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**APPROVED**  
FEB - 5 1976

*Signed*  
2/5/76

**THE WHITE HOUSE**

**ACTION**

**WASHINGTON**

**Last Day: February 6**

**February 2, 1976**

*Posted*  
2/5/76

*J. Archives*  
2/6/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *[Signature]*

SUBJECT:

S. 1657 - National Portrait  
Gallery Act Amendment

Attached for your consideration is S. 1657, sponsored by Senator Scott of Pennsylvania, which would permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to paintings and sculptures.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 1657 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JAN 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1657 - National Portrait Gallery  
Act Amendment  
Sponsor - Sen. Scott (R) Pennsylvania

Last Day for Action

February 6, 1976 - Friday

Purpose

Amends the National Portrait Gallery Act to redefine  
"portraiture."

Agency Recommendations

Office of Management and Budget	Approval
Smithsonian Institution	Approval
Library of Congress	No objection

Discussion

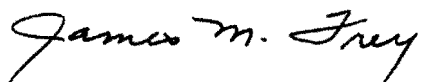
S. 1657 would permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to paintings and sculptures.

The National Portrait Gallery Act of 1962, which established the Gallery under the auspices of the Smithsonian Institution, defined portraiture as "painted or sculptured likenesses." Although the Smithsonian had proposed less restrictive language, the Librarian of Congress requested that the definition be worded to exclude photographic portraiture because of a concern that the Gallery would duplicate the print and photographic collections of the Library and compete in some instances with the Library's collection activities.



It has become clear over the years that the National Portrait Gallery cannot fully perform its function under the present restriction since portraits of many Americans who should be represented in the Gallery's collection are only available photographically. The enrolled bill would alleviate that problem by redefining "portraiture" to include "portraits and reproductions thereof made by any means or process, whether invented or developed heretofore and hereafter." This would allow the Gallery to collect prints and photographs as well as supporting material in motion picture film and videotape. In her letter on the enrolled bill, the Assistant Librarian of Congress states: "It has become evident ... that the National Portrait Gallery needs to collect selectively certain photographic representations if it is to be a real portrait gallery."

The legislation would entail no direct costs. However, development and exhibition of a photographic collection would require the services of a curator of photography. Funding for this position (\$20,000) has been requested in the 1977 budget.

  
Assistant Director for  
Legislative Reference

Enclosures



SMITHSONIAN INSTITUTION

*Washington, D.C. 20560*  
*U.S.A.*

January 23, 1976

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Executive Office Building  
Washington, D. C. 20503

Dear Mr. Frey:

Thank you for referring to the Smithsonian Institution for comment the enrolled bill S. 1657 to amend the National Portrait Gallery Act to redefine "portraiture."

The National Portrait Gallery Act of 1962, which established the Gallery as a bureau of the Smithsonian Institution, defined portraiture as "painted or sculpted likenesses." The bill proposed by the Smithsonian's Board of Regents in 1961 had defined portraiture as "portraits and reproductions thereof made by any means or processes, whether invented or developed heretofore or hereafter." The more restrictive language that was finally enacted was substituted by the Senate Committee on Rules and Administration at the request of the Librarian of Congress who argued that the new National Portrait Gallery would otherwise enter into competition with the Library of Congress in the collecting of prints and photographs.

It became increasingly clear over the years that the National Portrait Gallery could not fully perform its legislated functions, either in exhibition or in research, under the restriction. More than half of our national history has occurred since the invention of photography. Many Americans



who should be represented in the National Portrait Gallery are best portrayed by photographs, and some are portrayed only by photographs. As a center for the study of history through portraiture, the Gallery requires photographic and printed reproductions of portraits in all media not in its own collection.

A proposal to seek an amendment to the 1962 legislation along the lines it had originally proposed was considered and approved by the Board of Regents of the Smithsonian Institution at its meeting of January 24, 1975. Given the very restricted areas in which the Portrait Gallery would collect and display prints, photographs, films and other likenesses, competition with the collections of the Library of Congress has, and would continue to be, minimal. The amending language was discussed with the Acting Librarian of Congress, who had no objection to it, and I am confident that sensible, cooperative, and coordinated arrangements between the Library and the Gallery as well as the National Archives, can be worked out.

The amended definition will in itself entail no direct costs, but to implement its intent and develop collections, perform research on them, and arrange exhibits will require the services of a curator of photography. Funding for this position (\$20,000) has been requested in the President's budget for fiscal year 1977.

The Smithsonian Institution respectfully recommends approval by the President of S. 1657.

Sincerely yours,



S. Dillon Ripley  
Secretary



THE LIBRARY OF CONGRESS

WASHINGTON, D. C. 20540

OFFICE OF THE  
ASSISTANT LIBRARIAN OF CONGRESS

January 22, 1976

Dear Mr. Frey:

This is in response to your request for the Library of Congress' views on enrolled bill S. 1657, an act to amend the National Portrait Gallery Act to redefine "portraiture." When the original legislation was enacted, there was serious concern that the National Portrait Gallery would duplicate the print and photographic collections of the Library of Congress and would, in some instances, be in competition with the collecting activities of the Library.

It has, however, become evident that the National Portrait Gallery needs to collect selectively certain photographic representations if it is to be a real portrait gallery.

The Library of Congress in commenting on S. 1657 has stated that it is probably unavoidable that some duplication occurs and that we had no objection to the legislation. We concur with the language of the House Report (No. 94-715) that urges that wasteful duplication be avoided and that the Portrait Gallery is to work in close coordination with the Library of Congress and the National Archives in all areas where duplication might occur. The Library of Congress, therefore, has no objection to the enactment of S. 1657.

Sincerely yours,

A handwritten signature in cursive script that reads "Elizabeth Hamer Kegan".

(Mrs.) Elizabeth Hamer Kegan  
Assistant Librarian of Congress

Mr. James M. Frey  
Office of Management and Budget  
Room 7201, New Executive Office Building  
Washington, D. C.

Date: January 30

Time: 700pm

FOR ACTION: Kathy Ryan  
Max Friedersdorf  
Ken Lazarus ✓cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: February 2

Time: 500 pm

SUBJECT:

S. 1657 - National Portrait Gallery Act Amendment

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply

x

 For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 2/2/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.



THE WHITE HOUSE

WASHINGTON

February 2, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M.L.F.*  
SUBJECT: S.1657 - National Portrait Gallery Act  
Amendment

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 257

Date: January 30

Time: 700pm

FOR ACTION: Kathy Ryan *KR*  
Max Friedersdorf *MF*  
Ken Lazarus *KL*

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: February 2

Time: 500 pm

SUBJECT:

A. 1657 - National Portrait Gallery Act Amendment

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

x

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

\_\_\_\_\_  
K. R. COLE, JR.  
For the President

Date: January 30

Time: 700pm

FOR ACTION: Kathy Ryan ✓  
Max Friedersdorf  
Ken Lazaruscc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: February 2

Time: 500 pm

SUBJECT:

S. 1657 - National Portrait Gallery Act Amendment

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply

x

 For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing*Approval - KAR.*PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

AMENDING THE NATIONAL PORTRAIT GALLERY ACT  
TO REDEFINE "PORTRAITURE"

DECEMBER 11, 1975.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. NEDZI, from the Committee on House Administration,  
submitted the following

REPORT

[To accompany H.R. 6397]

The Committee on House Administration, to whom was referred the bill (H.R. 6397) having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

On December 10, 1975, a quorum being present, the committee, by voice vote, adopted a motion to report H.R. 6397.

COMPLIANCE WITH CLAUSE 2(1) OF RULE XI OF THE RULES

(1) With reference to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, separate hearings were held on the subject matter of this legislation by the Subcommittee on Library and Memorials, and the Committee on House Administration which resulted in the reported bill.

(2) With reference to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee on House Administration has not received an estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

(3) With reference to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(4) With reference to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the following information is provided:

Since the purpose of the bill is to amend the National Portrait Gallery Act to redefine the term "portraiture", the effect of carrying out H.R. 6397 is not expected to have any inflationary impact with respect to prices and costs, especially during the current serious economic period.

Accordingly, the enactment of H.R. 6397, as reported, will not have any significant inflationary impact with respect to prices and costs in the operation of the national economy.

#### PURPOSE

H.R. 6397 would redefine the term "portraiture" as set forth in the National Portrait Gallery Act of 1962, Public Law 87-443. The term is now defined in the National Portrait Gallery Act as any "painted or sculpted likeness". H.R. 6397 would amend this restrictive definition to read as follows: "The term portraiture includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter." This amendment is needed to eliminate the restrictive language of the Act of 1962 which prohibits the National Portrait Gallery from collecting prints, photographs, films, and other likenesses of men and women who have made significant contributions to the history and culture of the United States.

#### BACKGROUND

The National Portrait Gallery Act of 1962 defines portraiture as "painted or sculpted likenesses." The original authorization legislation, as introduced in the Senate in February 1961, had defined the term as "portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter." The more restrictive language which became part of the final legislation was substituted by the Senate at the request of the Librarian of Congress who argued that the Gallery would otherwise enter into competition with the Library in the collecting of prints and photographs. Since that time, it has become evident that the Gallery cannot fully perform its legislated functions under the existing restriction. More than half of our national history has occurred since the invention of photography. Many Americans who should be represented in our National Portrait Gallery are only portrayed by photographs and are thus excluded from the collection by the restrictive language of the Act of 1962.

#### HEARINGS

On November 11, 1975, the Subcommittee on Library and Memorials held a comprehensive hearing on this measure. A statement from the Secretary of the Smithsonian Institution was entered into the record and a representative of the Secretary responded to the Subcommittee's questions. Additionally the Acting Librarian of Congress was present and responded to concerns expressed by Subcommittee members as to the question of the duplication of effort for the collections of the National Portrait Gallery and the Library of Congress.

This issue and the possibility of competition among organizations and institutions such as the Smithsonian, the Library of Congress, and the National Archives for collections is a matter of concern to the Committee.

While it is understood that drawings and photographic portraits, as well as supporting material in motion picture film and videotape, are appropriate to be acquired and used by the National Portrait Gallery, it is important to stress that these materials should be acquired with the same selectivity now applied to paintings and sculpture by the Gallery and its Commission. The special problems of housing, preserving, and studying film and television make these collections expensive to maintain. Therefore, since the Library of Congress and the National Archives already have well established collections in these fields, the National Portrait Gallery must avoid wasteful duplication of resources and unnecessary expenditures as it moves into these areas. The National Portrait Gallery is directed to act in close coordination with the Library and National Archives in all areas where a duplication of effort might result.

#### COSTS

There are no direct costs attributable to this bill.



## AMENDING THE NATIONAL PORTRAIT GALLERY ACT TO REDEFINE "PORTRAITURE"

JULY 23 (legislative day, JULY 21), 1975.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration,  
submitted the following

### REPORT

[To accompany S. 1657]

The Committee on Rules and Administration, to which was referred the bill (S. 1657) to amend the National Portrait Gallery Act to redefine "portraiture", having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

S. 1657 would permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to paintings and sculptures.

#### BACKGROUND

In effect, S. 1657 would amend the National Portrait Gallery Act of 1962 and redefine the term "portraiture". The act which established the Gallery as a bureau of the Smithsonian Institution defined portraiture as "painted or sculpted likenesses".

The bill originally proposed by the Smithsonian's Board of Regents had defined portraiture as "portraits and reproductions thereof made by any means or processes, whether invented or developed heretofore or hereafter." This bill restores that language. The original bill establishing the Gallery had been amended with more restrictive language at the request of the Librarian of Congress, who argued that the Gallery would otherwise enter into competition with the Library in the collecting of prints and photographs.

It has become increasingly clear over the years that the National Portrait Gallery cannot fully perform its legitimate functions, either in exhibition or research, under the existing restrictions.

More than half of our national history has occurred since the invention of photography. Many Americans who should be represented in the Gallery are best portrayed by photographs, and some are only so portrayed. As a center for the study of history through portraiture, the Gallery requires photographic and printed reproductions of portraits in all media not in its own collection.

A proposal to seek an amendment to the 1962 legislation along the lines it had originally proposed was considered and approved by the Board of Regents of the Smithsonian Institution at its meeting of January 24, 1975.

Given the very restricted areas in which the Gallery would collect and display prints, photographs, films and other likenesses, competition with the collections of the Library would be minimal.

The proposed amendment has been discussed with the Acting Librarian of Congress, who has no opposition to the proposal.

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 1657, as reported, are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; and new matter is shown in *italic*):

#### THE NATIONAL PORTRAIT GALLERY ACT

(Public Law 87-443, April 27, 1962, 76 Stat. 62)

\* \* \* \* \*  
SEC. 2. For the purposes of this Act—

(a) The term "Board" means the Board of Regents of the Smithsonian Institution.

(b) The term "Commission" means the National Portrait Gallery Commission as provided for in this Act.

(c) The term "Gallery" means the National Portrait Gallery established by this Act.

(d) The term "gift" includes a gift, bequest, or devise, whether outright or in trust, and any legal instrument by which the gift is effected.

(e) The term "portraiture" [for purposes of this Act shall mean painted or sculptured likenesses.] *includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter.*

#### REPORTS AND CLEARANCES

The purpose of S. 1657 is further expressed in supporting letters addressed to Senator Claiborne Pell, chairman of the Subcommittee on the Smithsonian Institution, from John G. Lorenz, Acting Librarian of Congress, and to Senator Hugh Scott, Regent of the Smithsonian Institution and sponsor of the bill, from S. Dillon Ripley, Secretary of the Smithsonian Institution, which letters are as follows:

THE LIBRARIAN OF CONGRESS,  
Washington, D.C., June 12, 1975.

HON. CLAIBORNE PELL,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR PELL: This is in response to your recent request for the Library's views with respect to S. 1657, a bill to amend the National Portrait Gallery Act to redefine "portraiture."

The Library has discussed this redefinition of "portraiture" with officials of the Smithsonian Institution and we agree that the restrictive definition currently in the enabling legislation of the National Portrait Gallery imposes unnecessary limitations on the Gallery's program. The original Act was so written in order that duplication between the Library's extensive holdings of photographs and the Portrait Gallery would not occur. We also felt that significant photographs and prints in the collections of the Library of Congress would always be available for the Portrait Gallery's use, making it unnecessary for the Gallery to acquire these items for its collection. We have made many significant items available on this basis in the past, and will be glad to continue doing so.

In retrospect, it is probably unavoidable that some duplication will need to occur if the Portrait Gallery is to acquire portraits based on the historical significance of the person. We would, however, hope that the duplication would be kept to a minimum. In addition, should the Gallery wish to enter into the more complicated areas of motion pictures and television, we would hope that their activities would be closely coordinated with those of the Library of Congress, and with work in these fields being undertaken by other government agencies, to minimize the duplication of expenditure on these costly but important media. Perhaps this goal could be achieved by a short paragraph in the report accompanying the legislation.

If you desire additional information, please do not hesitate to let us know.

Sincerely yours,

JOHN G. LORENZ,  
Acting Librarian of Congress.

THE SMITHSONIAN INSTITUTION,  
Washington, D.C., May 2, 1975.

HON. HUGH SCOTT,  
Regent of the Smithsonian Institution, U.S. Senate,  
Washington, D.C.

DEAR HUGH: As you may recall, at its meeting on January 24, 1975, the Board of Regents authorized me to take appropriate steps to seek an amendment to the National Portrait Gallery Act to eliminate the restriction which prohibits the Gallery from collecting prints, photographs, films, and other likenesses of men and women who have made significant contributions to the history and culture of the United States.

The enclosed statement outlines the origins of the restriction and some of its effects. I might note that recently a meeting was held with the Acting Librarian of Congress and we believe the Library would not be opposed to the amendment.

I am enclosing a draft bill which will, I believe, achieve the end we seek, and would point out that the proposed new language in that originally approved by the Board of Regents in 1961. I would be grateful if you could introduce the measure as soon as possible.

Sincerely yours,

S. DILLON RIPLEY,  
*Secretary.*

#### LEGISLATIVE PROPOSAL FOR THE NATIONAL PORTRAIT GALLERY

The National Portrait Gallery Act of 1962 defines portraiture as "painted or sculpted likenesses." The original bill approved by the Board of Regents of the Smithsonian Institution in January 1961, and introduced by former Senator Clinton P. Anderson in February 1961, had defined portraiture as "portraits and reproductions thereof made by any means or processes, whether invented or developed heretofore or hereafter." The more restrictive language that became part of the final legislation was substituted by the Senate committee at the request of the Librarian of Congress who argued that the National Portrait Gallery would otherwise enter into competition with the Library of Congress in the collecting of prints and photographs.

It has become increasingly clear over the years that the National Portrait Gallery cannot fully perform its legislated functions, either in exhibition or in research, under the existing restriction. More than half of our national history has occurred since the invention of photography. Many Americans who should be represented in our National Portrait Gallery are best portrayed by photographs, and some are portrayed only by photographs. As a center for the study of history through portraiture, the Gallery requires photographic and printed reproductions of portraits in all media not in its own collection.

Given the very restricted area in which the Portrait Gallery would collect and display prints, photographs, films and other likenesses, competition with the collections of the Library of Congress would be minimal. Indeed, we are confident that sensible cooperative arrangements between the Library and the Gallery can be worked out.

No other Smithsonian museum is prevented by law from collecting prints and photographs in its areas of specialization; it is difficult to imagine that any of them could operate effectively if it were so limited.

○



# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

## An Act

To amend the National Portrait Gallery Act to redefine "portraiture".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(e) of the National Portrait Gallery Act (Public Law 87-443) is amended as follows: "The term 'portraiture' includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter."*

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

January 26, 1976

Dear Mr. Director:

The following bills were received at the White House on January 26th:

✓ S. 1657  
S. 1847

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.