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One Gain for Freedom, One Loss

By ARTHUR SCHLESINGER JR.

The holiday just past was an appropriate time to reflect on the question of what America is all about—a reflection forced on us in any case by current heated arguments over the desecration of the flag and over federal support of the arts.

The burning of the flag—unless carried out with appropriate rites by the American Legion—angers most Americans. What would our soldiers have thought during the Second World War, critics ask, if the Supreme Court had violated the sanctity of the flag they were giving their lives to defend?

The critics forget that in fact the Supreme Court did speak out eloquently on this very question at the height of the Second World War. On June 14, 1943, in the week when our planes were bombing Sicilian air fields in preparation for the invasion of Italy and bombing targets in New Guinea and the Solomons in preparation for a new offensive in the South Pacific, the Court handed down its decision in the case of *West Virginia State Board of Education v. Barnette*.

Flag Salute

This was the decision that declared the compulsory flag salute and the compulsory pledge of allegiance unconstitutional. "Those who begin by coercive elimination of dissent," Justice Jackson observed for the majority, "soon find themselves exterminating dissenters." The case was made difficult, he added, "not because the principles of its decision are obscure but because the flag involved is our own." Nevertheless, "if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion. . . . If there are any circumstances which permit an exception, they do not now occur to us."

All this took place, as I have noted, amidst the fury of the greatest war of our history. As one of many thousands of Americans waiting at that time to go overseas, I rejoiced in the Court's decision. It seemed to me to sum up what we all were fighting for. Nor do I recall that the 1943 decision provoked anything like the righteous protest we hear today, much of it coming from people who never served in the armed forces themselves. I understand

the present Supreme Court for keeping the faith.

While one can understand the popular indignation over the burning of the flag, one must hope that our legislators will think twice before they rush into ill-considered remedies. I never expected to agree with Senator Gordon Humphrey of New Hampshire, but he stated the matter with precision when he called a proposed constitutional amendment "an exercise in silliness."

Chief Justice Rehnquist in his dissent declared that "one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of the people." This is a dubious principle, one that would seem to propose constitutional sanction for that very "tyranny of the majority" Tocqueville so much feared as a

"the state must confine itself to its own interests, and art must be free." It is not the business of the government to root out sacrilege, he continues, "but neither is it the business of the United States to support it."

Now the Serrano photograph, the cause of the uproar, was displayed in an exhibition mounted by the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina. The Endowment made the grant to SECCA in its usual manner: through the well-tested process of peer review panels representing a broad spectrum of professionals in the arts. The Serrano photograph itself was chosen for exhibition by SECCA, not by the Endowment.

One may well feel, as this writer does, that SECCA showed abysmal aesthetic as well as political judgment in displaying

copy of his magazine the *American Mercury*.

The other day Rep. Sidney Yates (D., Ill.) showed Rep. Dick Armey (R., Tex.), a leading critic of the National Endowment for the Arts, a Picasso painting of the crucifixion that gave offense to many people half a century ago. Congressman Armey said he didn't mind the Picasso painting. Yates "made the point," Armey said later, "that this is a tricky business—and I agree." But he still thinks that the Serrano photograph is offensive.

The Serrano photograph is offensive, but this remains a tricky business. How should federal grants be made? The experience of the Endowments for the Arts and for the Humanities and of comparable government agencies like the National Science Foundation is that the selection of artists and arts institutions, of humanists, of scientists for federal grants is best handled by juries of peers. Peer review has long since proven itself the best means of maintaining objectivity, balance and professional standards in the awarding of grants.

Two Alternatives

There are two alternatives to peer review. One is to abolish the endowments and abandon the policy of federal support for the arts and humanities. One doubts that this is what Congress and the country want. When President Reagan tried to abolish the National Endowment for the Arts in 1981, he could not even get his own party to go along.

The other alternative, if we keep the endowments, is the award of grants through political pressure and intervention. A politicized process is precisely the threat raised by the congressional protests. One must hope that the indignant members of Congress will come to see the need for the insulation of the endowments from politics and will reconsider their perhaps understandable but impulsive attack on agencies with a notable record of achievement in sustaining the cultural vitality of the republic.

Let glasnost not contract in the United States while it is expanding in the Soviet Union.

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Board of Contributors

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possible consequence of democracy. The Chief Justice forgets Justice Jackson's warning: "There are village tyrants as well as village Hampdens." He forgets Justice Holmes's admonition that the constitutional commitment to freedom of thought means not just "free thought for those who agree with us but freedom for the thought that we hate."

The same run of issues is involved in the current attack on the National Endowment for the Arts. Here too one can understand the indignation of those who cannot see why federal money should support such offensive photographs as Andres Serrano's Piss Christ, a crucifix drowned in the photographer's urine, or Robert Mapplethorpe's distasteful excursions into homosexual pornography.

Let us do this indignation justice. It does not represent an attempt at censorship. Serrano and Mapplethorpe are free to take whatever pictures they want, the critics say, but there is no reason on God's earth for the taxpayer to subsidize them. Sen. Slade Gorton (R., Wash.) in a thoughtful speech on May 31 argues that

this particular photograph. But that is not the issue. The issue is the integrity of the process by which grants are made.

No system is infallible. Artists, like other people, are susceptible to the whims of fashion and the seduction of avant-garde experimentation. They may make wrong decisions, but their lay critics may be wrong on occasion too. One need only recall the evidence Henri Peyre amassed in his mordant book, "The Failures of Criticism." When the gentle Bronte sisters published their novels, "Wuthering Heights" was denounced for its "repulsive vulgarity" and "Jane Eyre" as "preeminently an anti-Christian composition."

Peyre concentrated on European errors. The American record is no better. William Winter, the influential drama critic of the *New York Tribune*, waged a savage campaign to drive Ibsen from the New York stage on the ground that his plays were pornographic. Louisa May Alcott blasted "Huckleberry Finn," and the library in Concord, Massachusetts, banned it. Sixty years ago H.L. Mencken was arrested on Boston Common for selling a