

Congress than Dan Daniel's pursuit of Dorothy and Allen Blitz.

Meanwhile, with the Blitz amendment being in no danger in Congress, the American Civil Liberties Union has brought suit on behalf of the Blitzes in federal district court in Washington.

The Blitz amendment, the ACLU says flatly, "is an unconstitutional abridgment of speech and association guaranteed by the First Amendment." Among the Supreme Court cases that will be cited on behalf of the Blitzes' right to *advocate* violent overthrow of the government, with impunity, are several stating that public employment cannot be conditioned on what applicants—or those who already hold public jobs—believe.

In *Keyishian v. Board of Regents* (1967), for instance, the Court held that state university professors and public school teachers could not be fired for refusing to sign certificates saying they were not and had never been Communists—and that they did not advocate the violent overthrow of the government. Nor could these professors and teachers be denied employment because they belonged to organizations that *advocated* the forceful toppling of the government.

The key, and still controlling, case is *Brandenburg v. Ohio* (1969). At a Ku Klux Klan rally at a farm in Ohio, a television camera picked up a speech by a red-hooded Klan statesman indicating that "revengeance" would be taken if "our president, our Congress, our Supreme Court continue to suppress the white, Caucasian race." Among the raptly listening Klansmen, also hooded, were a number bearing weapons.

Under the Ohio Criminal Syndicalism Statute, the main inspirational speaker was indicted and convicted for "advocating . . . the duty, necessity, or propriety of crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing . . . political reform."

Said the High Court:

The constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe *advocacy* of the use of force or of law violation except where such advocacy is *directed to inciting or producing imminent lawless action* and is likely to *incite or produce such action*. As we said in *Noto v. United States* (1961) . . . "the mere abstract teaching . . . of the moral propriety or even moral necessity for a resort to force and violence, is not the same as preparing a group for violent action and steeling it to such action" . . .

A statute which fails to draw this distinction impermissibly intrudes upon the freedoms guaranteed by the First and Fourteenth Amendments. [Emphasis added.]

Brandenburg struck down a state statute that violated the First and Fourteenth Amendments. Obviously, the federal government, including Congress, is also bound by the First and Fourteenth Amendments—and thus should not at all be bound by the constitutionally questionable Blitz amendment.

FOR SOME LIBERTARIANS, like me, *Brandenburg* didn't go far enough because it still punishes certain kinds of incitement, even though incitement is only speech. As William O. Douglas said in a concurring opinion: "The line between what is permissible and not subject to control and what may be made impermissible and subject to regulation is *the line between ideas and overt acts*." (Emphasis added.)

Or, as Hugo Black had insisted, in a separate opinion in *Yates*: "The First Amendment forbids Congress [and the individual states] to punish people for talking about public affairs, whether or not such discussion incites to action, legal or illegal."

In any case, *Brandenburg* surely goes far enough to protect Dorothy and Allen Blitz, and anyone else who has been tossed off any CETA program since the passage of the Blitz amendment. Dan Daniel's language deals only with abstract advocacy. There's nothing in it requiring proof that the talk is intended to incite imminent lawless action or that such talk could produce any lawless action, no matter what its intent.

On the other hand the present Supreme Court is hardly predictable in First Amendment matters, and while the precedents—particularly *Brandenburg*—point to the extinction of the Blitz amendment, the Court might yet honor the "patriotism" of Representative Dan Daniel.

In case it does, the other day a Senate Appropriations Committee lawyer was ticking off the federal programs that will be targeted after CETA—"Let's see, food stamps, welfare, school lunches—you don't want those Commie kids getting fat at our expense—and Aid to Families with Dependent Children. If there are any folks covered by the Blitz amendment still breathing, we can go on from there."

POLITICS

ELLEN PERRY BERKELEY

Vacationing at the Ministry of Culture

I SPENT MY SUMMER VACATION on a government boondoggle in Chicago. To be specific, I attended one of nineteen summer seminars for professionals run by the National Endowment for the Humanities. The seminar was given lofty advance billing by the NEH: "The purpose of this program is to advance public understanding and use of the humanities as a resource for professional leaders by providing them with the opportunity to work with scholars in the humanities to explore a wide range of issues of national concern." The seminar was to deal with the subject "Taste and Popular Culture in America," and it was to be directed by a philosopher whose specialty was esthetics.

Because I am a writer about architecture, this caught my eye. I had not been an official student in quite a while, and I thought a return to a classroom seminar would be a rewarding experience, as well as an adventure. I had no way of knowing that my vision of the seminar differed sharply from the NEH's, or that as a participant I would be used to help perpetuate yet another government program gone awry.

The seminar I attended—and the eighteen others—are gone from the 1982 NEH budget. But the NEH maintains hopes of reinstating them in 1983. The NEH firmly believes these monthlong seminars are somehow good for all involved, and thereby

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beneficial to the taxpayers who foot the bill.

I'd say this belief deserves a good shaking. I attended only one seminar. It's possible some of the others were not so bad. It's also possible that some of them were even worse.

The word *boondoggle* accurately describes the seminar. In an informal sense, the word means "work of little or no practical value done merely to look or keep busy." This definition is said to have been coined by an American scoutmaster (named Link, not Boondoggle) as a name for the word's more formal meaning, "a cord of plaited leather worn around the neck by Boy Scouts." A lanyard. A product of languid summer days. I didn't return from my NEH seminar with a lanyard. I came home wanting to blow the whistle.

The NEH began life in 1965 with a budget of about \$2.5 million, and fattened itself up by fiscal 1980 with a budget of \$100.3 million for its programs (and another \$38.4 million for its matching funds and challenge grants). The "Seminars for Practitioners" program, in its eighth year in

spent so grandly, or hoarded so carefully?

The "host institution"—in our case, the University of Chicago—got \$4800 for supplying a WATS line and a mailing address before the seminar, and a classroom and other campus facilities during the seminar. (We paid for our own lodgings.)

A "distinguished humanities scholar" chosen to lead the seminar (the NEH picked nineteen from the "thirty or forty" it had invited to apply) got an amount equal to two months' salary.

An "administrative assistant"—ours was a philosophy student working on his doctorate with the distinguished scholar—got \$1700. We were his on-the-job training for an administrative career I pray he will never pursue.

Two "consultants" had been paid \$100 each to work with the seminar director and the administrative assistant to select the final fifteen participants from forty-five applicants.

A series of "guests" (several each week) were paid \$100 or \$200 each, depending on whether they were half-morning or full-morning experts.

nurses (and other health-care practitioners), public administrators and school administrators, architects, engineers, scientists, and persons from professions other than teaching. But the participants at our seminar were almost entirely media people—men and women working in print journalism and in radio and television. We did have a lawyer who specialized in "art law," and two school administrators who directed arts and humanities programs.

It is possible that this group from the practical world went off to the University of Chicago primarily to study "Taste and Popular Culture in America." Possible, but unlikely. Being practical people, the fifteen participants included the following:

- a high-school supervisor from New Jersey who took this opportunity to visit her daughter, a lawyer in Chicago;
- a newspaperwoman from Georgia, who took this opportunity to stay for a month with her boyfriend, a newspaperman in Chicago;
- a newspaper columnist from Florida, who took this opportunity to get himself and his wife into a cooler climate (Chicago was not the best choice, unfortunately).

How does the NEH reach out to such practical folk? How did they learn about this NEH program?

- The director of humanities at a community college in Ohio heard about it from his brother-in-law, the seminar director. Participants occasionally discussed this relationship. Many thought it was "peculiar," but no one ever said it was "wrong."
- An attorney from Florida learned about the seminar from her boyfriend, with whom she had attended another NEH seminar in California the previous summer. It was too early for him to apply again, but he had hoped to join her, attending all of her sessions as she had attended all of his.
- A TV public-affairs reporter and "weathercaster" from Nebraska was informed of the seminars by her boss: "He threw the thing down on my desk and said, 'How about *this* for a vacation?'"

If some people saw the seminar as a free lunch, others left with lunch and a tip. In their absence from work, a few participants received partial salaries from their employers, and two people

Perhaps other seminars were not as bad as mine. It's also possible some of them were even worse.

1981, was waddling along at \$40,000 to \$45,000 per seminar, according to the staff member in charge, or just under \$800,000 for the lot. With twelve to fifteen people per seminar, that's up to \$3750 of taxpayers' money for each participant.

Not that we saw this money ourselves. Our stipend was only \$1200. Only, did I say? It was a windfall, and most participants couldn't spend it fast enough. A pair of Ralph Lauren walking shorts, for instance, at \$98, were considered a bargain. Or memorabilia. Or trinkets. One fellow shipped a pair of cartons home by UPS. But some participants were saving. I never asked, "What does the seminar mean to you? What is it all adding up to?" I could imagine the unspoken answer, hovering in the air like the thought-bubble of a comic strip: "Oh, about \$500, give or take a little."

Where did the rest of the \$40,000 go, after the \$18,000 for these stipends we

Not every invited guest was "hired," however, and the administrative assistant cautioned us about one guest: "Don't tell her everyone else is getting paid." But as it turned out, she was the wife of a colleague in the philosophy department, and money was found for her by sending another guest packing at mid-morning. These guests proved to be an odd lot. One guest, for example, was selected sight unseen "because he's a good friend of the man we've been dealing with at NEH," the administrative assistant told us, naively loquacious.

And finally, about \$4500 was spent transporting us to Chicago and back home.

ACCORDING TO THE NEH'S own jargon, our seminar was "interprofessional." This meant that it was open to business executives, labor leaders, journalists, lawyers and judges, physicians and



received full salaries. One of these was the manager and program director of a listener-sponsored station affiliated with the tax-draining National Public Radio. I could imagine the station's annual pledge drive: "...and we desperately need the next fifty new members to send our program director on a boondoggle."

Bringing fifteen professionals together with a philosopher could have provoked stimulating and valuable discussions of "Taste and Popular Culture in America." But most of our fifteen did not share a common frame of reference or a common outlook with the seminar director. The discussions among the professionals and the philosopher, therefore, were only marginally instructive, like the last few minutes of a "Sunrise Semester" program glimpsed through half-opened eyes while waiting for the early morning news.

But how could it have been otherwise? What did a chatty fashion writer from a Louisiana newspaper have in common with a leading authority on the subtleties of Kantian esthetics? How could a shy art director from a public television station in North Dakota relate to a garrulous Talmudic hairsplitter? And who could possibly translate the dialogue between an outspoken black writer from California who argued against racial stereotypes in *The Jeffersons*, and an analytic philosopher who wondered aloud whether boors in literature were necessarily bad?

Lacking a common denominator and vocabulary, we could have floundered without a purpose. Instead, we sensed almost immediately that our common task was simple—we had to *boondoggle* together (yes, it is also a verb), and thereby the time would pass.

AND SO WE TALKED. HOW we talked. Often without discipline, without purpose, without substance—but we talked. Every morning for at least three hours, and occasionally for two more hours in the afternoon, we spat out the words, we extruded the statements, we gummed forth the questions, we drooled out the exceptions. We created a volume of Saul Steinberg-like productions: lacy words weaving around cast-iron words, sitting on woolly words, climbing up wooden words. We ran our mouths. We spoke of the eighteenth-century philosopher David Hume, jumped to estheticians of the twentieth century, spent a couple of days on "elitism and populism," and then swept through photography, film, architecture, sports, cooking, dress, music, legal matters, and television. With the exception of two days at the beginning and one day at the end, the seminar director had given to the guests and participants full responsibility for making all presentations and running all discussions. (Perhaps an idea like that *deserves* two months' salary.)

It would be charitable to say this

format produced an uneven result. In fact the muddiness slid downhill almost immediately. By the second week one participant thought the seminar less important than his activities in Chicago; by the third week, he thought the seminar was actively getting in the way of his other activities. Another man said, "The NEH is paying us to read, that's all." One woman was seen writing a letter in class, trying to disguise it as note taking. Outside of class, one woman worked on a script, another on a novel (violating the NEH rule about full-time commitment to the seminar). The novelist said she was glad she wasn't taking it all so seriously as to feel she had to keep up with the reading we had been assigned.

We didn't talk much about the assigned reading in class. The bulk of the readings was a fat collection of photocopied articles and essays, given out at the first meeting of class; the seminar director said it had "proven impossible" to get the reading list to us in advance, as promised. (The administrative assistant, on the other hand, told me it was "partly laziness, partly hitting some snags." When I suggested that some of the readings might have been sent to us in advance, he looked at me as if surprised. "You know," he said, "we just never thought of that." They also never thought of us as serious researchers. Publication dates and other citations were missing from many of the photocopied items and from the accompanying reading list.)

In addition to the wad of articles, we were assigned four books. These were unavailable in the library and were to be purchased by each of us for \$60. One of the books contained only eighteen pages of assigned readings. These pages had not been photocopied, which would have saved us money. But this book (like another of the four) was a collection of essays that included several pieces by the seminar director.

Although the NEH endowed the seminar with a lofty purpose, a hidden agenda became visible with the appearance at our seminar of the NEH staff person in charge of this program. (He made a whirlwind visit to our group and to four or five others, in as many days.)

"We should be on our good behavior," said the novelist before his visit: "We want the NEH to fund lots more of these." And we *were* on our good behavior. We boondoggled away

a morning and an afternoon. Several of us had lunch with our visitor and several more of us met with him at the end of the day. We boondoggled. And he boondoggled. We learned for instance that he hates mass-produced items in general and everything made of plastic in particular, and unplanned cities and "visual ugliness."

We learned, too, what he'd like. He said, imperiously: "Unless you have some tentative standards for evaluating taste, it becomes meaningless. People just say 'I like country music' but so what? It's more than a question for this seminar. It has relevance to the schools. I would like to see, in the high

asked for our impressions of the seminar. We had taken the king's shilling. We weren't about to tell one of the king's ministers we were uncomfortable with any aspect of our indenture.

AFTERWARDS, I HAD THE deepening suspicion that the continuation of these seminars had nothing to do with our being on good behavior with our visitor. It was reasonable to doubt if the seminar provided any benefit to the participants other than financial and recreational, and whether the seminars served any public need. Why, then, do these seminars continue to be held? Perhaps be-

month generated a great deal of undirected and free-floating contempt. Our seminar director, for instance, returned from an orientation meeting in Washington, he explained, with considerable contempt for the NEH. This was matched later on by his considerable contempt for certain members of our seminar. But his brother-in-law explained the director's unpragmatic attitude: "He is more used to dealing with graduate students," we were told.

The final meaning of the seminar was obvious. It put a little money in everyone's pocket, and offered a lot of mileage to one bureaucracy. Everyone got something. (The taxpayer got the bill.) I considered briefly whether the amount of \$800,000 wasn't too trifling an amount to get exercised about—after all, there isn't much you can buy with \$800,000 these days. But if this program is so obviously flawed, why not be done with it? Is \$800,000 too small an amount to save?

The reactions of some of the participants were curious. One participant in the \$800,000 venture was away from her boyfriend for four weeks. She summarized her reaction to the seminar by saying she had "enjoyed the privacy." Another participant, who gave the seminar an unofficial grade of five (on a scale of ten), was most grateful for long hours in the periodicals section of the library digging up ideas for future articles. Another participant was pleased to have started an exercise routine.

Through my own participation, I met an entire caseload of middle-class welfare recipients, decked out in Calvin Klein T-shirts, Gloria Vanderbilt jeans, and (with few exceptions) equally fashionable ideas.

And I went home with troubling questions. Had the seminar been even remotely good enough to justify all the expense? I thought not. Each of us had surely gained some insights, found some subjects to explore, learned some things from the other participants. But we are people who do this easily, even eagerly. Indeed, we spend our lives doing this; we make our livings doing this. Why should the taxpayers support us in our pastimes and in our livelihoods?

The price may be steep—at \$800,000—but just possibly, this one time, with one person speaking honestly about one sorry boondoggle, the taxpayers may have gotten their money's worth.

The final meaning of the seminar was obvious. It put a little sum of money in everyone's pocket, and offered a lot of mileage to the NEH. Everybody got something.

schools, for instance, various people telling how they evaluate furniture. Aren't people who have spent their *lives* in a field able to tell us what *quality* means? And shouldn't young people be at least exposed to things we can agree are better? Let them then choose—it's a pluralistic society. But instead of just picking the cheapest furniture they'd have more sophisticated taste. When people are unsophisticated in taste, they are victims."

So much for country music. Some of us gave him an argument over lunch. But a man who has decided that he must do nothing less than improve the standards of the entire American public is not going to be dissuaded from his mission over a tunafish sandwich.

Later, when he told us his program had been totally eliminated for 1982, we adopted a suitably solemn attitude. He told us it would be improper for him to suggest that we write to Congress on behalf of the program, thus, of course, suggesting not very subtly that we write to Congress on behalf of the program. But we were a practical group, with a good grasp of practical relationships. I have no doubt a number of congressmen received letters urging continued support of these seminars. Bribe an intellectual once, get a lifetime of proper expressions of support. At the end of his visit, he

cause they serve the needs of bureaucrats at the NEH—providing them with everything from psychological fulfillment (looking down on those who like country music) to job security (working up a new set of seminars for the following year). Any bureaucrat worth his pension understands what's in it for him: If he can't articulate a problem, he can't propose a solution, and *he* joins the ranks of the jobless. So the NEH decides, with no little contempt for the public, what is needed by the public, and then lines up a seminar to give it to the public.

To keep this pork barrel rolling requires that a substantial number of professionals be courted and culled for their participation in the seminars. But the participants can be counted on to see what's in it for them. (The participants can probably be counted on, too, to share the basic perceptions held by the NEH about what the public wants. I was startled to hear one of our group—a top staff member of a National Public Radio station—state his surprise at Reagan's victory: No one *he* knew had voted for Reagan.) The only other requirement is an outside intellectual willing to oblige for two months' salary.

But hiring a group of professionals and one intellectual to do nothing more than run their mouths for a



The young engineer was astonished. For weeks he had been sitting on a federal grand jury, listening to testimony about drug deals cut in the street. But now a witness had just said that there was as much dealing in the city jail as there was on the street. And, far from being surprised, the prosecutor had agreed; the drugs were doubtless being smuggled in by guards, he said.

"Why isn't this being investigated?" the perplexed engineer asked.

"Grand juries visit jails and write reports all the time," the prosecutor said wearily. "It doesn't change anything."

But the engineer persisted. He was disturbed by such conspicuous wrongdoing. A few sessions later, the U.S. attorney came by to visit the grand jury, and the engineer asked to start a grand jury investigation of the jail.

"You're not in a position to make judgments about resource allocation," the attorney sniffed. "I wish the state would look into it. But I won't permit you to investigate anything you want if I don't think it's worthwhile—even if it says you can in the grand juror's handbook."

by C. R. Anderson

I RECENTLY COMPLETED A TERM OF EIGHTEEN months in a large eastern city as a member of a special federal grand jury dealing with narcotics violations. The experience was an unsettling one. I was astounded that the responsibility for saving or ruining someone's life was put in the hands of such a legally naive and ill-prepared group, advised entirely by the prosecutor we were assigned to watch over. I was awed by the power of the prosecutor, who put on what amounted to a one-man show, with the supporting players directed by him and with no one to speak for the accused. I was shocked at his ability to subpoena any witnesses he saw

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United States Constitution, Amendment 5
 "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury. . . ."

INQUIRY