

1989

Reauthorization: Hearing and Reports (1990): Memorandum 01

John H. Hammer

Follow this and additional works at: http://digitalcommons.uri.edu/pell_neh_I_72

Recommended Citation

Hammer, John H., "Reauthorization: Hearing and Reports (1990): Memorandum 01" (1989). *Reauthorization: Hearings and Reports (1990)*. Paper 9.
http://digitalcommons.uri.edu/pell_neh_I_72/9

This Memorandum is brought to you for free and open access by the Education: National Endowment for the Arts and Humanities, Subject Files I (1973-1996) at DigitalCommons@URI. It has been accepted for inclusion in Reauthorization: Hearings and Reports (1990) by an authorized administrator of DigitalCommons@URI. For more information, please contact digitalcommons@etal.uri.edu.

The NHA National Humanities Alliance

4 December 1989

MEMORANDUM

TO: NHA Members (and Friends)

FR: John Hammer

RE: Washington News - 1. At the NEH:
o Sequestration and Budget Reconciliation
o New Re grants Procedures
o Content Restrictions
2. Staff Changes
3. Congress: The NEA Grants Controversy Flows
Without Pause Into Reauthorization
o Commission on NEA/NEH Grants Processes
o Hearing on Freedom of Expression and the
Control of Tax Dollars
4. Foreign Languages Bills in the Senate
5. Philip Morris and the Archives

1. **FY-1990 at the National Endowment for the Humanities** - The NEH has emerged from the bruising appropriations battle with somewhat increased funding (\$159,130,000 up from \$153,000,000) but also with: a) All grant-making decisions subject to not very relevant but nonetheless difficult to interpret content restrictions aimed at preventing support for obscene activities; b) strong report languages calling for enhanced oversight on re grants; and c) the prospect of additional changes resulting from recommendations of an independent commission that will review the grant-making processes of both the Arts and Humanities Endowments.

Sequestration and the FY-1990 Budget Reconciliation - NEH is among the agencies included in the federal discretionary budget under the Gramm-Rudman-Hollings Budget Reduction Act, and thus subject each year to the possibility of across-the-board sequestering of appropriated funds if the budget offices of the President and Congress determine that spending will exceed the legislatively established deficit targets for the fiscal year. On October 15, automatic spending cuts of \$16.2 billion went into effect and were scheduled to hold throughout the fiscal year unless replaced by a budget reconciliation agreement between Congress and the Administration that would produce equivalent savings in the federal budget during FY-1990. This year the G-R-H formula calls for 5.3% cuts in domestic programs and 4.3% in military spending. In addition to the exclusion of all uncontrolled expenses (such as interest on the debt and entitlements), there are many exceptions in both categories which is why in a trillion dollar plus budget the cuts hit the non-excepted so hard. For NEH, a 5.3% cut equals \$8.4 million if the cuts remain in effect through the year. Like most other agencies, NEH reacted cautiously and waited to see how

negotiations would come out to replace the sequester with a budget reconciliation measure. In general, the rules call for the cuts to be administered across-the-board within agencies. Because NEH is a small agency with little fat in either program or administrative funds, the impact is likely to be fairly strong.

As the always complicated negotiations for a budget reduction continued on into November and toward adjournment for the first session on Congress, the idea of incorporating a part of the sequester into the overall package became increasingly prominent. The President said that he could live with the sequester. As Congress moved toward adjournment, the package that emerged included accepting the sequester through the first week of February (i.e., 19 weeks or approximately 1.9% across-the-board -- Hill staff say that the cut will be only 1.4%). While the affected agencies will need guidance from OMB on interpretation, e.g., how much leeway there is on reductions across programs, etc., the impact is still substantial (e.g., the Research budget of \$17 million may be reduced by about \$325,000 -- the administrative budget a similar amount but the impact is more concentrated because the line item carries many fixed costs that can not be reduced thus exaggerating the affect of the cuts on remaining funds. Also, the administrative budget must absorb the Congressionally approved salary increases that begin on January 1 and total about \$300,000.)

The use of partial sequestration as a major component of budget reduction agreements may be an idea whose time has come. For some years, both Congress and the administration(s) have utilized a wide variety of gimmicks that have served to fend off G-R-H sequesters but have not tended in practice to reduce the deficit as forecast. Sequesters really do reduce spending. In addition, budget projections for the upcoming year can be adjusted downward to reflect the sequestered savings (i.e., the budget growth is slowed). A particularly unattractive aspect of the sequester strategy is that inefficiency is rewarded, efficiency punished.

New Re grants Procedures - Subgrants (aka re grants) have long served an important purpose in the overall NEH program. Last year, the NEH Council and management began a review of the use of the re grants mechanism. The assessment was aimed at several concerns including: a) That NEH had insufficient control over funds re granted by private organizations; b) a specific charge that some scholars may have been able to win re grant fellowships when they failed to qualify for direct NEH funds; c) that re granting programs duplicated NEH programs; d) that NEH had inappropriate long-term relationships with some of the re grant institutions, and e) that funds dedicated to re grant programs could be more effectively used for other NEH programs. The outcome of this study as reported during the May 1989 Council meeting reconfirmed that the re grant programs were important to the overall mission of the agency and altogether appropriate. The review produced no evidence of improprieties in the re grants programs.

The FY-90 appropriations process for Interior and Related Agencies (which includes a number of federal cultural agencies including NEH) came to be dominated by a major controversy over the involvement of the National Endowment for the Art in two photographic exhibitions that many people (including some in Congress) found offensive.

Because both of the controversial projects could be considered regrants, the Chairman of the House Appropriations Subcommittee Rep. Sidney R. Yates (D-IL) sought to defuse the controversy by bringing regrants under closer control of the government. In connection with this approach, Mr. Yates concluded that regranting was not authorized under the enabling legislation for either NEA or NEH. While the final legislation did not go so far as to prohibit subgrants, it includes strong report language calling for the Chairmen and Councils of the two agencies to be "as thoroughly informed and responsible for the subgrants as for direct grants."

When the National Council on the Humanities met in August, the Council Committees on Education and Research met jointly to "discuss principles and procedures pertaining to the Endowment's oversight of regrants." Informed by the several months of study of the regrants process at NEH, the Council members under the leadership of Leon Kass carefully and skillfully devised recommendations for an amended process that they believed would meet Congress's concern for greater oversight while doing the least damage to key aspects of present regrants policies that are most threatened by the changes directed by Congress (e.g., time elapsed between selection of scholars to receive regrants and advisement of same of an award). The core of the plan was for each regranting institution to submit "to the relevant Division of the Endowment, the roster of applicants it [is] recommending, along with a brief summary of the projects each person plans to undertake...In a problematic case -- which we expect would be very rare -- the Endowment could then request the full application for closer scrutiny before rendering final approval, without unduly delaying or disrupting the review process." Periodic site visits of NEH staff to observe selection committee processes were also included.

The October 3 debate in the House over the Conference Report on the Interior appropriation -- the outcome of what was by all accounts an excruciating three days of bargaining -- convinced the NEH leadership that a more elaborate procedure for regrants oversight was going to be necessary. Finally, after another review during the November 6-7 meeting of the NEH Council a procedure was agreed upon. It should be noted that both Council members and NEH officials emphasized that the procedures were new and experimental. In addition, instructions accompanying appropriations are generally only in effect for the fiscal year in question -- whether that will prove to be the case in this situation is very difficult to read. Major elements of the enhanced oversight are:

- o Regrant organizations are asked to pay particular attention to "the intent and special terms of the NEH block grant" in

determining the eligibility of applicants. (A key concern here is whether the proposed work falls within the Congressional definition of the humanities);

o Grants affected by the new procedures would be NEH-financed fellowships and research awards sponsored by five organizations (ACLS, IREX, SSRC, Committee on Scholarly Exchange with the Peoples Republic of China, and the Council for Basic Education), and the various NEH fellowships at centers for advanced study;

o Proposed subgrants and alternates (i.e., intended fellowship awardees) will be forwarded to NEH with brief descriptive information and full copies of the applications;

o NEH staff will forward lists together with full applications for any requiring further review to an appropriate Council committee (e.g., research, education.) Committee members will make recommendations to the NEH Chair within one week; the Chair will make decisions and convey them promptly to the regrants organization;

o Periodic site visits to observe selection committee work and procedures will be scheduled -- approximately once every three years.

Initial (anecdotal) responses to the new procedures suggest that the implementation will be troublesome for both NEH and the regrant organizations. Because the Congressional language only holds sway for the current fiscal year, it is possible that the whole procedural exercise will end next October. Likewise, statutory changes affecting regrants may arise from the reauthorization process. Officials of several regrants institutions have expressed concern for the long term impact on the integrity of their peer review processes if the new procedures remain in force as presently formulated.

Implementation of New Content Restrictions - NEH is responding to the anti-obscenity provision to its FY-1990 appropriation by including a letter with responses to applications and inquiries that advises of the new restriction and quotes the legislation (i.e., prohibition of support for work "which in the judgement of [NEA or NEH] may be considered obscene, including but not limited to depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.")

2. **Staff Changes at the Endowment** - Several changes at the senior staff level have occurred over recent months. **Jerry L. Martin** and **Thomas S. Kingston**, who have been at the Endowment since 1987 and 1982 respectively, have new responsibilities as assistant chairmen. **James Herbert** joined the NEH staff in October to direct the Division of Education Programs.

o Martin now serves as Assistant Chairman for Programs and Policy. He is responsible for directing the NEH's program staff and overseeing formulation and review of NEH policies and objectives. Earlier this year, Martin moved from directing the Division of Education Programs to the position of Assistant Chairman for Studies and Evaluation. His experience also includes service as a legislative assistant to Rep. Hank Brown (R-CO) following an Andrew Mellon Congressional Fellowship in 1982. Martin holds a PhD in philosophy from Northwestern University and is a former chair of the philosophy department at the University of Colorado at Boulder.

o Thomas Kingston became Assistant Chairman for Operations and now serves as the NEH's principal administrative officer. He has held several NEH posts prior to this appointment, most recently as Assistant Chairman for Programs. Before his arrival at NEH, Kingston was the Associate Director of the National Humanities Faculty in Concord, MA. He holds a PhD in British literature from Northwestern University.

o James Herbert, who began service as Director of the Division of Education Programs in October, is a newcomer to the Endowment. Immediately prior to joining NEH, Herbert was Executive Director for Academic Affairs at the College Board in New York. Earlier in his career, Herbert directed a study for the Carnegie Foundation for the Advancement of Teaching on the relationship between federal and state governments and American colleges and universities. Herbert holds a PhD in the history of ideas from Brandeis University.

Finally **Jason Hall**, NEH's Director of Congressional Affairs since 1982 left the Endowment in October. Congressional liaison has been added to the responsibilities of NEH General Counsel **Rex Arney**.

3. **Congress, The Controversy, and Reauthorization** - As many had foreseen, the controversy over the NEA grants did not subside with completion of the FY-1990 appropriations cycle but rather continued on as a dominant factor in consideration of virtually all federal cultural issues -- Certainly all issues pertaining to the Endowments.

Temporary Independent Commission on the Grant-Making Processes of the NEA and NEH - The final Interior Appropriations Conference Report that was passed by the House on October 2 called for a commission that will:

"...review the National Endowment for the Arts' grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than 'substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence' [US Code] and if so, then what other standards. The criteria to be considered by

the commission shall include but not be limited to possible standards where a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; b) the work depicts or describes in a patently offensive way, sexual conduct; and c) the work, taken as a whole, lacks serious artistic and cultural value."

When the Conference Report was on the Senate Floor on October 7, Senator Byrd asserted that the conferees had agreed that the independent commission would review the grant-making process at NEH as well as NEA. Despite the criteria to be used by the Commission which is very NEA-specific, the commission will look at both agencies.

The Presidentially appointed Commission will consist of twelve members: Four selected by the President; four selected by the Speaker of the House; and four selected by the President Pro Tempore of the Senate. For both the House and the Senate, the recommendations are to be made in consultation with the appropriate minority leader.

The House moved rather quickly with the Speaker, Rep. Thomas S. Foley (D-WA), recommending the House selections on October 31: **John Brademas**, President of New York University (and a former Congressman who co-sponsored the legislation establishing NEA and NEH); **David Connor**, former chairman of the Illinois Arts Council; **Joan W. Harris**, former commissioner of the Chicago Department of Cultural Affairs; and **Kitty Carlisle Hart**, chairman of the New York State Council on the Arts.

In the Senate there have been difficulties. Although the President Pro Tempore Robert C. Byrd (D-WV) is designated to make the actual recommendations, the provision requiring consultation with the Minority Leader has resulted in a dispute over how many of the Commission members will be designated by the minority party; one or two. As of early December, Mr. Byrd reportedly still is waiting for recommendations from Majority Leader George J. Mitchell (D-ME) and Minority Leader Robert Dole (R-KS).

The White House has reportedly selected the President's four appointees but will not reveal them until clearance procedures are completed. In the 11/25/89 New York Times, William Honan reported that three of the President's appointments will be: Leonard Garment, former President Nixon's councilor on arts among other things; Gertrude Himmelfarb, professor emeritus of history at City University of New York who recently completed a six-year term on the National Council on the Humanities; and Leland Webber director emeritus of the Field Museum of Natural History in Chicago.

Reauthorization of the National Foundation on the Arts and the Sciences - The impact of the FY-90 appropriations fracas is especially strong on reauthorization. Factors that weigh on the schedules of the committees charged with reauthorization include:

o The temporary independent Commission on the NEA/NEH grant processes is likely to produce recommendations that will have to be dealt with in reauthorization. The Commission is supposed to report within six months of the date the President signed the legislation, i.e., by 23 April 1990. As the selection of appointees stretches on into December -- and must be followed by selection of a chair and other organizational issues, an extension on into June or July 1990 for the final report is not unlikely.

o The FY-91 appropriation for the Endowments will require authorizing legislation and the current law expires at the end of September 1990.

o The political atmosphere surrounding NEA (and only tangentially NEH) is expectant and perhaps conducive to new incidents. The new NEA Chair John Frohnmayer got off to a rocky start when in an attempt to avoid controversy he first cancelled and then restored a small grant to a New York gallery for an art exhibit on AIDS. The brouhaha, which extended over a mere two weeks but involved leaders in the arts world, the NEA's Council, and Congress seemed to provide a sort of glaring preview of the difficulties that lie ahead. The possibilities for more trouble over existing or future grants and their potential to be magnified in the reauthorization process are considerable.

Consequently, and not surprisingly, the authorizing committee leaders are weighing the possibilities for one-year extension of the existing legislation -- including keeping in force the language of the FY-1990 appropriations bill. For many, the opportunity to work for an improved atmosphere as well as probable advantages of the passage of time make an extension very attractive. A key question that would have to be resolved is whether Senator Helms would be amenable to such an extension.

Hearing on Freedom of Expression and the Control of Tax Dollars - On November 15, Rep. Pat Williams (D-MT) chaired an oversight hearing on "the rights of artists and scholars to freedom of expression and the rights of taxpayers to determine the use of public funds." The session was the first hearing on reauthorization of NEH and NEA that the Subcommittee on Postsecondary Education (of the Committee on Education and Labor) has held in Washington. (Two reauthorization-related hearings were held by the Subcommittee earlier this year -- Both focussed on the economic impact of cultural institutions: Museum of the Rockies in Bozeman, MT; and the Spoleto Festival in Charleston, SC.)

The hearing had been in the planning stages since June but had been delayed for several reasons including a desire to wait until confirmation of the appointments of John Frohnmayer and Daphne Murray at NEA and IMS, and a concern that the hearing not become dominated by the tumultuous finale to the FY-1990 appropriations process. As it turned out, the hearing took place at the height of the Frohnmayer/AIDS art exhibit flap.

The panel of witnesses was selected with great care by the Subcommittee staff with the intent of providing voice to diverse viewpoints while at the same time achieving an overall balance. The witnesses were: **Floyd Abrams** (First Amendment and Constitutional lawyer; attorney with Cahill, Gordon and Reindel), **Bruce Fein** (Constitutional Scholar; private attorney), **Leonard Garment** (Attorney: Dickstein, Shapiro and Morin), **Timothy S. Healy** (President, New York Public Library and former President, Georgetown University). A fifth witness, **William Van Alstyne** (Perkins Professor of Constitutional Law, Duke University) was unable to participate due to illness.

In his opening statement, Mr. Williams said that it is generally recognized that the arts and humanities flourish only in an atmosphere free of restrictions on content. In the twenty-five years since the establishment of the Endowments, the system Congress devised to protect free expression had worked quite well until recently -- But now that freedom is threatened. Mr. Williams emphasized his hope that a way can be found to protect both free expression and control of tax dollars by the people's elected representatives. On the other hand he expressed concern that the "chilling effect" of NEA attempting to implement the new directives of Congress may have already drawn them into "the quicksand of censorship." Expressing hope that the witnesses would shed light on the thorny issue, the Ranking Minority Member, E. Thomas Coleman (R-MO) waived his opening remarks because the time for the hearing had been shortened to accommodate Lech Walesa's appearance before a joint session of Congress scheduled for later that morning.

Floyd Abrams' testimony was firmly centered on free expression "If Congress is to fund the arts at all, it must take the arts as they are -- sometimes less than flattering about American society, sometimes less than approving of recognized and generally held values of American life. To fund artistic expression only if it is 'safe' art or 'responsible' art is simply to ignore the qualities that should lead Congress to fund it in the first place -- its freshness of vision, its willingness to look anew at what the rest of us overlook or are incapable of seeing." Mr. Abrams also directly criticized the then-in-force NEA decision to withdraw its grant from the AIDS art exhibit.

Bruce Fein spoke strongly of the right and duty of Congress to control uses of taxpayer dollars -- if necessary at the expense of free expression: "A nation lives by symbols. When the government funds works of art, it necessarily gives tacit approval to the grantee and the goals he promotes with taxpayer dollars. As to the First Amendment, Mr. Fein said "Curbs on government funding of particular ideological messages does not impair the quest for political truths. They leave undisturbed the right of all artists or scholars to challenge whatever orthodoxies they wish through private means." While noting that the equal protection clause of the Fourteenth Amendment or the free exercise clause of the First

Amendment would proscribe a denial of funding based on race, political affiliation, or religious creed, he concludes "But it does not seem to me that democratic rule or free speech suffers by limiting government money to ideas that congress thinks best serves the public weal."

Leonard Garment, who played a key role in federal cultural policies as Counselor to President Nixon during a period of extraordinary growth of the Endowments, emphasized the delicate balance involved in grant making with public money in the American form of democracy (e.g., "we accept that it is legitimate for the public to insist on being heard about virtually everything government does.") He was highly critical of artists asserting that politics has no place in NEA grant decisions and asserted that such arguments weaken public support for any federal support for the arts. Stressing that there are not easy answers and the importance of common sense, he said "When artists deal with the Endowment, though, they are dealing with an organization that is part of a political system. Politics and public opinion make demands; that is the nature of the beast. It is the job of Endowment executives both to make sure that legitimate political demands get a hearing and to see to it that the effect on the artists themselves remains very small."

Timothy Healy focussed his testimony on censorship "The debate is about censorship, and any effort to pretend that it is not is misleading. Given the prestige of the Federal Government, the accolade that any grant from either national endowment bestows, and the artistic integrity and impartiality of the juries who work for the endowments, any canons of content-based condemnation are simply a priori restraint. Against the argument that the artist is free to write, to paint or compose as he pleases without federal subsidy must urge that to deprive an artist of access to that subsidy because of the content of his work is a clear and strong kind of censorship."

The discussion period that followed was spirited. Messrs. Abrams and Garment each rejected central arguments of the other with Mr. Fein joining in at points. In response to a question from Mr. Coleman, all four of the witnesses seemed to agree that the content restrictions on NEH/NEA included in the FY-90 appropriation are probably Constitutional. Many from the audience seemed to agree that the witnesses had been uncommonly clear and well chosen in presenting reasoned positions on the issues but there was little sense of minds being changed by the testimony.

4. Senate Foreign Language Bills - On October 31, 1989 a hearing was held before the Senate Subcommittee on Education, Arts and Humanities. Witnesses testified on behalf of two Senate bills: S. 1690, the Foreign Language Competence for the Future Act; and S. 1540, the Critical Languages and Area Studies Program Assistance Act.

First introduced on September 28, 1989 by Senator Chris Dodd (D-Conn), S. 1690 provides for: "federal assistance to institutes of higher learning to establish foreign language institutes for the training and retraining of foreign language educators...will also give federal funds to States, experiencing shortages of foreign language teachers to offer teacher incentive grants to college students majoring in foreign languages... make demonstration grants available to institutes of higher learning or nonprofit education associations for the development of the technology necessary for distance learning programs...Federal assistance would also be available to institutes of higher learning and secondary schools interested in forming foreign language consortia... states could qualify for Federal grants to establish foundations to provide foreign language services to small and medium size businesses trying to compete in the international marketplace." cosponsors include Senators Paul Simon (D-IL), Claiborne Pell (D-RI), James M. Jeffords (R-VT), Spark M. Matsunaga (D-HA), and Thad Cochran (R-MS).

S. 1540 authorizes the Secretary of Education, " to make grants to eligible consortiums to: operate critical language and area studies programs; develop, construct, and acquire educational equipment, materials and facilities; and develop teacher training programs, texts, curriculum and other activities, designed to improve and expand the instruction of critical languages and areas studies at secondary and elementary schools across the nation." The bill's cosponsors are Senators Jeffords, Pell, and Edward M. Kennedy (D-MA).

Opening the hearing, Senator Dodd indicated two educational commitments in the area of foreign languages: to raise the foreign language ability of students to above that of other industrialized nations; and to address the problem of the growing shortage of foreign language teachers in the United States.

Testimony and remarks expressed concern that the United States significantly lags behind other industrialized nations in general foreign language competence and in the effectiveness of foreign language programs of instruction. In order to better compete internationally in business or other exchange, foreign language education weaknesses in this country must be addressed. There is little foreign language instruction beginning at the elementary school level where it is most effective in tapping the unique language learning abilities of younger students and where it allows adequate time for the inherently lengthy process of attaining foreign language proficiency. There is a lack of instruction in critical foreign languages such as Russian and Japanese. The threat of a growing shortage of foreign language teachers is troubling. With at least twenty six states currently experiencing foreign language teacher shortages consideration needs to be given to improvements in the overall attractiveness or the foreign language teaching profession.

Witnesses at the hearing included Dr. Ray Clifford, Provost of the Defense Language Institute in Presidio of Monterey, CA; Ms Helene Zimmer-Loew, President of JNCL-NCLIS; Dr. Charles MacCormack, President of the Experiment in International Living; and Mr. Nicholas Daniloff, an Assistant Professor of Journalism at Northeastern University (well known for his experiences as a journalist in the U.S.S.R.)

5. **Philip Morris and the National Archives** - On November, 16, 1989, beginning at 9:30 a.m., an oversight hearing was held by the House Subcommittee on Transportation and Hazardous Materials, to review the possible illegality of a contract made between the Philip Morris Companies and the National Archives.

Under the contract the Philip Morris Companies have given \$600,000 to the National Archives to help sponsor the bicentennial celebration of the U.S. Bill of Rights. As a result, television advertisements promoting the Bill of Rights and providing a toll-free telephone number for viewers to call to receive free copies of the Bill, have been produced. At the end of the advertisements the Philip Morris Companies' name and logo are displayed, along with an announcement of the advertisement's sponsorship by Philip Morris and the National Archives.

Since the early 1970's the televised advertising of cigarettes has been outlawed and printed cigarette advertisements have been required by law to display warning messages. Representative Tom Luken (D-OH), Chairman of the subcommittee, maintains that the general public's association of the Philip Morris name and logo with cigarettes makes these TV spots indirect advertisements for cigarettes and that it was, in fact, the Philip Morris Companies' intention in using the name and logo to promote smoking. The Philip Morris Companies, on the other hand, maintain that the Philip Morris Companies, a parent company to Philip Morris USA, which produces cigarettes, but also to Miller Brewing Co. and Kraft Foods, among others, is within its right to sponsor, using its name and logo, on television and without cigarette warning notices.

In what may have been an effort to disassociate the name Philip Morris from cigarettes, Philip Morris USA recently stopped production of the Philip Morris brand of cigarettes (though that brand is still available for purchase). However, even if the brand name Philip Morris is not on a currently manufactured cigarette, the Philip Morris logo (stated to be a logo of the parent company) is present on many of the Philip Morris produced cigarette brands, including their most popular brand, Marlboro. The logo does not appear on products of the other non-tobacco companies owned by Philip Morris.

While much of the day was spent debating whether a logo alone could constitute commercial advertising, several other issues were evident. Related to the subject of this hearing and perhaps of more direct interest to members of NHA, is an issue that was brought to light when Ms Claudine J. Weiher, Deputy Archivist of the United States, testified on behalf of the National Archives. During the questioning that followed her testimony Ms Weiher acknowledged that the National Archives had been specifically encouraged by Congress to solicit funding from private sector sources. Where previously the National Archives could only act as a recipient of private contributions, an opinion had been rendered by Congress saying that solicitation was also acceptable. The National Archives, in the initial stages of planning for the Bill of Rights bicentennial celebration, approached twelve corporations chosen because of their past records of participation in similarly funded projects and received eleven negative responses and only one reply of interest, that from Philip Morris. The negative responses indicated a disinterest in being involved with a program that is not well-known and that has no track record.

The government, unable to provide adequate funding to its own agencies for programs such as the bicentennial, has mandated them to solicit funds in the private sector. There they join other institutions and individuals currently competing for the limited corporate funds available. Unfortunately for the Archives' competition, the little known programs of the National Archives are likely better known than theirs.

The hearing, which ran until 4:30 p.m., included testimony from witnesses representing Philip Morris; the American Civil Liberties Union; Action on Smoking and Health and a number of other anti-smoking organizations; as well as from two congressmen: Representative Richard Durbin(D-IL) and Representative Chester G. Atkins (D-MA).

At the conclusion of the hearing it was determined by Mr. Luken that within two weeks the Philip Morris Companies would deliver a response to Congress as to their willingness to relinquish ownership of the mailing list of the names of those who had called in to receive copies of the Bill of Rights. The list contains over 300,000 names, many of which belong to children. Mr. Luken and others expressed concern that the names could be used by Philip Morris in a smokers' rights campaign.

NOTE: The reports on the foreign language bills and the National Archives were prepared by Alexandra Woodford.