

OPENING STATEMENT

Council on Foundations “Trial of Philanthropy”

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I got a pretty good idea of how I rate with Steve Gunderson, President of the Council on Foundations, when he called me up a few months ago and said he had a big spot lined up for me at the Council’s annual meeting in Philadelphia.

“Happy to help any way I can,” I told him, secretly thinking I had been selected for the Distinguished Grantmaker Award and beginning to jot mental notes for my acceptance speech.

That’s when Steve told me he wanted me to take the role of a prosecutor trying to convict philanthropy and take away its tax exemption. Before a jury of a thousand of the leading foundation staff and board members, no less.

“Steve, did I do something to piss you off?” I asked. Was it that time when we took the Rasmuson Foundation’s funders’ tour of Alaska and Sarah Palin helped me hook a twenty-pound salmon while you accidentally landed your hook in Judy Rodin’s Gucci wading boots? I mean, get over it, man!”

“No, no, Gara!” Steve said. “I just think you’d be the best person to make the case.” By which I am pretty sure he meant someone reckless enough to get up before the crowd at the annual meeting a few years ago and denounce the Texas foundation community for failing to address gross racial disparities in imprisonment and execution. Did I mention the Council was meeting in Dallas that year? In a state where I think you’re legally required to carry a handgun, even to yoga class?

I began to wonder if Steve’s staff had done such thorough research that they uncovered a little-known part of my bio, my role as a sixteen-year old

Catholic high school student in 1970 when I introduced a bill to decriminalize homosexuality in the Springfield, Massachusetts Model Congress.

My bill went down in flames, and for those of you who are Glee fans, or Gleeks, as we like to call ourselves, my courageous advocacy won me at least a year of Slushy treatment. I know I am likely to go down in flames today, too, but I am going to give this a valiant try, and hope you don't have time to run out to the 7-11 across the street. By the way, please don't be influenced by the fact that, if I win the case today, I am donating three months' salary to tsunami relief.

Ladies and gentlemen of the jury, I'm going to argue to you today that philanthropy is a privilege, not a right, and the favored tax status it enjoys in the United States makes sense only when it serves an unalloyed public good and only when it does so with integrity, transparency, fairness, inclusion and effectiveness. Philanthropy is a noble calling and has accomplished many good things for society in the last 100 years. I am sure that my good friend, the distinguished counsel for the defense, Ralph Smith, will make a strong case in that regard, so I will just stipulate that for the record.

But the standard in the case before you is not whether many good things are accomplished with the money excluded from taxation for philanthropy. The standard is whether the record of philanthropy justifies the foregone tax revenue that in our current dire fiscal state could be used to keep senior centers and libraries and afterschool programs open, hold tuition within reach at public colleges and universities, expand internet access to rural communities, and on and on.

Time doesn't permit an exhaustive list of the ways in which we in philanthropy, however well-intentioned, have failed in our mission. In my brief opening remarks I want to offer three arguments to demonstrate why philanthropy has jeopardized its claim to its privileged tax status:

First, our sector has eroded its moral authority by an excessive focus on self-interest.

Let me use a recent example – the fight over comprehensive health care reform and how to pay for it. Last year, in the biggest political fight of a generation, when the President sought to greatly expand the social safety net by extending health care to tens of millions of uninsured Americans, the administration sought to do it in a cost-effective way, partly through savings in other areas. When the targets were wasteful Pentagon spending,

unnecessary agricultural subsidies, or monopolies enjoyed firms that offer student loans, there were loud wails and armies of lobbyists mobilized. We expect a predictable outcry from special interests. But we expect more from philanthropy.

The President sought to pay for his healthcare plan in part by capping the charitable deduction to where it was under Ronald Reagan, who was not a big fan of taxes. Of the two leading non-profit sector membership organizations, the Council on Foundations – then chaired by counsel for the defense, Ralph Smith – “J’accuse, sir!” -- opposed the change, while Independent Sector was more measured, asserting that it would reduce charitable giving while acknowledging that charities sagging under the weight of healthcare costs would benefit.

The evidence about impact on charitable giving is mixed. The Center on Philanthropy at Indiana University asserted that the tax changes by themselves would have little direct negative impact. I agree. Although to listen to big philanthropy you could be forgiven for thinking otherwise, the precise level of the charitable deduction (like the fact of the deduction itself) did not come down on tablets from Mount Sinai. It is a choice that a democratic society makes, weighing competing interests and values. One of these is donor independence and philanthropic pluralism. These are not fleeting values. But neither is the responsibility of citizens in a democracy, acting together through government, to strengthen social protections.

To argue against a critical funding mechanism for something as fundamental as health care, which aimed to narrow the yawning gap of inequality that has steadily grown in America in the last thirty years seems, to put it plainly, wrong to me. It amounts to asserting that democratically determined public needs, particularly for the most marginalized, should be trumped by an interest in having wealthy people keep more control of how they direct their funds. There were plenty of other interests arrayed against the President’s proposed changes for those who itemize tax deductions – like the mortgage lending industry – but their job was made considerably easier by the outcry from the philanthropic and non-profit sector. We were shortsighted, and heedless of the societal imperative to provide a much stronger safety net in the US.

I wish this shortsightedness was atypical. But sadly it is not. Philanthropy as a whole has ferociously resisted any stirrings of legislative interest in raising the payout rates – they weren't handed down from Mount Sinai, either – to open the flow of foundation dollars for urgent social needs. And during the Bush years, when there was a concerted and successful effort to redistribute wealth upwards through massive tax cuts for the rich, coupled with an illicit war with staggering costs in blood and money, it was hard to find a voice in American philanthropy raised in protest. And yet there is no question that those most in need of philanthropy – the poor, the sick, minorities, women, the old – bore the brunt of those costs. We are failing the people we most need to stand behind.

This leads to my second argument, that our sector remains too focused on charity and lacks a strategic focus on systemic change.

As in so many areas, the Reverend Martin Luther King, Jr. set the moral standard for us when it comes to philanthropy: “Philanthropy,” he said, “is commendable, but it must not cause the philanthropist to overlook the circumstances of economic injustice that make philanthropy necessary.”

We like to say that one of the things that our privileged status makes possible is the ability for philanthropy to take big risks. We don't have to run for office, or satisfy shareholders, or attract customers or win any popularity contests. We can take the long view, and undertake bold initiatives that make it safer for government and other private capital to come in later on. But you and I know that the powerful institutional conservatism of philanthropy means those risks are few and far between. Even when we do take risks, and we stumble, we share our “failures” in self-serving ways like those Eddie Haskell-like job applicants who, when asked to cite a weakness or area for improvement, manage to tell you they really ought to get more sleep and leisure and not spend eighty hours a week at the office.

Too much of what philanthropy does is a sideshow to the most pressing issues of our time. Global warming threatens the planet, and pseudo-scientific denialism of it threatens democracy, yet the handful of foundations engaged in climate change are vastly outgunned, and even they hoard their foundation assets as if there was no tomorrow – which in fact, there won't be, before long, if we don't reverse the warming of the planet. The National Committee for Responsive Philanthropy, of which I am a proud board member, has determined that only 7% of foundations spend as much as 25% on social

justice grantmaking. The Foundation Center, taking a broad and generous view, estimates it at 15%. That leaves the vast bulk of American philanthropy focused on safer things that do little to affect the titanic issues of inequality, poverty, human rights and environmental degradation. Few of the large, ostensibly progressive foundations in America make any significant grants for lesbian and gay people, forty years after Stonewall and in a country where now over half the populace now favors same-sex marriage; for native peoples, still reeling from the ravages of American expansionism, the percentage is even lower. When will this change? How long is too long?

Finally, to continue in this vein, our sector is not sufficiently reflective of the rich diversity of this country and globe, and in particular does not reflect the voices of the most marginalized.

As Emmett Carson of the Silicon Valley Foundation has said, “Charitable dollars are quasi-public dollars,” and we have “a growing obligation ... to direct a broader share of our resources in ways that address our society’s increasingly changing composition.” Yet 85% of foundation board members are white, only 4% of them Hispanic, in a country where 92 percent of the population growth in the last decade, according to the Economist, came from people of color. Nearly three-quarters of foundations have no written policy on diversity, and fewer than ten percent of board members are under 40, despite the rich vein of talent – over two hundred people – who came early to Philadelphia for the EPIC conference this weekend.

Methodist Bishop Hugh Price Hughes, as critic of Andrew Carnegie in his day, succinctly put the argument against the privileged treatment of philanthropy: “Millionaires at one end of the scale involve paupers at the other end, and even so excellent a man as Mr. Carnegie is too dear at that price.” Almost a hundred years later, can we say any better of ourselves?

CLOSING STATEMENT

As Ambassador Joseph told us this morning, to set an important context here, most charitable giving is not from the wealthy. It is from low and moderate-income people who have not thought of a tax deduction: the mutual aid groups, “mutualistas” and “confraternidades,” among Latinos in the Southwest; the potlatches of Native Americans; African American voluntary groups so numerous after slavery that several states enacted laws in the nineteenth century banning black voluntary or charitable organizations. None

of this rich tradition would be affected by the verdict I ask you to render today.

As a field, we have been largely shielded from criticism or scrutiny. We have a million petty sins of unresponsiveness, of grandiosity, of arrogance and God-playing, though all these are getting marginally better.

I don't exempt OSI, or Atlantic, or any funder, no matter how much they may depart from aspects of this general critique, from my charges here today. The problem is systemic, not individual. And the remedy must be systemic.

I have no illusions that it will be easy to obtain a conviction from this jury of my peers, so many of whom I know and respect very deeply. I know how hard every person in this room strives to make the world a better place, and it may seem like a dismissal of that idealism and hard work for you to cast a vote against, if you want to look at it that way, your own sector, particularly when it has so many ill-informed and ill-intentioned critics.

But I urge you to think of it a different way. In your vote, those of you with the weighty responsibility of judging this case, you could pat yourselves on the back and the story coming out of Philadelphia will be one of self-affirmation. There is a different way. We could acknowledge that here, today, we have a rare chance to make a gesture, and it is only that, that acknowledges that we are not satisfied with our field, nor with our own efforts. That we know we need to do better – to be more responsive to the great challenges of our time, to be less focused on our own institutional prerogatives, to be more reflective of a rapidly-changing world that is, and rightly so, making more demands upon us. With no one else to hold us accountable, who, in the end, will do so but ourselves?

By voting to convict today, you don't have the power to change one thing about the legal status of philanthropy in American law and society. But you do have the power to say: we will hold ourselves to a higher standard, and it begins right now, right here.