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Adams bore a family name synonymous with service to country. Mr. President, I move, with the Nation the passing of my dear friend and mentor, CLAUDE PEPFER. But I rejoice for having had this living legend as a colleague and coworker.

Although I have a desire to view how he would wish to be remembered, he responded:

As an honest, hardworking man, striving for the benefit of those in need.

CLAUSE PEPPER will surely be remembered in the history of the Senate.

The PRESIDING OFFICER: The Chair recognizes the Senator from the State of Washington.

ON THE OFFICIAL FUNDING OF RELIGIOUS BICYCLES

Mr. GORTON, Mr. President, seldom in public life does one encounter problems more vexing or consequential than those in which the interests of the state conjoin or run counter to the principles of art or religion. It is not possible simply to render unto Caesar what is Caesar's and unto Christ what is His, for the sacred and the profane are as thickly intertwined as twisting vines. They have been always and they always will be.

The difficulty arises partly because the language of politics is not deep enough to address profound questions of art and religion, and often when it intrudes upon them it extinguishes their lights. Though politics require definition, art by its very nature eludes it and religion is often beyond it. Should a controversy also incorporate, as does the one I am about to address, questions relating to free speech, the limits of government, and sacrifice, the problem may appear intractable. This one, however, is not intractable, if the will to make distinctions overcomes the will to be outraged. I shall tell you what happened.

First, Americans were taxed, which is no more surprising nor less certain than the rising of the Sun. Revenue came from a vast number of households, individuals, and corporate entities. Like water flowing into the Mississippi after spring rains, it swelled into the muddy, omnipotent, self-perpetuating torrent that we call the budget. If the deficit grew like the budget, Denver would soon be under water. Instead of running randomly into the Gulf of Mexico, this river of money poured into the District of Columbia, where you and I divided it up and sent it back again. Not only was much energy wasted in the round trip, but by your actions many places that had been wet became dry, and the dry places that had been rightfully dry were soaked.

Of this wealth collected from nearly every human being in the land, a certain portion went to the National Endowment for the Arts. Fair enough, I suppose. It was in turn divided up, of necessity, I admit, by people who are appointed rather than elected. Fair enough, I also suppose. But, then, what about the check this year for $100,000 for AAVA-7, and the check this year for $1,000,000 for SECCA-7, and the check this year for $5,000,000 for SECCA-7? And was it then entrusted to the Southern California Foundation for Contemporary Art, or SECCA? Again, fair enough, I suppose. Although the acronyms have begun, SECCA then entrusted it to a five-member jury of artists and curators. This jury then chose 10 artists, each of whom received $1,000,000, although it was declared, that his next step would be to submerge the suffering Christ in semen. Not fair.

Mr. President, I do not claim to feel the rationalist contempt for contemporary visual art. Given that one of the most generously reviewed exhibitions of recent times was the artist Judy Chicago's mixed media depictions of female genitalia, the museum's most recent dinner plates, and that one of the masterpieces of conceptual art, was minted as the artist himself was thrown out of a window into a tremendous pile of horse manure, Am I supposed to? I believe I speak for the common man and the uncommon intellect when I confess my indifference, at best, to these heroics.

They originate not only in nihilism but in the more innocent misconception that the great philosopher of aesthetics Benedetto Croce called the intellectualist error. A lesser philosopher put it this way: "If you've got a message, send it unreduced, crocked and more thorough. "Confusions between the methods of art and those of the philosophic sciences," he stated, "have been frequent. Thus it happened that the art of sculpture, for instance, was urged to expand concepts to unite the intelligible with the sensible, to represent ideas of universals. putting art in the place of science." But this, what he called "the theory of art as supporting these," he rejected, for he believed that "Aesthetic consideration pays attention always and only to the adequateness of expression, that is to say, to beauty."

Intellectualist error leads almost without fall to abuse. If artists are to be pedagogues, they will want to wake up their sleepy and foolish students, that is, everyone in the world, and, once enough, although I humbly suggest, such a course as the one that Croce writes of an artist who "may try to conceal his internal emptiness in a flood of words." In painting that dazzles the eye; or by heaping together a great architectural massa with arrest and astonish."
of Mr. Serrano as is in the case of Mr. Rushdie, neither the transparency of his intentions nor the quality of his work can prejudice it.

Let us even assume, for the sake of argument, hypothetically, as a fiction, a conjecture, a speculation, a purely mental exercise, that his picture is a great work of art. Great works of art can be sacrilegious: not only in theory, but in fact. For example, Michelangelo's statue of Moses is fitted with a pulp. Herod Anti-Passover, and generations of Jews have been stung by that, but the statute, without a doubt, is great art. So let us assume, for the sake of argument, that Mr. Serrano's picture which is deeply offensive to Christians, is of the same caliber as Michelangelo's Moses, which is deeply offensive to Jews. What is the role of the state in these matters? Does it dare not subsidize Michelangelo?

The answer touches upon the question of the limits of government, which is right and proper both for the Chamber and for our time, and the question of government by criticism. The answer depends on the heart of his strategy depends on the heart of his strategy depends on the heart of his strategy. This judgment has honorable origins, a long history, a basis in reason, and several illustrative examples.

It would be relatively easy to preclude SECCA from receiving Government funds on other, more practical grounds. In this matter the layers of unaccountability are much like those of the steel corporations established on islands that vanish at high tide. Passing from the constituent to the Treasury, to the NEA, to SECCA, through the panel of judges, to laureate, the money flows freely, with neither obstruction nor delay, from citizen to Serrano. But what of traffic in the vacuum of unaccountability? Is this not just another example of a system that can interfere with the artistic choices made by our grantees? To cite part of a letter I received from the NEA:

"This limitation reflects concern that Federal funding, a portion of which may be used to fund the institution, may or may not result in government intervention in the substance of artistic projects."

I ask you, is a $15,000 fellowship, a traveling exhibition, and the improvement of and association with the National Endowment for the Arts something that is neutral? Is it of no effect? If it is, what is its purpose? And if it is, as anyone can see, the promotion and advancement of the arts. How does this, another, of his work and of his philosophy, of his style and approach, how can providing support be less as "intervention in the substance of artistic projects" than would be withdrawing support?

The Government and its compensate agents choose. They must choose; they have no other means of accomplishing the distribution. And to make the choice, they must have criteria, and they must exercise their judgment. If the people who provide funds for this program—the taxpayers—are spurred to exercise their judgment and prove their criteria, it is to be criticized as intervention, whereas if the judges and the bureaucrats are not told that if the citizenry has predilections, leanings, principles, convictions, an aesthetic, they must be held in abeyance for a fear of intervention. But if the judges have predilections, leanings, principles, convictions, an aesthetic, they may be exercised, for that is freedom of expression.

The scheme I have outlined, or rant, begins like this: the rejection of the principle that the bureaucracy wields more power than those who have empowered it. It depends upon an inequality in the flow of funding and accountability, an inequality that produced the aberrant, the contradictions and inconsistencies that are so obvious as to be surreptitious. Where is the consensus for "Piss Christ"? Is there anyone in this body who will stand to declare that Americans should subsidize religious bigotry? Is there anyone who will declare that this is not religious bigotry? What will the NEA pay for? A mockery of the Holocaust? A parody of slave ships? A comedy on the declaration of the American Indian? A satire of the massacre in the Katyn Forest?

To those who might say that for the Government to remain disengaged from human events like "Piss Christ" is to limit freedom of expression, I say that to assert this is merely to transform high principles into stepping stones that lead to the public trough; the illusory principle of freedom of speech. The argument is that if the Government does not nurture people like Mr. Serrano it is therefore oppressing them. This view, I submit, is a self-serving belief, something that does not exist; namely, that the state owes all things to all people and has neither the discretion nor the moral right to abstain from any facet of activity or to reject any petitioning, that is, that the Government chose not to offer the NEA $490. So much for the myth that it cannot bring its discretion to bear.

To the contrary, government requires, above all, and almost always, discretion. The least of the examples I can think of is that Mr. Serrano was competing with 500 other artists. The Government chose 10 and rejected 490. So much for the myth that it cannot bring its discretion to bear.

My view is founded on the conviction that good government is a matter of non-intervention. By the kind of encouragement the NEA offered to the creator of "Piss Christ," the state usurps its citizens' independence and self-sufficiency and therefore the power and effectiveness of the
Government, itself, which derives in turn from these very qualities.

And in offering this species of encouragement, the Government takes electric steps in the political, and, in this case, in a theological dispute, for no matter how poor and distasteful Mr. Serrano's argument, it is nonetheless, at least symbolic of a consistent argument, and the Government of the United States should not take sides in religious arguments. Here, by subsidizing one of the parties, it has done so, and that is wrong.

We have in the Constitution a direct prohibition of established religion. By immediate inference, this means that we cannot diminish one religion, lest another, the one unburdened, rise out of the picture.

If art and religion are to be free of state influence, then they must indeed be free of state influence. If they are to be free of state influence, then they cannot depend on subsidy. As for the religious bigotry here in question, sacrilege exists; it will always exist; and it is not the business of the Government of the United States to root it out. But neither is it the business of the United States to support it. Though Mr. Serrano and SECCA may enjoy near perfect liberty from constraint, they cannot expect the privilege of requiring others to abide by them if they desire non-interference, for that is tyranny. I propose that the Government of the United States withdraw from the question entirely, that it separate itself, its influence, its resources, its finances, from SECCA and Mr. Serrano, allowing them the near perfect liberty to reflect upon what they have done; liberty unimpeded by further U.S. Government support. Mr. President, I propose that the NEA deprive SECCA of Federal funding for a period of five years, and until such times as it is obvious that SECCA is administered responsibly. Moreover, if the NEA is unable to take such a momentous step, this Congress should expressly prohibit it from providing such support.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 46

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on May 23, 1989, during the recess of the Senate, received the following message from the President of the United States which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the progress made in the development of a settlement bank with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1978, and matters relating to Executive Order No. 12131 of October 29, 1987. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report covers events through March 22, 1989, including those that occurred since the last report under Executive Order No. 12170 dated November 15, 1988. That report covered events through October 1.

1. Since the last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535 (the "IACRs"), or the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("OFAC"). The major focus of licensing activity under the ITRs remains the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and which beneficiary accrues to Iran after the effective date of the embargo. Since October 1, 1988, FAC has made 583 licensing determinations under the ITRs.

2. Numerous Customs Office detentions of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties. An indictment has been issued in the case of United States v. Behnam Tohtori, which is now pending in the United States District Court for the District of Vermont.

3. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for $250,000 or more. Over 60 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 189 such claims on the docket. Of these claims, the progress of which has been slowed by their complexity, are finally being decided, sometimes with sizable damage awards to the U.S. claimant. Since the last report, nine large claims have been decided: One U.S. company received an award on agreed terms of $10,800,000.

4. The Tribunal continues to process claims of U.S. nationals totaling less than $250,000. As of March 28, 1989, a total of 382 small claims have been resolved, 82 of them since the last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. One contested claim has been decided since the last report, raising the total number of contested claims decided to 24, 15 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar claims. To date, American claimants have also received 56 awards on agreed terms reflecting sums totaling $1,136,444,726.00.

The Tribunal's current small claims docket includes approximately 135