided for in the General Schedule as of February 1, 1980, and the Director shall take no action with respect to the payment of such employees who are subject to bargaining under title 5 of the United States Code other than as provided by collective bargaining agreements."

Sec. 3. Section 306 of the Museum Services Act is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection (b):

"(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations in order to enable such organizations to undertake projects designed to strengthen museum services.

(2) A financial assistance may be made under this subsection for any project for a period in excess of one year.

(3) No grant may be made under this subsection to offset any expenses of any professional museum organization.

(4) The aggregate amount of financial assistance made under this subsection to professional museum organizations shall not exceed 5 per centum of the amount appropriated under this Act for fiscal year 1981.

(5) The term "professional museum organization" means a nonprofit professional organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.

Sec. 4. Section 208 of the Museum Services Act is amended by striking out "and" and by inserting before the period at the end thereof a comma and the following: "and $21,500,000 for fiscal year 1981, and $28,000,000 for fiscal year 1982."

Sec. 5. Section 209 of such Act is amended by striking out "and" and by inserting in lieu thereof "1982."

Mr. PELL. Mr. President, today the Senate is taking up S. 1429, the Museum Services Amendments of 1980. This legislation would extend the authorization for 2 years rather than the usual five, so that it could reexamine the question of the Institute's location within the Federal Government at the end of that period.

The vote on the amendment was high, with attendance of nearly 500 million persons per year. At the same time, inflation is taking a heavy toll on museum programs and services. Many museums have been forced to curtail their hours and limit their services to the public, in order to stay within their budgets. Therefore, S. 1429 authorizes appropriation of $35 million for fiscal year 1981 and $32 million for fiscal year 1982, to allow room for reasonable growth in the assistance the Museum Services Institute is able to provide.

S. 1429 makes minor changes to the enabling legislation. Congress authorized the Institute to use up to 5 percent of its appropriation to make contracts and cooperative agreements with professional museum organizations. These organizations, which are currently not eligible for assistance, engage in activities designed to advance the well-being of museums and the museum profession. Contracts would be limited to 1 year, and would be reevaluated to make them specific projects rather than for general operating support.

A second change authorizes the Institute to establish its own grant review procedures. This would allow the Institute to utilize peer review, similar to that employed by the Endowments for the Arts and Humanities, if it believed that such an advisory panel system would be most effective, in the highest quality judgments.

A third change authorizes the Institute to hire a limited number of experts in the museum field as excepted personnel. There is at present no specific
The essential rights outlined above are very important to these members of the human family, and they should also be important to us, the parents.

Mr. President, I urge full support of Joint Resolution 130 by my colleagues in the Senate. Our Nation must focus on our children, we must listen to their voices of concern, seek remedies and provide solutions so that they will be able to carry on the future of this country.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GLENN, Mr. President, I move to reconsider the vote by which the joint resolution was agreed to and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. Res. 130

Whereas for centuries the first day of May has been the traditional symbol of spring, the birth of new life, and the rebirth of hope for the future; and

Whereas children represent that new life and hope for the future of our Nation; and

Whereas our Nation should concentrate on creating a better future world in which our children will grow so that they will feel assured and have every opportunity to achieve their maximum potential as adults; and

Whereas twenty years ago, the United Nations in recognition of the importance of these members of the human family, issued a declaration outlining the essential rights of all children; and

Whereas during the year 1979 forty-two of our Nation's State Governors issued proclamations declaring May 1 as "Save the Children Day"; and

Whereas into the 1980's and beyond, Americans should continue to acknowledge children as a national priority and our most precious resource; and

Whereas our Nation should resolutely commit to providing our Nation's children so that they will be able to carry on the future of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be requested to issue a proclamation designating May 1, 1980, as "National Save the Children Day"; and calling upon Federal, State, and local government agencies, interested groups, organizations, and the people of the United States to observe this day with appropriate ceremonies, programs, and activities.

TRADE WITH CHINA

Mr. THURMOND, Mr. President, the recognition of the People's Republic of China offers the United States a huge new market for international trade.

It is vital, however, that the United States carefully consider the posturing in trade with China so that large commodities of cheap goods, such as textiles, will not flood U.S. markets.

Mr. President, a recent editorial by WBPA Radio and TV of Spartanburg,