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October 15, 1990

CONGRESSIONAL RECORD — HOUSE

H 9673

Amendment to H. R. 5769 (H. Amdt. 864 & 865)

On this vote:

Mrs. Boxer, for, with Mr. Denny Smith against.

Mr. HUNTER changed his vote from "aye" to "no."

Mr. DICKS, Mr. HUTTO, and Mrs. BYRON changed their votes from "no" to "aye."

So the amendment was agreed to.
The result of the vote was announced as above recorded.

ANNOUNCEMENT OF REPUBLICAN CONFERENCE on rollover [By unanimous consent, Mr. Lewis of California was allowed to speak out of order.]

Mr. LEWIS of California, Mr. Chairman, I take this moment to indicate to the Members on this side of the aisle that there will be a Republican conference tomorrow morning in Cannon Caucus Room at 9 a.m. That is Cannon Caucus, at 9 a.m.

The CHAIRMAN: Are there additional amendments to title III?

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. REGULA: On page 90, after line 23, add the following new section:

"Sec. 318. (a) The Chairman of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts, (1) are sensitive to the nature of public lands, (2) take into account generally standard public standards, (3) are subject to the conditions, public accountability, that are consistent with the use of public money, (4) reflect the highest standards by which the public may have access to art, that is, under the program.

(b) The funds made available by this Act shall be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is consistent with the standards of Miller v. California, 413 U.S. 15, 24 (1973) or, if any, as the term is used in Federal Communications Commission v. Pacifica Foundation, "428 U.S. 726, 722 (1976)."

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment, except for a substitute, consisting of the text of H. R. 14835, as passed the House, by and if offered by the gentleman from Montana [Mr. WILLIAMS] or his designee.

The gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes. The Chair recognizes the gentleman from Ohio [Mr. REGULA].

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, I have a parliamentary inquiry.
The CHAIRMAN. The gentleman will have his parliamentary inquiry. Mr. YATES. Mr. Chairman, the Clerk will read subsection (b) and read it to read, "None of the funds made available by this Act shall be used by the National Endowment. * * * The copy of the amendment, as filed, was received as 'may be used.' The CHAIRMAN. The Chair will advise the gentleman that the word is "may."

Mr. YATES. I thank the Chair. The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. REGULA).

The correct text of the amendment, as filed, is as follows:

Amendment offered by Mr. REGULA: On page 93, after line 23, add the following new section:

"Sec. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that programs of support for public, non-commercial, or other form of support provided by the National Endowment for the Arts (1) are sensitive to the public standards of decency; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the freedom to question and to criticize, and to the right of all persons and groups to be heard; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the Act.

(b) None of the funds made available by this Act may be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the section:

I think during the next 12 months the National Endowment for the Arts has a very great responsibility: To gain and restore the confidence of the American public in what they do, and that to give the public accountability and assurance that the $180 million of taxpayer money that is spent by NEA will be used wisely.

The language in my amendment is designed to achieve that degree of accountability. All Members are aware of some of the things that have been sponsored by NEA that have been found to be offensive to the American public, but I think there are a great number of credible standards for NEA funding. I therefore think in many respects, by adopting language of this type, we are doing the NEA a favor because we are setting standards, we are doing an effective job, provided they exercise good judgment on what kind of projects they sponsor. We know so well from the experience of the Pentagon and the entertainment industry, that they may do some wonderful things, and have in terms of defending this country, it is just a few bad examples that have been responsible for that were mentioned on the floor, so to speak, as conflicting with the public interest. The same thing happens with NEA. If they fund projects that are offensive, it erodes the public support.

This is important because NEA is a yardstick by which the private sector often measures the value of projects. The foundations that provide a lot of funding for the arts programs around this Nation will often say, "If the NEA is supporting it, then the private sector will follow." The United States does not do as much for the arts as does France or Great Britain or Germany." Well, of course it is because we follow a different technique in our country. In those countries, practically 100 percent, or certainly a large percentage of what they get in support comes from the public sector. In the United States, we made a decision that we want to have the private sector to participate in funding the cultural heritage of this Nation. That is quite evident from the Tax Code because we provide deductibility for contributions to museums, to art projects, to all types of things of this nature. Of course, that is, in so doing, we keep the private sector involved.

Nevertheless, the National Endowment for the Arts has a very great responsibility because they set the standard to some extent. Again, I emphasize I am not trying to get the public sector support but want to establish those accountability. It is quite evident from the Tax Code because we provide deductibility for contributions to museums, to art projects, to all types of things of this nature. Of course, that is, in so doing, we keep the private sector involved.

Now, some will raise the question of constitutionality. I think in the Congressionals Record - October 15, 1990...
October 15, 1990

CONGRESSIONAL RECORD — HOUSE

The Williams-Coleman bill is not a good bill. I think it has a lot of merit, but I think there are things here I do not like. The Williams-Coleman bill should have been amended to include the counterpart committee from the Senate. They should try to address the differences, put together a final authorization bill and get it down to the White House and signed before the end of this legislative session. That would be the proper way to do it, and therefore our appropriation bill would be bound by the authorization. We are being asked here to appropriate without an authorization. Therefore, I think it is vital that the bill get to the White House.

So I have a problem with the mechanics here. I think it is bad procedure to use an authorizing bill and to cut it completely in an appropriation bill.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I want to say on behalf of all the Members of the House, and quite frankly the American public at large, the debt of gratitude we owe to the gentleman from Ohio, who has worked very hard to help us approach this entire issue reasonably. His involvement in this issue goes back to last year when, working with chairman and colleagues of the committee, the gentleman from Illinois [Mr. YATES], they sought to address this issue constructively and, as you know, were ruled down on a procedural matter.

I want to say thank you because I think we are indebted for the kind of leadership we have had from the gentleman from Ohio, who has tried to balance legitimate public concerns in terms of the integrity of the National Endowment for the Arts, while at the same time being supportive of the role and mission of that agency. That has been a very hard line to walk, and the gentleman has been very firm on that.

Now, make no mistake that the issue involved before us in this. We have passed an authorization bill that the ratio of the NEA appropriation is roughly 6 to 1, overwhelmingly, in which the issues that this gentleman has fought for have been resolved in great substance, certainly to my satisfaction and I think, quite frankly, to the gentleman's satisfaction as well.

The problem before us is that the authorization bill may not make it through the conference process. The Senate has passed an authorization bill. Therefore, it is very important that we protect ourselves, as it were, in seeing that the issue is raised in the appropriation process.

There are two approaches before us. There is the language of the gentleman from Ohio [Mr. REGULA], and there is also what I understand will be a substitute. I will support the substitute. Should the substitute fail, I will not support an appropriation from Ohio [Mr. REGULA], but I think we do, all of us, Republican and Democrat alike, want to express our appreciation for the kind of leadership that the gentleman has given us on this, because it has been responsible, while at the

same time forcing the issue in a way which responds to the concerns of the American public, and I want to commend the gentleman.

Mr. REGULA. Mr. Chairman, I think in last a comment and this recomplied I think built the standard to that, it often artifacts of self, but all the lead of an effect-whether it is standard this... in last a comment and ith recomplied I think built the standard to that, it often artifacts of self, but all the lead of an effect-whether it is standard this...
Mr. GEKAS. Mr. Chairman, will the gentleman yield?
Mr. YATES. I am glad to yield to the gentleman from Pennsylvania.
Mr. GEKAS. Mr. Chairman, putting aside the merits of the gentleman's amendment for the moment, is he correct in saying that the whole thing becomes mixed up if the authorization portion of the Williams-Coleman enters into this? Does the gentleman agree that Williams-Coleman would be in order, aside from the merits of the Regula amendment?
Mr. YATES. Ordinarily I am opposed to the introduction of legislative bills as a part of an appropriation bill. The gentleman from Montana (Mr. Williams) is offering his bill because he believes there is a very strong possibility by means of a substitute. He also requires that the grants be appropriated and therefore it has accountability. The first amendment addresses the rights of individuals if they are using their own private money.
Mr. YATES. Mr. Chairman, the difference between the gentleman's amendment and the Williams-Coleman bill is essentially a difference in what is needed for standards of grants. Mr. Williams from Ohio believes that there ought to be content restriction. What an artist can paint, what he should paint has been the thrust and the hallmark of a totalitarian country, not the United States of America. Like the public depiction of conduct, for example: I was reading from the Post the other day a review of the exhibition now taking place at the National Art Gallery.

This is what a review by Hank Burchar showed. He says:

Obscene art goes on open display Sunday at the National Gallery. Kazimir Malevich's paintings and drawings are not only without redeeming social value, they tend to disturb the peace, corrupt youth and endanger this country.

This at the National Gallery. Then he goes on to say:

This is the considered judgment of one of the 20th century's most influential art critics, John Stain. The 170 works to be shown in the East Building were suppressed in the 1930's by Stalin's order, ending the career of one of the 20th century's most innovative artists. Relatively the reason Malevich didn't end up in Siberia is that he died in bed before the thought police could get around to him.

Content restriction? Our atmosphere is one of freedom, not of content restriction.

Mr. CARR. Mr. Chairman, will the gentleman yield?
Mr. YATES. I yield to the gentleman from Michigan.
Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, the public-private school is an example. If it is a public school, then are standards of uniformity: what the students can paint in a private school, where the people pay themselves, they make a lot of choices in the way that school program is constructed.

I think the big difference here is that in one instance it is public money and the Constitution says Congress shall appropriate and therefore it has accountability. The first amendment addresses the rights of individuals if they are using their own private money.

Mr. CARR. I yield to the gentleman from Ohio, of course.
October 15, 1990

CONGRESSIONAL RECORD — HOUSE

The chairperson of the National Endowment for the Arts shall assure that projects supported by an award, grant, loan or other form of assistance from the National Endowment for the Arts .

We all know that the National Endowment gives grants to museums, helps them with their administrative expenses, helps them with their expenses, and they must put some kind of an exhibit in their museum that would fail some one person's test, somewhere in America, create a lawsuit, totally tie up the Endowment, totally tie up the museum, and it would fall what the amendment says is its goal, to insure that all members of the public have access to art funded by the program.

I think it is going to restrict access.

Furthermore, I think it needs to be pointed out that the definition of indecent that it seeks to apply via-a-vis the Federal Communications Commission versus the Pacifica Foundation really attempts to apply a broadcast standard that we must put some kind of an exhibit in our museum that would fail some or one person's test, somewhere in America, create a lawsuit, totally tie up the Endowment, totally tie up the museum, and it would fall what the amendment says is its goal, to ensure that all members of the public have access to art funded by the program.

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Mr. REGULA. Mr. Chairman, I want to quote from the report to Congress by the Independent Commission, because constitutional issues have been raised, and the serious first-rate lawyers testifying before the Commission from the University of Chicago, Columbia, Harvard, and two private law firms, and they had an agreement, unanimous, that the result of this language: the Constitutional issue has been the determination by Congress of the precedential problems and the constitutional issue has been the determination by Congress of the precedential problems.

Mr. FAZIO. Mr. Chairman, after months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed sufficient refinements to provide a solution to the precedential problems with the NEA.

The Williams substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art—obscenity is without artistic merit and is not protected speech.

Many of the Regula provisions have been included in the reauthorization bill—the NEA must be sensitive to the nature of public sponsorship, greater accountability by the Endowment for grants awards, and advisory panels will reflect diverse cultural and artistic viewpoints.

Regula's amendment, like Rohrabacher's, requires prior restraint and places the Government in the role of judge and jury—Williams' leaves the determination of what is obscene to the courts, the traditional and appropriate venue for the issue.

Including the definition of indecency as defined by FCC versus Pacifica is very dangerous. This is a broadcast standard, not one which has been applied to works of art. One can have a choice to go to a museum, attend a play, or listen to music. The standard for indecency under Pacifica is intended for radio and broadcast standards, which traditionally have required stricter regulation.

The language requiring that work must be "appropriate for a general audience" would be extremely difficult to interpret: would only landscapes be safe?

The reauthorization bill approved by the House violates compromises our nation's commitment to the arts while ensuring the NEA will be sensitive to the nature of public sponsorship.

Let us put an end to this demagoguery against the NEA and support the Williams substitute—a fair and reasonable remedy.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Regula amendment, and in support of the Williams-Colman substitute.

Let me just make it clear from the beginning that in addition to my objections to the Regula amendment, I oppose obscenity and indecency. I do not approve of the few grants that are used by proponents of NEA restrictions to illustrate a so-called problem. Those projects were in bad taste, and whether or not they were technically obscene or indecent, I felt they should not be federally funded.

But that's history, and besides it's not the real issue in this debate. No one wants to use scarce Federal funds to finance pornography, obscene art or indecent projects. The real challenge in this debate is identifying a problem, and crafting a solution that addresses the real issue and provides a workable legal standard.

The Regula amendment, in my opinion, misses the challenge in several respects, especially when the amendment is evaluated in light of recent NEA reforms and in light of action taken by the House just today.
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October 15, 1990

CONGRESSIONAL RECORD — HOUSE

H 9679

artists from a variety of disciplines gave personal testimony about the arts in America and the work of the NEA.

One witness was particularly effective, Jessica Tandy, the Oscar winning actress, closed her testimony with a quote from the film "All About Eve," "Every little lie is a member of us."

Mr. Chairman, I recognize this is a very unusual method, asking that we in this substitute to the amendment of the gentleman from Ohio [Mr. REGULA] place in total the legislation which the House passed reauthorizing the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services, but with this amendment I ask that all of that legislation be placed upon this appropriation bill.

I want to say to the chairman of the House Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTED] that I understand and am not entirely in disagreement with his concern that we are going to weigh down this extremely important appropriation bill. I agree with him that this is not a good process. I only do it in these extraordinary circumstances because I do not want to see the work of our committees and the work that this House does in a few days ago for naught.

I am not going to belabor the matter. Let me just suffice it to say that, if the amendment of the gentleman from Ohio [Mr. REGULA] had been accepted, and I oppose it, it would have extraordinarily confused the grant-making process as conducted by the peer review panels, and the national council and the chair of the National Endowment for the Arts. The House, I am hopeful, will, with the same vote that it accepted the Williams-Coleman amendment, now accept this amendment.

Mr. Chairman, this is the identical language, with no changes, and I remind the House that this will then place this legislation on two legislative tracks. The first track is that which we passed just a legislative day or so ago when we accepted the Williams-Coleman amendment. The second track will be to place identical language in this Interior appropriation. This will assure, I hope, that the will of the House reaches the President's desk and becomes law.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, the gentleman from Ohio [Mr. REGULA] is very concerned about this amendment, and it is particularly gracious of him that he would yield to me since I am supportive of this amendment, and he gave me his time. I think that indicates, however, the shared spirit here of one way or another addressing this issue to the fullest and to the best of our ability, and to that extent I do appreciate the gentleman yielding.

However, Mr. Chairman, I want to say, while I rise in support of the amendment, because incorporating the authorization bill, as unusual as it is, that it is the smoothest way to address the issue given where we find ourselves in relationship to the Senate.

I want to rise in defense of some of the objections that were raised earlier relative to the language of the gentleman from Ohio [Mr. REGULA]. Obscenity under the law has a very specific legal meaning under Miller versus California, and, even under that specific meaning, it is very difficult because of the community standards aspect of the standard. The Miller versus California standard, quite frankly, does not fully encompass the community, the community standards aspect. It is a context that is being sensitive to the nature of public sponsorship and public accountability that governs the use of public money, some comments have been made suggesting referencing the Pacific case in terms of indecency is inappropriate.

What should be understood is those of us who have suggested this have done so by way of putting some limitations, and restrictions and guidelines on the decency standard to insure that we would respond to some of those concerns which have been raised: What does decency mean? What does indecency mean? That is so we could give some broad parameters through which the council and its director could make prudential judgments.

I think, related in that light, I think it shows a good deal of sensitivity. I do not find the language of the gentleman from Ohio [Mr. REGULA] to be irresponsible, but I do believe the best way we could proceed at this point in time is by supporting the substitute, and I again thank the gentleman from Ohio [Mr. REGULA] for yielding to me.

The CHAIRMAN. For what purpose does the gentleman from Missouri [Mr. COLEMAN] rise?

Mr. COLEMAN of Missouri. Mr. Chairman, I have 5 minutes that was yielded to me, and I yield myself those 5 minutes.

[Mr. COLEMAN of Missouri asked and was given permission to revise and extend his remarks.]

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the Williams-Coleman substitute to the amendment of the gentleman from Ohio [Mr. REGULA]. I do so for the same reasons that the gentleman from Montana [Mr. WILLIAMS] does.
Mr. Chairman, the House has just been through a rather difficult process of coming to grips with this issue. I think we spent 7, or 8 hours on the floor the other day doing this, and people, I think, are being called upon to vote on their votes or change their votes. It is really tough on Members having to face this issue, and it was a crucial issue. It was probably one of the most difficult ones we faced this year. I would rather not have to force my constituents to change their votes, and that is why the Williams-Coleman amendment is being offered again for the people to vote on.

Mr. Chairman, let me point out that the amendment of the gentleman from Ohio [Mr. REGULA] introduces some language and some concepts that are not in our proposal, so it is not just a Hobson's choice here. There are some substantial differences in our amendments, and one of them is the term "indecency" as the gentleman from Ohio [Mr. REGULA] would use in the Federal Communications Commission wording, the Federal Supreme Court case, which he wants to incorporate into the law and into the appropriation bill.

Indecency is a more abstruse standard than the obscenity standard we have talked about, and has not clearly been defined by the Supreme Court. Indeed, in the Pacifica case, the Court did argue that obscenity is indecent material in the broadcast medium, and later restricted it simply and solely to the broadcast medium. It was limited because the broadcast medium is uniquely accessible to children. That means that a child could turn on the radio any time of the day or night and receive this information over the radio, but the Supreme Court said broadcasting over the airwaves, it was in fact indecent, but when applied to other aspects of life, would not be indecent.

By incorporating indecency as defined by the Pacific case, the Regula amendment in fact imposing a standard created by the Supreme Court to protect children listening to the radio, and he is applying it to everyone, including adults, by his amendment.

The essence is that the Regula amendment would mean that no project or work that might be deemed unsuitable for a child under 12 could be funded by the NEA. I think that Members have to recognize that that is indeed the case. Words that are common in one setting are indeed shocking in another. Coming out over the airwaves is one thing. Going to a theater is another.

So I respectfully submit that the Regula amendment goes far beyond Williams-Coleman, it is vague, and I believe therefore unconstitutional in this respect. It is tantamount to support the Williams-Coleman substitute to the Regula amendment, to require you to support the Williams-Coleman amendment.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for informational purposes, let me note that there is a unique attribute to broadcasts, and that is that broadcasting can intrude on the privacy of one's own home really without one's permission. For example, if certain indecent remarks are coming across that broadcast, children may hear them. It is not the intention of the Members that the Supreme Court would have in mind, but the radio happens to be turned on, or the television happens to be turned on, and the parent is out of the room.

Because of that, the FCC has ruled that works that are indecent have to be tightly restrained by FCC regulations. What the gentleman from Ohio [Mr. REGULA] would do is place that standard of indecency where it was not intended, and that is he would overlay it on the selection process of the National Endowment for the Arts.

Mr. Chairman, one can quickly see both the confusion and mischief that that would bring. The Supreme Court itself has never allowed the FCC standards to be applied beyond broadcasting. For example, it specifically found that those standards do not apply to books or magazines or photographs. That is the reason to turn down the Regula amendment.

The reason to support Williams-Coleman substitute, which is the vote that will occur, is simply to keep alive the process of the past year and a half, and to place on the appropriation bill, which may be the only vehicle with regard to the National Endowment for the Arts, the National Endowment for the Humanities, and the Institution of Museum Service, the only vehicle that ever reaches the President's desk for signature.

Mr. Chairman, I want to say finally that again I think this is a bad process. I believe that the gentleman from Illinois [Mr. YATES] and the gentleman from Michigan [Mr. CARR] and the gentleman from Missouri [Mr. WURTZ] are right. Indeed, to oppose this process I would have preferred, I will say to them and to Members, that the Committee on Rules had never allowed the Regula amendment to be offered. But once it was offered, I felt compelled on behalf of the Members of this House, who overwhelmingly supported the Williams-Coleman amendment, as the new reauthorization of the National Endowment for the Arts, the other Endowment, and the Institute as well, felt compelled on their behalf to offer this.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had discussions of the question of using the FCC case as a standard of definition. I would point very carefully to the language. It says, "or indecent as the term is used in the FCC."
October 15, 1990

CONGRESSIONAL RECORD – HOUSE

Mr. Chairman, I have already expressed my opposition to the rule which allowed authorizing legislation in an appropriations bill. It goes against established procedures, especially considering that the House already passed an authorization and the National Endowment for the Arts [NEA].

I recognize that Mr. Williams and Mr. Coleman came up with this substitute to try and ward off efforts, such as the Rohrabacher amendment, constitutionally to tie the hands of the NEA. I appreciate their courageous work in attaining a compromise. However, I did not vote for the Williams-Coleman substitute when the House passed it during the reauthorization of the NEA. If it were standing I would vote against it now. But, clearly, it is preferable to the Regula amendment. And on that basis alone I urge its adoption.

This substitute includes provisions that pose serious problems for our country’s artistic and cultural future. Such provisions include those increasing the percentage of NEA grants that go directly to state art agencies and those that unpractically revise the peer review process.

Most troubling, the substitute sets new standards for judging grant applications violating the first amendment. The Williams-Coleman substitute requires that in establishing application procedures and regulations, the NEA Chairperson ensure that “artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.”

These amorphous requirements are unconstitutional. What “standard of general decency” will be used? How can one determine whether a particular work of art is within “general standards of decency” or respects the diverse beliefs and values of the American public?

In my opinion, the solution is to give the chairman the discretion to establish broad criteria by which applications are judged. This is the Williams-Coleman substitute. It allows the Chairperson to establish general standards of decency and respect for the diverse beliefs and values of the American public.

Mr. Chairman, I rise for one purpose only. I hope Members will think about this very carefully because, as has been pointed out, only about two legislative days ago this House voted by a margin of 382 to 42 in support of the language that is now embodied in the substitute.

That language requires the repayment to the Federal Treasury of any grant that a court may find obscene. That language calls for stricter and tighter oversight over the general applications. It applies the Miller test of obscenity to the question of what is obscene.

I think Members are going to have an opportunity of voting tonight if after voting by a margin of 382 to 42 for the Williams language to now tonight vote no on it, some 2 to 3 legislative days later. So for heaven’s sake, as bad as things are today in terms of the bill trying to make some sense out of what is happening in this place, let us be consistent here and support the Williams-Coleman language.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi (Mr. Wurzel), chairman of the Committee on Appropriations.

Mr. WHITI'EN. Mr. Chairman, May I point out, and I do not think folks take it near as serious as I do, we have been dragged around in the Congress from October 5, to October 12, to October 19, and our ability to operate quite this Friday. To send this to the Senate, I'm inviting disaster, and Members should remember that when we are unable to proceed on an appropriations bill because we are bogged down in the authorization for the arts—which we all support but which we
would endanger by gambling the Senate will take an authorization bill in an appropriations bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. Hyde).

[Mr. HYDE asked and was given permission to revise and extend his remarks.]

Mr. HYDE. Mr. Chairman, I think the Regula amendment is excellent. I do commend the gentleman from Missouri (Mr. Williams) and the gentleman from Montana (Mr. Williams) for their amendment. It is certainly better than the bill as originally conceived, but I do not see why anyone should be surprised that the gentleman from Ohio (Mr. Regula) wants to tighten up the accountability and deny funds for obscene and indecent art.

Public funds should be used for public purposes, and none of the alleged art, and we have heard it until we are sick, is an affront and is an affront to the sensibilities of the overwhelming majority of American taxpayers. The objections to the Montana amendment from Montana (Mr. Williams) are precisely that. The objection from Montana (Mr. Williams) is the best, and I hope that we will defeat this amendment and keep the Regula amendment alive.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out one thing. We have the difference between the Regula amendment and the Williams-Coleman amendment. In this report, and I refer again to the report of the Independent Commission, it says under recommendation 8 that the Independent Commission recommends that the sole authority of the chairperson to make grants be made explicit in legislation." I think that the Regula amendment does that.

Second, it recommends as follows: "The Independent Commission recommends that in order to carry out his responsibilities more effectively the chairperson be given more authority and more choices." And the Regula amendment does that, and it provides a standard.

I want to say that I think the gentleman from Montana (Mr. Williams) and the gentleman from Missouri (Mr. Coleman) did good work as far as it went. I think they worked hard in trying to get a good authorization bill. After the Rohrabacher amendment failed the other day, and I voted for that, then I voted for Williams-Coleman as the best choice that was available at that time, because we should not have an authorization of NEA and NEH without standards, and I say this not because we should have standards. In the Williams-Coleman amendment they adopted a number of good procedural recommendations that I think are very important for the long haul. It is a 3-year authorization.

Let me make it clear that the issue today is the procedure, not the substance, and in substituting Williams-Coleman I think we are creating a real stumbling block. We are doing this by the gentleman from Michigan. I think procedurally this is the right way to go, and in objecting to the Williams-Coleman amendment I am objecting to the procedure. Let me also point out that just because Williams-Coleman would be rejected as a substitute for my amendment does not mean that the bill is in any way canceled or no longer viable. A no vote simply means that Williams-Coleman will have to take the regular path that any authorization bill takes, and that is to go to the conference with the Senate, and the appropriate committee from the Senate, and resolve the differences on a long-term authorization bill. That is the right way to do it. And if it is rejected as a substitute here, it will still go forward and could very well be conferenced in the best shape of the available to us, and be on the President's desk. That is the proper procedure.

A vote no here is a vote for the regular procedure. By adopting my amendment, it will be Williams-Coleman substitute, we will have language that will guarantee over the next 12 months only, this is a 12-month bill, and in fact it will be less time than that because we are at October 15, but it will guarantee or ensure that in the spending of the $180 million provided in the bill that the chairperson of the Endowment and the Council on the Arts have the kind of judgment that the American people want on their behalf in the expenditure of their tax dollars.

But in the meantime, the Williams-Coleman bill could go the route that it should go, and that is to have a conference with the Senate authorizing committee, work out their differences, and get a bill back here for confirmation and to the President.

In the meantime, I think we need the Regula language to protect the appropriations during the next 12 months.

Mr. Chairman, I yield back the balance of my time.

Mr. COLEMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one final comment. In the Regula amendment, one of the standards he is declaring for the National Endowment to fund projects is that they will be appropriate for a general audience. I do not know what that means. I do not know that anybody knows what that means. That is why I think the Regula amendment is unworkable and why we need to support the Williams-Coleman substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleagues, today is October 15. On October 19 the Congress is scheduled to end its business. We have been working with the Senate today including the majority leader's office, and there appears little, if any, chance that the authorization bill on the NEA and the Humanities Endowment and the Institute of Museum Services will ever see the light of day. It may well be that this is the only vehicle on which they can reach the White House.

Does the House of Representatives want to place the 41-page bill with all of the changes that we made in the reworking of the grant review process and shifting money to the States and making obscenity illegal, but leaving it to the courts, do we want to substitute all of that for the 20 lines in the Regula amendment? I say the answer is no.

So the only way to go back to what the House did a legislative day or two ago is to vote "aye" now on the Williams-Coleman substitute. That is the vote before us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. Mr. Chairman, I yield to the gentleman from Washington.
October 15, 1990

(Roll No. 4611)

AYES—234

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The question was: The amendment offered by the gentleman from Ohio (Mr. REGULA).

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—aye 234, noes 171, not voting 28, as follows:

[Table]

Mr. SAXTON and Mr. LENT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. SAXTON and Mr. LENT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.
Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to clarify the parlamentary situation, my amendment has now been amended by Mr. Williams-Coleman and the next vote will be on Regula, as amended by Mr. Williams-Coleman.

A vote "aye" will send the appropriations bill, with $180 million for the NEA, to conference with the Williams-Coleman language as part of the bill.

A vote "no" would send the appropriations bill to conference with no restrictions, with no context restrictions as a matter of fact.

While I would prefer the Regula language, I think it is important that we have restrictive language in the appropriations bill, and therefore it is necessary to have an aye vote for Regula as amended by Mr. Williams-Coleman so that we can go to conference and hopefully come out with a strong bill both on the appropriations as well as the authorizations.

Mr. YATES. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I should like to tell the House that I take the opposite view from the gentleman from Ohio [Mr. RUGULA].

I agree with the chairman of the Appropriations Committee that this appropriations bill should not be a vehicle for a legislative enactment.

I oppose the procedure, but I recognize what has to be done by the gentleman from Montana [Mr. WILLIAMS]. Nevertheless, I propose to vote "no" on the next vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. RUGULA], as amended.

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 58, answered "present" 2, not voting 31, as follows:

[Roll No. 462]

AYES—342

Noes—58

Mr. PEASE and Mr. BEILENSON changed their vote from "aye" to "no."

Mrs. SCHROEDER changed her vote from "aye" to "no."

Mr. HOLLOWAY changed his vote from "no" to "present."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I thank the gentleman from Illinois [Mr. YARAS] for this opportunity to engage in a colloquy.

Mr. Chairman, I would like to bring to your attention the Apollo 11 launch umbilical tower, which was used to send the first human to the Moon.

Because of its historical significance, and the previous listing of the tower in the National Registry as nationally significant, it would seem appropriate for the National Park Service to consider making the site a national monument to man's race to the Moon.

Mr. YATES. Mr. Chairman, in reply, let me say that I agree. The Apollo 11 launch umbilical tower is of historical significance. It deserves special consideration and the interpretative education skills that the National Park Service has. I think the National Park Service should study the costs and alternative financing methods, suitability, feasibility, and national significance and appropriate to erect the tower in a monument to the Apollo National Monument if one is to be erected.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Answered "present"—2

Holloway

Rohrbacher

Not Voting—31

Bilkey

Boxer

Brennan

Brown (CA)

Brown (CA)

Chapman

Clay

Coughlin

Crockett

Crye

Engel

Edwards (OH)

Edwards (OK)

Evans

Fasell

Felsenthal

Flake

Foglietta

Frank

Geekas

Hancock

Hargis (IL)

Hunter

Johnston

Jonts

Savage

Dyckman

Kastenmeier

Kastenmeier

Scheuer

Spalz

Spartz

Stark

Suhle

Towns

Uvovochin

Walker

Waxman

Welch

Weseman

Whitene

Yates

Amended.

Amended.

Amended.

Amended by Williams-Coleman so that we can go to conference and hopefully come out with a strong bill both on the appropriations as well as the authorizations.