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AMERICAN CONCEPTIONS OF ACADEMIC FREEDOM IN THE TWENTIETH CENTURY

DISSERTATION

Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy in the Graduate School of The Ohio State University

By

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* * * * *

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1967

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CHAPTER I

INTRODUCTION

The question of academic freedom is not one which stands by itself, or can be settled by itself. It is connected with the other problems of liberty; these in turn reach out to embrace further controversies involving the nature of truth and how it can best be secured, the role of the scholar in society, the nature of the educating institution, and so on. There have been many disputes about freedom; very likely there will be many more. The issues command intense, passionate loyalties. The issues or problems involved are very rarely dealt with dispassionately, with that analytic scrutiny that best affords clear vision. Pronouncements are likely to be exhortatory and polemical. This is not always necessarily bad. Apathy and indifference do not conduce to securing real solutions to problems, but neither does partisan rhetoric. An intensity of concern balanced and disciplined by discernment of judgment seems required. It almost goes without saying that these are more easily recommended than achieved. Yet in an area as complex and difficult as that wherein issues of academic freedom are raised, it would seem that nothing less will suffice.
A clear understanding of what is involved when one speaks of "academic freedom" is not come by easily. It is likely to be a symbol or slogan to which people will respond mindlessly, favored by all because it means all things to all people. But in given situations, it becomes a source of heated controversy. Then differences of opinion emerge and become explicit. "A man must be free to think as he wills and to say what he thinks," one group will demand. "What about those who violate the canons of common sense and ordinary decency?" retorts another group. To the general public, practically every academic issue which becomes a matter of public concern is one of freedom of speech and of teaching. The impression is given that a great conflict is going on in the schools, that trustees and professors (or students) are arrayed in opposing camps. It is thought that one party is insisting upon common decency and good sense while the other is demanding freedom to think and speak as they will. It is noted that the contending parties are presenting mutually hostile and irreconcilable demands. And so the issue is formulated.

In the mass media, reactions to some incident are condemnatory of administrative action if the writer feels that there is a substantial danger that inquiry and discussion are being stifled, especially if a vivid imagination sees the college or university being strangled in the grip of reactionary overlords. But comments are likely to be laudatory on equally general grounds if there is a feeling that teachers are running
amuck, rampant radicals, subverting hallowed traditions, permanently
adding the brains of their benighted students in the process. Then
universities are seen as noxious cesspools of iniquitous doctrine. trustees
or administrative officials as valiant defenders of All That Is Good and
Right. Students are viewed as the martyred victims of repressive dis-
cipline, or irresponsible anarchists jostling against the matured wisdom
enshrined in the established order. "Academic freedom" becomes a
common rubric under which all partisans concerned subsume their de-
mands.

The champions of freedom point out the evils which may arise
when free inquiry and discussion are restricted, as well as the danger
inherent in stopping men from teaching what they believe to be the truth
by those who, in the nature of the case, are less expert in the subject
of inquiry than is the scholar himself. They note that men of visceral
reaction, their prejudices enflamed, have too often endangered newly-
won truths. The progress of enlightenment and knowledge is hampered
in proportion to the controls locked around it.

Those who champion authority retort by emphasizing the grave
dangers of permitting freedom to degenerate into license. Demagogues
and radical subversives flourish when unbridled liberty permits them to
range at will. Freedom entails responsibility--to the unformed minds of
youth, to those who directly or indirectly support the educational
enterprise, to parents, to society at large—and properly constituted authorities would be derelict in their duty should they fail to insist upon the latter half of the equation.

Over and against this, as a kind of counter-point, moves the demands of professors, prosaic and usually unsensational, even plaintive. The concerns are procedural, usually turning (albeit ponderously) upon the question of the relative authority to be exercised by the trustees, the faculty, and--most recently--the students, within the institutional structure. The professional attitude does not lend itself well to front-page histrionics. It is not sufficiently dramatic; it is too technical and "abstract." It even lends itself to adverse and unsympathetic representation. The professors may be thought to be animated by a narrow, self-serving caste spirit, bound together protectively against antagonists. There is even a seeming arrogance in their demands, a certain unwarranted presumption apparent when they seek to press for freedoms.

This is not to say that the sympathies of the public cannot be mustered on behalf of some victim of an academic auto-da-fé. As a rule, popular support, even if misinformed, can be secured. But the sympathy is such as is naturally extended to the underdog in an uneven struggle. His case tends to be upheld by an ill-defined sense of justice which the average individual feels somehow has been violated. The support does
not center around any clear-cut conception of the rights of the person or of the ideals and interests he may represent. The very amorphous character of the professor's status makes it difficult to grasp that for which he stands.

Also, while sympathies might be aroused by the clarion call of infringement of freedom of thought or speech, they can be alienated or dissipated when the case rests largely on formal grounds, when the conflict is revealed to be one for greater participation in the government of the university. Then the issues involved are more likely to be construed as a struggle for mere class privileges.

In either case, the outcome of the conflict is generally in favor of the corporation and against the individual teacher or group of teachers. This is due in part to the material advantage of the former, but it is even more largely due to its strategic advantage in having the tangible and practical side of the argument, as against the theoretical or technical one.\(^1\) Investigating committees may form locally or send representatives to inquire into the facts of the case where an abridgement of academic freedom has allegedly taken place. But usually the resultant report is merely a post-mortem.

On those occasions when authority seeks to suppress freedom in academe, it may be justified or unjustified in so doing, but it likely has perfectly intelligible reasons for doing so. The community will tend to support and commend officials who appear steadfast in following what they sincerely believe to be their duty. If authorities are convinced that exposure to the doctrines of dialectical materialism will weaken inexorably the cohesive strength of the democratic community, or if they believe that the promulgation of heterodox moral codes will dissipate common virtue, their obligation seems clear before them. Against this plain duty of the powers-that-be, the champions for academic freedom can only oppose a theory of liberty which seems obtuse, abstract and overly theoretical.

Given the absence of an intelligent understanding by the community of what is being claimed on behalf of academic freedom and correlatively for the prerogatives of the professor, it is not surprising both that academic freedom should be widely misunderstood and that the services of the scholar-professor should sometimes pass unappreciated.

The average man of American democracy sometimes talks as though thoroughly convinced of his intellectual self-sufficiency. He looks with ambivalence upon the expert and the specialist, admiring him for the pragmatic results he secures but distrustful of him. A superficial symptom of this attitude is that the scholar becomes the "egghead"
and "academic" becomes a synonym for impractical. This is an accentuation of a profound distrust of the "theorist," the mere thinker. The attitude seems almost indigenous in America. It is characterized by a contempt for the free play of ideas and of those who dedicate themselves professionally to this pursuit. Thus, intellectual leadership finds it difficult to establish a definitely recognized status in society at large.

"From the days of Aristophanes to the present, Demos has always looked upon the trained specialist in things of the mind with distrust and has never been able to distinguish a Socrates from a Sophist. The masses have seldom had wit enough to discern that cleverness and lack of conviction save the Sophist from the hemlock cup to which in mistaken zeal they doom a Socrates."^2

Within the context of discussion on academic freedom, two consequences of this attitude become apparent. First, there is the uneasiness with which many parents entrust their offspring to the college or university professor. His insistence upon *akademische Lehrfreiheit und Lernfreiheit* arouses concern and deep suspicion. His critical attitude toward the conventions and dogmas of established orthodoxy seems unnecessarily disruptive of highly-esteemed loyalties. The average man

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feels no imperative obligation to subject his convictions to searching criticism. Life must be lived, and criticism at the expense of action leads to paralysis. Who then is the spiritual Ishmaelite who presumes upon the daily round of activities? The scholar has no independent standing in the community; there is no coherent appreciation of his obligations and rights.

Secondly, and consequently, there is a popular reluctance to transfer authority to those most conversant with the significance of intellectual standards. Popular opinion demands a "pay-off" from its educational institution. Inculcation, not disputation is to be desired, facts and not theories. The "service" that the college or university renders society had better be tangible; it ought to conduce to the betterment of the public welfare—in discernible and specifiable ways. If the wheels of industry must turn and new knowledge is required for the expansion of technology, then the "business" of the university is the production of technological expertise. The placing of practical businessmen as trustees and administrators is the logical move to make. Then there ensues the maneuvering for power within the institution, the jockeying for position as two conflicting notions of the university come into play.

The closing decades of the nineteenth century and the opening years of the next witnessed the growth of this new idea of the university as a production center for expertise. Veblen was the first to draw
attention to it, but others soon followed suit. The university came to be viewed as a business, existing for the exclusive purpose of giving its public, its patrons, whatever it wanted. The connection with the discovery, arrangement and dissemination of truths in any department of knowledge became fortuitous and incidental; the connection was liable to be ignored altogether if it jeopardized the primary consideration, which came to be the sale of a commodity euphemistically labeled truth, but actually having no deeper relationship to it than that of a misleading nomenclature. The educational system has to be paid for, and it depends for its financial support on its real or imagined usefulness to the society it serves. There was never a liberal system whose major object was the discovery and dissemination of truth solely for its own sake. This was a sentimental product of the historical imagination. The crucial difference, however, was that in the American experience the grounds for the usefulness of knowledge were much more narrowly conceived than they were (at least sometimes) in the past. Thus the popular support for higher education came to rest almost entirely upon a belief that it could and would produce commodities that could be sold in the market-place.

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3 See Arthur Corning White, "Has Truth Any Chance?" Survey, 53 (November 15, 1924), 208.

4 See "The Way to Academic Freedom," Freeman, 8 (November 14, 1923), 221-222.
Competence, rather than intellectual power, became the first concern. Training, not education, became a cultic shibboleth. A professor who chafed under the restrictions of this routine and began to raise impertinent questions came into collision with the system. Add to the popular distrust of the intellectual, the institutionalized system in many ways antithetical to the disinterested pursuit of learning—these two considered together with the lack of status and role of the scholar provide the background for debates on academic freedom in the first part of the twentieth century.

The "popular" impression of controversy about academic freedom described above is deficient in several respects. First among these is the formation of a well-developed demonology, with arrant rabble-rousers or dictatorial officials cast as chief villains. There is a melodramatic plot, the thrill of combat, the victims and the oppressors. One notes a tendency to assume that the cast of characters of the play remains constant. However, one finds upon closer examination that the roles are interchanged. Sometimes it is a university regent or other executive who expresses views disfavorable to academic freedom, sometimes a professorial scholar. In either case, the spokesman is likely to assume he is actually defending the concept of academic freedom. Commonly, the strategy of posing qualifications or defining sharper limits is intended to preserve the idea from the alleged excesses of some of its advocates.
Thus, secondly, it is too simple and naive to think that there are those who support the idea of academic freedom and those who oppose it. Ostensibly, it is believed in by nearly everyone. The real question is whether the arguments advanced actually do tend to strengthen or to denature some reasoned formulation of the principle.

Thirdly, an uncritical look at what has been written on the subject may miss the fact that the term "academic freedom" is a term used so much that it has grown smooth, showing signs of wear and, therefore, is often used loosely. Like so many phrases in our language which through long and imprecise usage no longer convey clear and precise meanings, it has been transformed into an emotional bell-ringer. Men have intoned it not to communicate thought but to create reflexes of social action. Thus, a lucid understanding of the phrase requires that the intonations be clearly disinvolved from the communications. The debates typically are long on lurid colors and imaginative design, but short on a sense of relation and perspective.

The reason for this is understandable. By and large, the literature of the past half century has been stimulated by particular situations and specific incidents. Perhaps more than any other aspect of social thought, discussion on academic freedom has been colored and conditioned by the circumstances of the moment. The process exhibits a descending order of influences. The broad patterns of thought, the dominant ideologies
of the day shape the questions that get asked. Certain events, international and national, also leave their impress. Finally, a concrete instance arises where an abuse or abridgement of academic freedom is alleged to have occurred. A professor is fired under confusing circumstances; a university board of regents passes an unpopular resolution, a student complains that his rights have been violated. These cases then provoke controversy. Charges and counter-charges are made. It is small wonder then that so much that has been written on academic freedom lacks a sense of perspective, a spirit of objective inquiry.

The present study is an attempt to restore the needed measure of balance. The focus of concern will be the character of the discussions that have taken place. Here we locate the partial truth behind the obscurantist panoply that a popular treatment throws over the issues. It is not quite enough to say that there is a simple division between those who endorse academic freedom and those who abhor it. But it will be shown that there have been two fundamentally opposed ways of looking at academic freedom. At times the opposition is disguised within the arguments. Nonetheless, these two perspectives condition the ways questions are formulated and answered, and the understandings of the concept as they were debated. The one, at root, is hostile or at best indifferent to the values directly supportive of academic freedom; the other conduces to
their furtherance as integral parts of American social thought, and hence of academic freedom also. Further, the explication of the literature itself will reveal how the antithesis between these two views accentuates confusion as to the nature of free scholarship and the need for liberty in institutions of higher learning. In the process, it is to be hoped that an appreciation for the complexity of the problems surrounding academic freedom will be strengthened. For it is only as one becomes sensitized to this fact that a clearer understanding of the concept can be realized.

Yeoman's work has been performed previously in contributing to an enlarged understanding of the issues of academic freedom. In the early 1950's, Louis M. Rabinowitz, who conceived the American Academic Freedom Project, was instrumental in supporting an ambitious study of the problem of academic freedom. Two companion volumes resulted; Hofstadter and Metzger's, The Development of Academic Freedom in the United States, and Robert MacIver's, Academic Freedom In Our Time. Both stand as major landmarks in the history of thought on academic liberties. Each represents a successful attempt to accomplish a given end. The former sought to trace historically the emergence of a concept within and without the institutional structure. This work is indispensable to any student in the field; the latter portion of this study is particularly relevant to the present endeavor. One possible defect is that it attempts to do too much. Insufficient attention is devoted to the specifics of the
emphases implicit in the published pronouncements of men who spoke to the question. Its concern is more inclusive in that it records the history of cases where an alleged breach of academic freedom occurred. Predictably, the former concern suffers and the broader ideological development is obscured. Further, the historical narrative breaks off shortly after the First World War.

MacIver's work was an attempt to develop a more philosophical and sociological analysis of academic freedom. The effort is notable for the degree of success which it enjoys in this respect. However, it bears deeply the impress of a particularly difficult time in our national experience. It was a time when the hysterical fears of politically-motivated witch hunts for subversives made dispassionate analysis doubly difficult. Understandably, the arguments implicitly were directed at those who sought to curtail freedoms in the interest of national security. What seems required at the present time is a re-assessment of the problems in the light of what has transpired in recent decades.

Among the literature pertaining to the topic, mention must also be made of Beale's monumental work *Are American Teachers Free?* and his *A History of Freedom of Teaching in American Schools*. Both are valuable although they are concerned more broadly with infringements of the rights of teachers to teach and of the rights of students to learn within the context of public education. The present study emphasizes academic liberties
more narrowly at the university and college level, exhibiting an overview of the various connotations of such freedoms as the historical antecedents of our own emphases and concerns.

When we turn to historical inquiry as a means for bringing the phrase "academic freedom" to closer definition, nearly insuperable methodological questions arise. As remarked earlier, the concept is so amorphous that a treatment of the topic lends itself to many different interpretations. In the first place, what kind of a thing is it? Is it a right, or a duty, or an obligation, or a privilege, or a prerequisite or what? Since these questions are related to a broad spectrum of political, social, economic and ideological movements, any demarcations are likely to be as artificial as they are arbitrary. In the present century alone, for example, how far and wide should the exposition extend? One could write a running account of incidents where outstanding abuses or infringements of academic freedom are evident. One would consider the behavior and pronouncements of particular men in specific situations, assess the evidence and bring in a verdict. But this would be only to exhibit the symptoms of a pathology; there is no ineluctable guarantee that the nature of academic suppression would become clear. Still less likely is it that the "mere facts" would yield up a cure for the disease. Inevitable distortions would crop up to confuse the picture even further as they get examined without a context or setting. To rectify this patently
inadequate approach, one might undertake to write a history of cases while appending remarks on the social, political and intellectual patterns of thought influential in determining the shape and course of discrete events. It hardly makes sense to discuss the travails of academic freedom in the period from 1914 to 1918, for example, without considering some of the consequences and relationships of the First World War. Yet, here we are returned to the problem: how far-reaching must the investigation be?

Let it be stated unequivocally that the present study is a survey, with some of the virtues but many of the defects and limitations intrinsic to this approach. Its scope is modest, both temporally and intellectually. The strategy adopted is to block out three main periods. The first begins at a convenient point in time when the culmination of tendencies toward professorial self-consciousness which had been operating for decades received expression in the founding of the American Association of University Professors in 1915. This was the beginning of an era in which some principles of academic freedom were codified and re-codified and in which violations of academic freedom were systematically investigated. It was also the time of the War to end all wars, itself a landmark in our national history. This period is concluded around the time of the Depression. The second period traces the outlines of debate from the New Deal to the beginning of the McCarthy era. The last period carries the narrative through to the middle of the current decade.
These rough divisions are not altogether arbitrary. The first demarcates the time when the outlines of the main issues were becoming clear. The background for discussion, it will be argued, was the vicissitudes of the scholar and his role in society. His lack of well-defined rights and privileges, and the ambiguity of his position resting on a popular ignorance of his services, helped to color thinking on academic freedom. In the 1930's, the questions of the nature and purpose of the university served as the primary context for debate. Still later the increased threat of subversion and the growth of attendant fears provided a chief focus for thinking about academic freedom. Finally, the phenomenon of student unrest stimulated further analysis and debate.

The materials utilized herein, by and large, concern themselves explicitly with discussions on the nature and limits of academic freedom. A sustained attempt has been made, on the one hand, to avoid the particularities of specific cases, and, on the other, to restrict the exposition and interpretation to the recorded discussions and debates without considering the far-reaching social, political, economic and religious forces operative which undoubtedly helped to shape these discussions. As noted previously, this approach has several inherent limitations. Among these must be mentioned the difficulty of formulating quantitative and qualitative criteria against which the materials utilized might be measured. In the main, however, the primary criterion employed has been the scope
and breadth of a given argument, that is, how well it reflects a developed position on the topic which can be profitably viewed as part of a larger pattern of thought. It is only as the larger continuities emerge that one begins to glean an appreciation of the connotations of the phrase "academic freedom" over the past half century. A necessary counter-balance is provided by the inclusion of quoted materials which, while not notable for intellectual depth or sanity of judgment, do much by contrast to illustrate attitudes that are inimical to clear thinking on academic freedom.

It seems useful to begin with a brief consideration of the role and status of the scholar in American society. This discussion serves, as it were, as a point of entry into the arguments. The intent will be to exhibit various images of the institutionalized intellectual and their relation to the larger question of what is academic freedom.

What one notes, in surveying the development of professorial images or stereotypes, is that these occasionally served to crystallize certain attitudes (sometimes prejudices) tending to advance the cause of increased academic freedom. More commonly, however, certain sets of attitudes, represented by stereotypes, tended to retard the advance of academic liberties. The ways in which professors have been viewed, especially in the first part of this century, reflected attitudes which colored much of the talk about academic freedom.
Essentially five professorial images are to be discerned: the scholarly isolate, the professorial activist, the academic philistine, the chauvinist, and the institutional hireling. The last, in particular, it will be shown, pervaded so much early discussion on academic freedom that the arguments involved can scarcely be evaluated without taking note of this image. Accordingly, a look at predominant views of the professor-scholar initiates this inquiry into American conceptions of academic freedom in the twentieth century.
CHAPTER II

IMAGES OF THE PROFESSOR

Stereotypes flourish not so much because they are true, but in virtue of a popular conception that they are not wholly false. If not taken literally, they can persist as symbols, pointing to a complex of self-sustaining affective attitudes, emotions, and prejudices surrounding the "image." In the popular folklore of American culture, a number of traditions arose, each with its semi-mythical hero image which conferred a shape and character upon that tradition. The hardy pioneer was a folk-hero that emerged from the social movements accompanying the westward expansion. Horace Greeley actually did not tell his young man to go West; popular culture forgot the authorship of the injunction, but never the sense of adventure it conveyed. And the spirit of manifest destiny, of expanding horizons, of brutal challenges confronted and met became concrete and thus directive in the person of the brave adventurer toiling in hostile country. He may not have been the paragon of virtue and industry that he was represented to be, but there was enough truth in the stereotyped image to shape and reinforce the tradition for which he stood. Similar traditions grew up to vitalize the picture of the
village blacksmith, the Yankee trader, the soldier of fortune, the Indian-hunter, the business tycoon.

**The Scholarly Isolate**

Alone within the American mythologies, the college professor projected an image which was unsustained by a tradition. He was a character without a play; he seemed to require no context, no setting, not even an ideological one. Perhaps partly because the pragmatic American culture was ever ambivalent toward the higher education; perhaps in spite of this attitude, the picture of the eccentric, rumpled scholar remained real and vital despite the lack of focus or setting. He did not animate and persuade; he was scarcely called up as an object of veneration or emulation; he represented little or nothing beyond himself. At the most, he stood for a heritage of "useless book-larnin'," and at the least, the professor was a misanthrope. He might be called upon to present credentials of respectability on behalf of a society that dimly perceived the shallowness of its cultural roots, yet by and large, the scholarly professor was a poorly focused figure on the sidelines, tolerated with fond amusement and good humor:

Here he sits droning  
On some forgotten truth,  
Headless of Springtime,  
Intolerant of youth.
Here he sits dryly
Talking all day;
Woodenly sober
And slim as his pay.¹

Sometime in the late nineteenth century, the professor evidently began to acquire a tradition and a context. The image of the old-time scholar was not so much a historical reality, as the product of the imagination of later generations which were seeking a return to a less carefully constructed and more human version of the good old days.² The stereotype grew more rather than less pervasive as time went on. The American college and universities bore less and less resemblance to the ivy-covered citadels of splendid isolation that men supposed them to have been in the past. The ideals, rules and habits of scientific German scholarship were transforming these institutions as they created new images for the professorial caste.³ Departmentalization led to specialization at the expense of catholicity of scholarship and outlook. The specialist's concern for the most refined and esoteric dimensions of his own interest became more prominent. As one critic lamented: "One of


²Ibid., 394.

the saddest, and at the same time, one of the most instructive sights imaginable, is a college professor digging up the upper skull and lower canine tooth of a Neanderthal man. It is a contrast between growth and petrification, the Neanderthal man representing growth. . . ."4 Others despaired that there were no longer any great teachers in the universities and colleges, only specialists and apprentice-specialists. "Doctors of Dullness," one observer commented, pointing to the tables of our university seminars ". . . surrounded by monkish groups mulling lifelessly over stacks of hastily scribbled library cards and chanting, "'Professor Tweetzer and the recognized authorities say. . .'"

Thus, as pedantry and narrowness of vision were decried with regard to a new image of the professor, the imagined virtue of the polymath of an earlier day was proclaimed by implication. Of course, neither image was wholly adequate, but the characterizations of both types were not altogether unkind nor were they malicious. What is significant to note is that as the picture of the isolate became less true of the professor, it was emphasized more strongly. Just at a time when university teachers were beginning to perceive their larger role in society and to develop a social consciousness, the view of the professor inhabiting the

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4 This and the following quotations are adapted from Rudolph, p. 401.
academic ivory tower, removed from the storm and stress of a changing, complex world, was being nostalgically revived. In vivid terms, one commentator painted the quietude as follows:

This is the literary life, grave, respected, serene. All else is hectic rush, modern ideas a futile bable. It is men like Professor who keep the lustre of scholarship bright, who hold true the life of the scholar and the gentleman as it was lived of old. In a world of change, he keeps the faith pure.5

Yet this was but the stillness before a storm of change. It is instructive to note the characterizations of the professorial image as they coalesced in the first three decades of the twentieth century. In one sense, at least, the development of American thinking on academic freedom was profoundly related to the popular models of the university teacher and scholar. This is not to imply that there was an isomorphic correlation between the two. Rather, these subjective impressions, diffuse though they may have been, formed part of the backdrop against which the issues under discussion ought to be seen. There emerged with the changed role of the scholar a strong concern for academic liberties. The new professor was a creature who inhabited a drastically altered institution. The university organized college faculties into ascending ranks of instructors and various levels of professors. The complex

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apparatus of hierarchy was wedded to the organization of departmentaliza-
tion. Research, rather than teaching, took precedence in the order of
academic values. Countless learned agencies were created out of the
emphasis on research: university presses, scholarly societies, erudite
journals, professional associations. The university academician was a
rather different fellow than his late eighteenth and middle nineteenth
century collegiate predecessor. To the extent that the new American
universities were influenced by the principles that governed scholarship
and research in the German universities, American scholars created a
climate of concern for academic freedom.

This climate was shaped by a tolerance for
error, by a preference for experiment and a respect
for the unknown, by an indifference to tradition and
inherited truth, by a need for continuous inquiry and
continuous verification. Academic freedom, then,
came to rest on the spirit of suspended judgment and
changing truth that animated the laboratory or the
scholar at work among his manuscripts.

The Professional Activist

In addition to the introduction of the German model of the univer-
sity, another widespread movement influential in bringing the idea of

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6 See Rudolph, pp. 402-412.

7 Rudolph, p. 412.
academic freedom to consciousness was the spirit and ideology of Progressivism. Professors, as well as politicians, caught the epidemic fever for reform. Opposition to boss rule in the cities had a counterpart in opposition to trustee rule in universities; certain instruments advocated by political reformers—the initiative, the primary, the referendum—were advocated as well by professors to make for more responsible academic government.\(^8\) Cattell was appealing to Progressivist ideas when he wrote that "no one believes that a city should be owned by a small self-perpetuating board of trustees who would appoint a dictator to run it, to decide what people could live there, what work they must do and what incomes they should receive. Why should a university be conducted in that way?"\(^9\) Professors began to question the wisdom of an arrangement whereby administrative authority was given over to those least competent to use it judiciously:

Successful lawyers, doctors, business men, now manage our colleges and universities. Psychologists have taught us much as to the spread of disciplines from one field to another. And yet we expect a lawyer,


\(^9\)J. McKeen Cattell, *University Control* (New York and Garrison, New York: 1913), p. 35; quoted in Metzger, p. 198. Professors were irked by trustee attitudes such as that expressed by an officer at Colorado College who, in response to an objection against the treatment accorded certain faculty members, asked, "Why can't you run a college as if it were a copper mine?" See H. E. Woodbridge, "The Controversy at Colorado College," *Nation*, 105 (November 1, 1917), 481-482.
who is able to browbeat a witness or to "make the worse appear the better reason" in a law trial, to be a good regent of a great university. Governors appoint men to the regency because the appointees have been able, through the devious ways of modern trade, to build up colossal fortunes. And meanwhile, hundreds of men and women, who are giving up their lives to the cause of education, and who are, not withstanding their present provincialism and timidity, the best intellects of our country, sit silent.\footnote{A. W. Rankin, "The Control of Education," \textit{Survey}, 45 (February 26, 1921), 760. However, see "Doctor Meiklejohn's Advocacy of Faculty Control," \textit{Educational Review}, 66 (November, 1923), 227-228.}

Many sat silent nonetheless. The provincialism and timidity decried here formed an integral part of a professorial image to whose subject the notion of radical reform was fundamentally incongruous.

Over and against the picture of the scholar whose conditions of work and research demanded academic freedom, there persisted, paradoxically, a renewed image of the friendly old professor of a by-gone era. It was a comfortable, even an inspiring stereotype, but the conception was not conducive to the growth of attitudes supportive of academic freedom. Perhaps it would not be too much to say that the twentieth century academic has been haunted by the ghost of his past. Whether or not he had ever conformed to the archetype that was constructed for him was irrelevant. What did matter was the pervasive character of the
anachronistic image to which he was fitted. How this phenomenon tied up to the fortunes of academic freedom in the first quarter or so of the twentieth century remains to be seen.

In some measure, the professor himself was responsible for perpetuating an out-modeled self-image. But the impetus toward revering the values of scholarly detachment and broadly humanistic learning is understandable. At once both more human and more humane, the old-time teacher stood for something valuable and important in a modern society:

We are an odd lot, rejoicing in the cadence of language and in its transfer from one set of sounds or symbols to another, poking about to find the historical mouse in the musty cellar or the cluttered attic, prying into the ways of nature and unearthing secrets that make others rich or healthy or suicidal. . . for getting everything that is irrelevant, much to the merriment of thrifty folk, and adorning ambitious social gatherings and women's clubs, as occasion may demand, with that awkward, scholarly remoteness which a portion of the dear public adores and avoids. 11

Even though professors joined the ranks of those who yearned for gentlemen familiar with the amenities of life and students of mellow and generous scholarship, there was combined with this sentiment a recognition that the hapless academician who dedicated himself to these

virtues paid a price for his service. Looking back to the preceding two decades, one writer, writing from the perspective of 1932, commented that the growth of research specialists, the incidence of administrative raids for faculty members by competing institutions, and the commercialization of the Ph.D. degree—all the crass symptoms of a new era—had contributed to the decline of the university teacher as a valued personage.

It is nevertheless true that no vocation has received such lip service as that of the teacher. Orators at commencement and authors of educational volumes emphasize his preeminence. He is referred to as the very core of the school or college. It is to him that we look to inspire the students with fine ideals in life and to stimulate in them for things intellectual. His reward, however, is to be in the consciousness of work well-done. One is reminded of Milton, the most praised and least read of our poets.  

It was not until the decade following the First World War, that one begins to note professors becoming vocally dissatisfied with "consciousness of work well done" as good and sufficient reward for their labors. Possibly in response to repeated protests against sub-minimal standards of living, colleges began to take steps to alleviate

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the situation. The status of the professor was a peculiar one: high in popular esteem insofar as it conformed to the older ideal mentioned previously, but low in terms of tangible benefits. The supposedly exalted station of the professor would and could not become a reality, as one critic remarked rather sardonically, until "the professor be paid a salary sufficient to enable him to buy clothes that are made for him and not for someone else, a home in which to raise his family, and an automobile with which to offer his wife some diversion from pounding round steak." Public opinion—so often appealed to but so infrequently aroused—could hardly have been expected to mobilize action for the alleviation of the professor's plight. As yet, the emphasis or center of attention was upon the educational institution—its machinery, the expanding curriculum, the growth of professional schools. This is not to say that the professor went ignored, but that he was not taken seriously. Or, as will be seen, when his importance to society was acknowledged, the acknowledgment was not of the sort that might bring financial rewards to his position.

13 For example, Swarthmore College initiated a study in 1923 to ascertain what institutions of higher learning were doing to assist their faculties with such "prosaic" necessities as adequate housing. See A. M. Brooks, "Houses for College Professors," School and Society, 18 (July 28, 1923), 116-119.

14 I. A. Lawres, "Situation, Status, and Salary," Educational Review, 69 (February, 1925), 76. "In fine, the professorial standard of living is not to be maintained on the professorial earnings without such camouflages, councils of war, and deferrings of hope as will make the means of defeat the end. It is a case of propter vitam, vitae perdere causas." "Professional Standards of Living," School and Society, 25 (March 19, 1927), 349. See also "The University Professor," School and Society, 9 (May 31, 1919), 659.
There is a marvelous literature that grew up in the period between 1900 and 1930 which provides characterizations of the scholarly recluse and the impractical academic. One is tempted to quote from it extensively. Perhaps the most poetic illustration as well as most illuminating, because typical, is to be found in an essay which appeared in The Nation in 1922. The author noted that the terms "pedagogue" and "scholar" were too frequently used as convertible terms. Increasingly, it had become fashionable to jeer at the academicians. Ugly passions, loud prejudices and sordid ambitions bred impatience and even contempt for the old values which the scholar symbolized. If modern society had erected an image to fill the interim before a new view of the scholar was discernible, it was now in the process of ignoring or discarding the truths that the older image had stood for. The teacher which an earlier generation had known deserved more than fond, nostalgic eulogies; he ought to command respect for the vision of a life austere and not ignoble, a life that the world has always needed and will always need.

The scholar's study is shabby; his books are many, but there is no pomp of binding or of first editions; his table is in disorder; his papers are stained by the ashes of his pipe; there is a rag rug on the floor and the poor man has to sneak out now and then to "tend" the furnace so that his wife and

children do not take cold. And yet, unless his salary is quite too pitifully small, he is usually a very cheerful mortal. Business does not allure him, nor common pleasures. He does not lust after power, he is neither epicure nor aesthete; the glories of this world seem little and remote to him. He loves truth so far as his vision can grasp it; he loves the ripe and permanent things in literature and thought; he seeks to add, however humbly, to the history and understanding of them. . .By all means let us scorn as loudly as we please the presidents and deans and glossy masters of the academic mart, and laugh out of countenance, if we can, the fashionable professors who praise seventh-rate uplift literature in the popular magazines. But let us not forget the shabby fellow with grizzled hair and slightly stooping shoulders and slightly reeking pipe who spends his life with things beautiful and worthy of the mind of man, who, even while he is chatting with you, is seeing Chaucer on a summer's day or has just discovered precisely why, one rainy day at Tibur, Horace broke off in the middle of a verse, or is aglow with a new explanation--suggested, by Heaven, in neither Smelfungus nor Oberwellinghausen--of a strangely obscure passage toward the end of "Beowulf."  

The Academic Philistine

Beginning in the late 1920's, this kindly image was beginning to wear thin. Normal and more homogeneous in their appearance, the college professors begin to be seen in the clubs of the community at large.

16 Ibid. Compare the above commendation with the following, written seven years earlier: "A sad fact has befallen the academic and the philosopher. They have been robbed of their manhood. They are now types of sluggish pulses and feeble wills, in a world rich with effort and error." "Teachers in Exile," Nation, 100 (February 4, 1915), 135. Nearly a decade later, the reaction had begun to set in.
They lecture to businessmen—on the psychology of salesmanship, by preference, or give inspirational talks, perchance on Christ as a Rotarian, or on the human side of retailing.\(^\text{17}\) The Dean of Washington University in 1927 complained that the new professor was becoming a silent and dangerous partner in the business of uneducation: master of the arts of acquiescence and doctor of the philosophy of \textit{laissez-faire}. His business-like, matter-of-fact mind is at once closed to fundamental problems while open to buncombe and balderdash.\(^\text{18}\) He strove to "make the worse cause seem the better" and catered to the narrow demands of expediency. Nor was the situation any better within the classroom. "The old-time professor was often categorically denounced on the outside as an 'academic snob,' not because he gave himself airs, but simply because he did not pretend to think and feel like a green-grocer or a manufacturer of chewing gum. Today, a man afflicted with 'aristocratic' proclivities does not have to step off the campus for his cure."\(^\text{19}\) He seeks to please the crowd and capture its benevolence by imitation. Soon he becomes like his model.


\(^{18}\) Heller, 32.

\(^{19}\) Ibid.
The new professor was seen as a joiner in the sloppy slogans of commercialism, as a Babbitt who loudly repudiated all claim to superiority over the hawkers of other wares. Yet the more loudly he informed them that they were as good as he, the more they treated him with marked condescension and deserved contempt. 20

Whenever the businessman says in his opulent drawl, "Well, Professor," we detect a slight contempt, not indeed intentional, but more baffling on that account, and making one feel as much at ease as those dreams of appearing in public with only scanty bedroom attire. 21

20This subjective impression of the philistine is remarkably at variance with earlier injunctions rendered to the professor. Nearly a decade before, one writer urged the scholar to get off his pedestal, especially since people used the fact of his standing there to throw hard names at him. He should face the world without either boast or blush and say frankly: "I am a salesman like the rest of you. I have my trained services to place at your disposal and commodities to offer in return for my salary. I can sell you a new...outlook on sociology, or a deep appreciation of the Elizabethan poets or an insight into the historical origin of the Papacy. Who'll buy?" "Academic Seclusion," Independent, 94 (June 8, 1918), 396. The metaphor was a particularly unfortunate one although even so distinguished a man as Alexander Meiklejohn found a similar one appealing: "What shall we do to lure the patient to get some living forms in which to practice our profession? I see no other way except to hang our shingle out and let it swing in public places. Perhaps to change the figure would give it more attractiveness. 'Clearing House for Opinions; Discount on Popular Prejudices; Foreign Exchange!'" A. Meiklejohn, "Freedom of the College," Atlantic Monthly, 121 (January, 1918), 86. Partly to service the new image of the professor, a business analogy was devised which inadvertently caricatured the new professor, just as the notion of an ivory tower caricaturized the old. When, a decade later, the opposition to the professor as salesman had solidified, the analogy was viewed as inept and crude. Undoubtedly it did more harm than good in the context of discussion on academic freedom.

21Hoben, 817. Probably the best treatment of the problem of the intellectual's relation to society is to be found in Richard Hofstadter, Anti-Intellectualism In American Life (New York: Vintage, 1966), especially Chapters 9 and 15.
By the end of the third decade of the new century, the picture had become clearer. First, there was a resurgence of rhetoric praising the archetypal scholar as the man who lived above the sordid realities of a competitive, worldly society, a system dedicated to avaricious acquisition. Then, coincident with a decline in the prestige and status of the professor, there arose the demand for the university researcher, active and alive to the affairs of practical men. Finally, there arose a reaction against the unorthodoxies of the new professorial stereotype and a reconsideration of the fundamental values for which the professor should stand.  

**Reaction and the Myth of Useless Learning**

It remained for Harold Laski to provide one of the most cogent and penetrating analyses of popular conceptions of the academic mind. He saw correctly that it was "the legend of useless knowledge" that was central and enduring in the American consciousness of academe. Moreover, he pinpointed with incisive criticism the travails of the professorial mind in its confrontation with the twentieth century in relation to this legend. What

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the legend did was to create a cult, a priestly class. Within the temples of the academic mind, one finds men devoted to contemplating eternal truths. Mere worldly creatures of routine and habit are called to turn the wheels of industry. The cogs of modern society will not mesh without the attentions of practical men of affairs. Yet within the inner sanctum, the priests move at their task. They are--it is the convention of their profession--socially awkward, pathetically unpractical, inevitably underpaid. Men patronize their cant and ritual and thereby achieve measure of self-purification for themselves. The sons of worldly men attend the colleges for a brief time; they learn a reverence for learning and catch the sacred vision. When they pass on back to Wall Street, they will endow the halls of academe with the fruits of their labors. The professors demonstrate our idealism, evidence the generosity of our patronage: theirs to carry the torch of learning; ours to see that they may carry it.

How did the practical man conceive the priestly mind of the academic? Several outstanding qualities characterize the professor:

There is a precious innocence in the factual world of common sense. The professor is a man of theory, delightful of course, impossibly learned, but devoted to the spinning of cobwebs which do not impinge upon the practical life. . . The academic mind could not run a business. . . What we need. . . are men who know

24 Laski, 593.
the world as it is, and not the dream world of the theorist. Academic minds are too remote from reality to be helpful when the need comes for decisive acts.  

The academic mind is occupied with speculation at the circumference of life, devoted to useless learning, the practical man tells himself. He is like a valuable painting or a precious ceramic in a drawing room. He is to be collected as the businessman collects incunabula.

Nonetheless, so Laski saw, there is another side to the story. The businessman began to discover that he needed to come to the university in search of expertise. He was welcomed at the portals by professors who had heard the siren call of the rush and bustle of the busy world. They yearned to join in the work of molding the universe after new patterns. They longed to take part in the decision-making processes. Their determination had been too long thwarted. Now the leader of industry found the academic useful. He could call upon the professor for testimony and advice. Sometimes he took academic advice and paid heavily for it, sometimes, again, he trusted his intuitive judgment in its face and paid still more heavily. He found professors convinced they had a role to play in shaping policies but these professors seemed the apotheosis of the traditional academic mind as he had pictured it. Now the image of the abstract

25 Ibid., 594.

26 See Van Wyck Brook's, America's Coming-of-Age (New York: Anchor, 1958), pp. 91-110 and passim.
and unworldly philosopher dissecting first principles seemed strangely dated. Now the professor is a writer of textbooks or a publisher of learned works dedicated to a specialized topic. He is an expert, producing a profusion of memoranda and high-sounding directives.

In general, the academic expert has served the practical man supremely well. He has produced the right theories at the right time, and they have had a wonderful air of being born of the inescapable rigor of facts. His tables and footnotes, especially where they were not read, have usually carried conviction. He has shown a proper hatred of abstractions. He has increasingly refused to dwell too largely upon foundations. . . He has shown that disposition to preserve and that ability to prove that, though reform in itself is desirable, this is never the right time for reform, which are the obvious marks of practical sagacity. It can even be argued that the dissidents themselves from the prevailing outlook have proved invaluable since they can be offered as evidence of academic independence of mind. 28

Thus, the professor becomes a kind of philistine, or worse yet, an intellectual prostitute pandering to the needs of customers who must be

27 Laski, 594-595.

28 Laski, 597-598. Compare the above with the following: "It appears, then, to be the fate of intellectuals either to berate their exclusion from wealth, success, and reputation, or to be seized by guilt when they overcome this exclusion. They are troubled, for example, when power disregards the counsels of intellect, but because they fear corruption they are even more troubled when power comes to intellect for counsel." Hofstadter, Anti-Intellectualism In American Life, p. 417.
satisfied. Having gained access to the chambers of the mighty, he is thereby corrupted and will act accordingly. Do labor unions threaten to create inflation? The academic expert can be called upon to display irrefutable economic principles that show that unions cannot raise the rate of wages. He can show with breath-taking simplicity that the marginal utility of capitalist economics pays to each wage-earner precisely what he is worth. If we need to restrict immigration from the Latin peoples, the professor will prove the intellectual inferiority of the race that produced Dante and Cavour and Machiavelli. Just as the eighteenth century English political parties had their licensed pamphleteers, the academic "sell-out" will perform a similar function today.

This sense of disgust and alienation evidenced by Laski was not atypical. The alienation of the intellectual class had become a part of the esthetic or political protest against the constraints of gentility and conservatism which American intellectuals were raising up against American society.

29 The examples are from Laski, 597. When British dockers explained to the Transport Workers Commission that they could not live on their wages, a distinguished professor of statistics showed immediately that they calculated needs upon a grossly excessive dietary. Cited Ibid., 597.
Where the American intellectual had been hemmed in during the nineteenth century by safe and genteel idealism, he now rather rapidly established the right even the obligation, of the intellectual community to talk realistically about corruption and exploitation, sex and violence. Intellect, for so long considered both by its foes and its exponents as passive and futile, came little by little to be involved in and identified once again with power.30

Closely bound up with a sense of estrangement, more difficult to preserve as the alliance of power and intellect grew stronger, was a profound sense of ambivalence and hostility—directed both at the business community and at those intellects who gave themselves gladly to the social involvement of the university. Thus, the image of the professorial philistine was created. By the end of the 1920's it was the chief contender to the more favorable portraits that cast the scholar as a proper ally of socially dominant, vested interests.

The cherished picture of the scholar as totally disinterested and uninvolved with partisan interests had received a rather bad blow a decade before during the War. Writing in the middle of the third decade—a safer remove from the times of stress characteristic of a national emergency—men such as Laski and Heller and others of their ilk were drawing a somewhat too simple contrast between the remote gentleman-scholar to the scholarly activist. If they implied (perhaps unconsciously) an age in

30 Hofstadter, p. 407.
which the academic mind could not be bought, as distinct from an era that presumed acquiescence as the norm, the contrast was too sharply drawn.  

The Chauvinist

During the war years, there is abundant evidence that professors swelled the nationalistic chorus, denounced the Hun with vehemence and proclaimed their collective loyalty as loudly as anyone. They went further, some of them. Professors of German repudiated Goethe; professors of philosophy suddenly discovered that Kant was a vicious fellow; philologists were almost tempted to rename Grimm's law on the principle which, for some years, turned sauerkraut into Liberty Cabbage. Professors could prove that Hegel or Nietzsche begat the great War; that Danzig was obviously Polish; that Austro-Hungary was an historic outrage. They could prove that Prussian militarism would be the death-blow to freedom, or that

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31 It is not argued here that there was not a real shift in the popular image, as well as the self-image, of the professor from the turn of the century to 1930, but rather that the polemics of the day obscured the gradual character of the progression.

Germany's capacity to make reparations was in the dimensions of the infinite. No wonder. The trustees of Columbia University in 1917 resolved formally to inquire, by a committee of their own body, to "ascertain whether doctrines which are subversive of, or tend to the violation or disregard of, the Constitution or laws of the United States, or of the state of New York, or which tend to encourage a spirit of disloyalty to the Government of the United States; or the principles upon which it is founded, are taught or disseminated by officers of the University." With such ambiguous phrasing as "tend to the violation or disregard of . . ." or "principles upon which it is founded" open to the widest possible interpretation, it is unremarkable that professors found it necessary to play the "More Loyal Than Thou" game throughout the duration. President Lowell, of Harvard, spoke of the difficulties evident in the chauvinistic climate of the day, and of the problem of preserving the right of free speech in the face of violent agitation for muzzling professors suspected of subversive sympathies. To the terrorism of the Espionage Act, so


34 "Trustees and College Teaching," Nation, 104 (March 15, 1917), 305.

35 In a letter reprinted as "Freedom of Speech at Harvard University," School and Society, 1 (May 8, 1915), 668.
fiercely assisted by a disordered mass-consciousness, was added the terrorism of such intra-mural control, as at Columbia, so righteously sensitive for the "loyalty" of the institution, so vindictive against the slightest deviation from what "the authorities" conceived "loyalty" to be. Men were rebuked as disloyal because they were suspected of "an intellectual attitude toward the war." These were those rare individuals who could write of the great War with the same serene detachment that one might apply to the struggle of Hellas with Persia. But they courted disaster in so doing. Early in March of 1919, the Nation editorialized against the "unbalanced, unscholarly and morally pernicious utterances" of the universities during the previous four years, which, it held,  

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36 Weldon, "The University Professor," School and Society, 9 (May 31, 1919), 660. Nor was the atmosphere much improved in the years immediately following the end of hostilities. "It would, no doubt, have been fortunate if a social moratorium could have been decreed by some superior power at the close of the war, so that the resumption of domestic controversies and the strife of classes might have been deferred until the distracted minds of men had in some measure recovered from the war-psychosis--from the emotional overstrain, the habit of thinking in terms of simple black and white, the relaxation of the power of inhibiting the combative instincts, the familiarity with violent methods, the resurgence and exaggeration of the self-regarding motives after their long repression, the moral fatigue--which are the natural consequences of so prolonged and bitter a struggle." A. O. Lovejoy, "Academic Problems," School and Society, 10 (December 27, 1919), 753-754. "For the first year or two after the war, we consol'd ourselves by saying that the hysterical conservatism of the 'authorities' was a left-over from the emotional debauch of 1917-18; but the war is now five years away and the movement is still increasing in violence." 'Free Speech in the Colleges," New Republic, 34 (May 16, 1923), 310.
"deprived them of all claim to moral leadership" in the postwar years.\(^{37}\)

Words were easy but the situation confronting the professor--fear of the loss of his job--was hard and real. One observer within the university described the results of the climate of the day:

Thus it is that the deepest wisdom and the finest love of country and humanity have for the past two years or more been voiced, been whispered, only in little dedicated groups of two or three around the fireplace or furtively entrusted to little slips of paper and anxiously filed away in the wee small hours of the night.\(^{38}\)

The portrayal of the professor under wartime stress is important for three reasons. First, it is significant insofar as it qualifies and provides a necessary corrective to the over-drawn picture of the professor evident in the late 1920's. The notion of a priestly caste whose posture of withdrawal and detachment is noble was not really true to the realities of the twentieth century; it was probably never true entirely. Secondly, it is instructive to view this side of the professor to counter-balance the enthusiasms for the activist role of academician in society. There was a substantial danger that involvement and power would be corrupting. Removed from his academic havens, the professor could become amenable to manipulation and coersion all the more readily. Where his pronouncements impinged upon immediate matters of public concern and controversy,

37 Weldon, 659-660.

38 "Poisoning the Wells," Nation, 9 (March 8, 1919), and quoted in Weldon, 659.
the weight of economic power, institutional authority, and common conviction would be brought to bear to insure that those utterances would be palatable to public taste. Thirdly, the power of persuasion wielded by the intellectual community was made more evident. A recognition of the potential influence wielded here gave new importance to the professor. The acknowledgment did not mean that the status of the scholar was thereby elevated; on the contrary, it could be argued that it led to a decline in prestige proportional to the extent of manipulation in the marketplace that seemed feasible. But it did draw the spotlight of public attention to the intellectual community at a crucial period in the development of institutions of higher learning.

Gradually a set of interrelated patterns and thematic continuities began to emerge that set in relief the images and ideals, the stereotypes, the myths, the popular clichés and enduring self-portraits of the American professor in the twentieth century. Some of the images were transient; others were more enduring. Some represented very superficial opinions; others pointed to significant social currents in American life. Among the characteristics noted, it has been observed that two radically different conceptions of the nature and role of the scholar came into conflict. The first of these was the gentleman professor who was a teacher, more or less estranged from the society in which he lived and relatively unconcerned with its contemporary passions. Over and against
this arose the idea of the activist scholar who offers his expertise to a complex society, a man whose dominant interest is research and its practical applications. Within the intellectual community, the reaction to this new man was ambivalent. On the one hand, there were those who welcomed his advent and saw nothing inapposite in the analogy of scholar to the commercial hawker of wares in the market-place. On the other hand, there was a two-fold reaction against this view, one from within the academic community, and one from without. Within, there were those who saw the new professor as a philistine, as an individual who prostituted his talents and labors for unworthy ends. He had "sold out" and exchanged his birthright for a mess of pottage. Without, there was consternation lest the practical businessman lose his monopoly of common-sense wisdom. The notion of expertise, when it emanated from the academic world, threatened his security and the comfortable legend of useless knowledge. There was a recrudescence of the age-old animosity of the tribesman for the clanless man who has no rights society is bound to respect because he has no status. Outside of the cloistered seclusion of the educational institution, the scholar's role was undefined at best, lowly at worst. When the outside world found him useful in a tangible and immediate sense, the professor was accorded deference and respect in the measure he could "produce." This did not mean that the scholar's financial status was elevated nor that he was becoming a kind of cultural
hero. To the contrary, all it meant was that he was a hireling among the
more comfortably established members of the social order. Moreover, his
performance as loyal citizen during the War had indicated to some that he
could be induced to dance a tune in concert with other members of society.

Partly in revulsion against this performance, but mainly due to the
unorthodox machinations of this new professor in the decade which followed,
voices of protest arose. A harkening back to the days when a professorial
scholar placed his academic independence first became fashionable among
certain segments of the academic community. It made no difference
whether or not any of the claims made were ahistorical or whether the
stereotypes were true to life. What was important was what men thought
and the extent to which they were animated and persuaded by the images
which were operative. In other words, it was not the objectivity or sub-
jectivity of various conceptions of the professorial role that mattered; it
was how men thought and acted in the light of these conceptions that did.

The development of thinking on academic freedom in the period
under consideration becomes more intelligible in light of the ways in
which professors viewed themselves and were viewed in turn by the pub-
lic at large. The pious pronouncements of professorial bodies and the
rhetoric of editorial critics were often very much at odds with the views
held by the public and sometimes by university presidents and trustees.
The lofty and sonorous deliverances of both frequently reflected, implicitly,
views of the nature and function of the academic life. Usually, the implicit assumptions were, perhaps predictably, dissimilar in the extreme. But beneath the surface of charge and counter-charge, accusations and defenses, there lay a welter of premises and presuppositions that rarely were brought to light. They involved fundamental issues concerning the role of the modern university, the social requirements of industrial society, and the position of the university professor in relation to the university executive and trustee. It becomes less difficult to untangle the debates involving academic freedom when these facts are kept in mind.

The Decline of Gentility

Among the underlying features of controversy was the phenomenon of the decline of a tacit set of conventions governing the professor. They were unwritten, unformulated, and born of a day when the collegiate atmosphere dominated American higher education. They constituted a loosely-constructed gentlemen's code stressing gentility, decorum, restraint, and the personal circumspection required by collegiate paternalism. When the college was still viewed primarily as an engine for moral regeneration, President Porter of Yale proclaimed this institution as "one community which for a considerable period takes into its keeping many of the most susceptible and most promising of our youth, to impart to them better tastes, higher aims, and, above all, to teach them to despise all
sorts of intellectual and moral shams.\textsuperscript{39} The master of etiquette and moral exemplar for this ambitious endeavor was the professor. As Dean Andrew Fleming West of Princeton put it shortly after the turn of the century, "The kind of scholar any man is to become, so far as the abiding values of his influence goes, is determined in the last resort not so much by what he knows or says as by what he believes and loves."\textsuperscript{40} Character in a man was what counted. Counselor to the socially inept, disciplinarian to the recalcitrant adolescent, quietistic and pious in demeanor, the professor knew and understood his role perfectly. He was a man of refined breeding and he sought to inculcate the same virtues in his charges. In the classroom, he was anything but controversial.\textsuperscript{41} Furthermore, there were canons of taste and an acute sense of the appropriate that shaped his carefully-chosen words at every turn.

But as the nature of the university underwent drastic alterations—from the college as a "home of useless and harmless recluses," to use

\textsuperscript{39}Quoted in Rudolph, pp. 108-109.

\textsuperscript{40}A. F. West, \textit{The Changing Conception of 'The Faculty' in American Universities} (San Francisco, 1906?), p. 14, quoted in Rudolph, p. 402.

\textsuperscript{41}In 1915 and thereabouts, the rare individual who encouraged discussion of vital questions, even in the classroom, was looked upon as a veritable revolutionist in professorial circles. See Bourne, "The Professor," \textit{New Republic}, 3 (July 10, 1915), 257-258.
President Angell's phrase, to gigantic corporations caught up into the mainstream of American experience—the codes and conventions of by-gone days were denatured and inexorably weakened. Professors felt the constraints of convention upon word and deed less strongly. The idea of the university teacher as moral exemplar loosened to the point that there was something atavistic in David Starr Jordan's rhetoric to the effect that "to turn our youth towards righteousness we must show them how righteousness looks when it is lived." By "we" he meant primarily the teaching staff of the modern college or university of the early 1920's. In the secular institution at least, the ideal of ethical governance evidently seemed in sufficient jeopardy to Jordan, that he felt called upon to issue a summons to renewal and reform:

The university can exert a tremendous influence for moral life, but only through the unflinching devotion of its members. And this influence must be exerted spontaneously, even unconsciously, by men alien to all forms of vulgarity and vice, and in thorough sympathy with the best in mind or morals in the idealism of youth.43

This is not to say, of course, that the university professor had given himself up to debauchery and moral laxity, nor that he had entirely


43 Ibid., 794.
given up his role as inculcator of ethical directives. What was important, however, was that the precise role of the professor had become more ambiguous and with this came an attenuation of the unwritten code of conduct and manner his predecessors had known. It meant that the teacher felt freer to deliver himself of his opinions in a more forthright and sometimes strident manner. Breaches of good manners were no longer inconceivable. Tact and judgment might tend to be shunted aside in the exhilaration of expressing passionately-held opinions. Not many made so bold, but there were undoubtedly more vocal firebrands than the groves of academe had witnessed in preceding generations. Teachers not only came to hold views but to express them "which set on edge the teeth of the sedate members of the corporation" in many an institution. 44

President Butler of Columbia spoke for the older school of thought when he insisted that most of the abuses of academic freedom were due simply to "bad manners and to lack of ordinary tact and judgment." 45 Professors of established reputation, sound judgment and good sense


45 N. M. Butler, Scholarship and Service (New York: Charles Scribner's, 1920), p. 116. See also "Professors, Politeness First?" Independent, 108 (April 1, 1922), 324.
rarely if ever find themselves under serious criticism from any source, he thought. Noting that questions of academic freedom are frequently involved with other issues, Butler set forth the guidelines that formerly professors had seemed to take for granted.

Men and women may hold what opinions they please, since they are in the habit of expressing them with discretion, moderation, good taste, and good sense. It is the violation of one or another of these canons which produces the occasional disturbance that is so widely advertised as an assertion of or attack upon academic freedom. Genuine cases of the invasion of academic freedom are so rare as to be almost non-existent.\(^6\)

Elsewhere, he caustically remarked: "In order to prove that one is individually free it is not necessary to be an ass or to use violent and insulting language toward those with whom one is not in agreement." What was needing, he affirmed, was a respect for the self-imposed limitations of "common morality, common sense, common loyalty, and a decent respect for the opinions of mankind."\(^7\) Obviously, this position was open to much criticism and ridicule. Whose common sense, common loyalty, common morality and opinions? Who was to provide the warrant for, and

\(^{46}\)Butler, p. 158.

definition of, "decent respect?" The objections might be incisive enough, but they missed this much: the presumption that such words needed no definition or explication. They were self-explanatory and self-sufficient. Social consensus produced a commonality of decorum, a code of ethics, a responsibility of judgment and a sense of the fitting from which no sane and self-respecting gentleman could possibly depart. The fact that men could and did depart from an implicit set of presumptions bore effective testimony to the fact that time had left Butler behind. Where appeals to common decency were suggested as restraints upon academic utterances, the resultant clashes were as much the product of two opposing pictures of what is appropriate to the scholarly image as they were conflicts involving academic freedom. In large measure, we have inherited the various images and added to them. Yet, by and large, if it makes sense to speak of a popular, typical image of the professor, the bulk of its constituent elements were formed in the first three or four decades of this century.

The transition from gentleman-scholar to reform-minded activist became more apparent as Progressivism abetted the movement to standardize the theory and practice of academic freedom and tenure. "Just as economists began to see the social costs of unregulated business enterprise, so professors began to see the liabilities of an uncoordinated academic system. As far as academic freedom was concerned, there was
a wide diversity of practices with respect to its principles and scope. For other ambiguous Freedoms, like those of speech and the press, the courts provided clarification. But there were practically no legal dicta on academic freedom as such."48

The Institutional Hireling

There were, however, legal dicta defining the status of the professor. In certain post-Civil War cases, professors were the ones to claim the status of employees, seeking contractual protections against the abolition or vacation of their offices by legislatures or trustees. One plaintiff in a late nineteenth century case argued that

Although the university may be a public corporation, the professors therein are not public officers; that they are mere servants for hire, with whom contracts for service may be made, and which are binding upon the corporation; that they have a vested right and legal property in their salaries and offices of which they can be divested only by legal proceeding; that a contract for such service, at a fixed salary, and for a stipulated period, is as much within the purview of the constitutional provision which prohibits the violation of contracts by the passage of a law.49

48 Metzger, p. 200.

49 Quoted Ibid., p. 189.
In another case where a professor sought to establish himself as an employee in order to sue for the recovery of salary which had been withheld, the judge declared:

We do not think that a professor in the university is a public officer in any sense that excludes the existence of a contract between himself and the board of regents that employed him... It seems to us that he stands in the same relation to the board that a teacher in a public school stands with respect to the school district by which such teacher is employed; and that is purely in a contract relation.\(^{50}\)

Thus, there were legal precedents for defining the professor as an employee. While there were no legal definitions for academic freedom, the claims made for it stood in a relationship to those who claimed the rights of such freedom. If the professor was an employee, he was subject to the restrictions encumbent upon him in his relations to his employer. If the powers in authority likewise considered themselves as employers, when the professor said or did anything displeasing, it was only natural that the former should assume they had the right to act as any head of a business might move to curb or dismiss a hired hand. When they did so, professors were prone to appeal to the privilege of academic immunity as warrant for exemption from disciplinary action. Yet, the claims made for academic freedom were not altogether clear since no coherent and

\(^{50}\text{Ibid.}, 190.\)
systematic theory for it had yet appeared. There was a body of rhetoric and an accumulation of indignant editorials, but little that could be appealed to by way of authoritative pronouncement. In commenting upon the dismissal of Professors Dana and Cattell from Columbia University in 1917, a writer in the *Nation* complained:

> The board looked upon the point as one between themselves and their employees; and are in amazement that anyone should doubt their right to do what they will with their own. That the thing upon which they have laid their hand is not "their own," that they are trustees and not proprietors...have never entered into their field of vision.\(^1\)

The mounting frequency of cases involving claims of academic freedom such as this one at Columbia, made it inevitable that more thoughtful attention would be paid to the matter. The issues began to be joined at an auspicious time in the development of various concepts of the role of the scholar in modern society.

**Summary**

The stereotype of the professor as a scholarly isolate, locked up in an ivory tower, is a venerable image. It borrows its substance as much from popular prejudice and imagination as it does from historical reality. Yet in the early years of the present century, this way of looking at the

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\(^1\)H. L. Stewart, "Columbia University and the Liberties of the Citizen," *Nation*, 105 (October 25, 1917), 452.
professor was emphasized at a period in our national life when it was no longer faithful to the truth it was supposed to represent. The image of the isolate provided ironic contrast to the image projected by professors who now pressed for greater academic freedom. University teachers and researchers began to demand more liberty because the nature and conditions of their work required it.

Thus, a novel conception of the professor as an activist arose. Infused with the spirit of Progressivism, the ideals of the German university model, and the ardor of reform, professors began to press for a greater share in the governance of the university, for a chance to utilize their skills and the results of their research in the marketplace, and generally for a hearing beyond the walls of the university. Whereas the concerns of the scholarly isolate rarely impinged upon daily concerns, the activist professor's interests brought him into conflict with certain powerful interests. So long as the professor confined himself to "academic" concerns, a genuine need for untrammeled freedom was unapparent. But when the professorial activist spoke to issues of the day, conflict resulted. Discussion on academic freedom was mounted against the backdrop of such conflict.

A reaction against the activist image appeared in the image of the professor as philistine. The demand that the scholar return to cultivate
his garden could (and did) become part of the rationale for limiting his extramural freedom. Potentially, the philistine image was a tool for those who might oppose academic freedom for the professor in this regard. Moreover, this reaction, strengthened by the "myth" of useless learning, indicates how and why demands for academic liberties were not always taken seriously.

A third stereotype was born of the behavior of professors under the strains of a wartime emergency. Their chauvinistic pronouncements implicitly indicate their need for academic freedom to protest and to promote an increased independence of judgment, a greater objectivity of vision.

A discernible decline in gentility, the etiquette of the professorial tribe, also contributed to sharpening the acrimony of debate on liberties in academe. As professors felt less constrained to observe the unwritten canons of a gentlemanly code of decorum, it was inevitable that the more uninhibited of them would provoke those incidents out of which so much controversy arose.

Finally, the image of the professor as an institutional hireling—an employee—carried with it a complex of emotional attitudes and convictions highly antithetical to increased academic liberty. Thus, in large measure, the protracted debate on freedom of teaching was bound up closely with questions concerning the place of the scholar in the university community as well as in society at large.
CHAPTER III

THE GROWING DEBATE: 1915-1930

The "Hired Man" Theory

What is the status of the professor within the educational institution he serves? Is his loyalty and responsibility to a corporate body and its apparatus or to an abstract ideal which the institution presumably represents? That is, is he to be regarded as an employee of a corporation or, in some sense, is the professor a free agent? When the scholar lays claim to a freedom as a member of a university, not as a member of the state, the claim is for an academic freedom and not for a social or personal freedom. The privileges attaching to a member of society, the claim asserts, are not identical to those attaching to the occupation of professor. The privileges and responsibilities of academic freedom, whatever they may be, arise from the nature of the professorial connection. Two very different conclusions from these considerations were drawn, and much discussion ensued throughout the second and third decades of this century. The first inference drawn repeatedly emphasized the independence of the professor from undue restraints by university trustees. The second
inference was that university governing bodies can and even must impose appropriate restrictions upon the professor in view of the legal relation between him and the university.

One source which drew attention to the independence of the professor appeared in the first report (1915) of Committee A on Academic Freedom and Academic Tenure of the American Association of University Professors.¹ The professorial statement held that whereas professors are appointees of trustees, they are not in any proper sense their employees. Once appointed, the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene. With respect to certain external conditions of his vocation, the professor does accept responsibility to the authorities of the institution in which he serves, but in the essentials of his professional activity, his duty is not to the appointive authorities. (The object of his responsibility, it was stated, was the public itself, but the full implications of this relationship were never explored.) Brief mention was made of an analogy from judicial immunity

¹Reprinted in School and Society, 3 (January 22, 1916), 109-121.
to buttress the claim to professorial independence. The key phrase was "moral right to intervene." If the appointive authorities have no such right to interfere with the performance of scholarly functions, have they nonetheless a legal right? Those who chose to see an opening for exercising restrictions upon professors seized upon this relationship between trustees and professors and the implications suggested by it.

If the seat of the authority which is empowered to determine what the connection shall be between a professor and the institution, it might, therefore, be argued that the same authority must decide regarding the scope of the privileges claimed for that connection. Since academic freedom arises out of a professorial position, that is, is claimed by one in virtue of his position in an institution, it is also incumbent upon the appointive authority to devise procedures to be followed if the privileges of academic freedom are abused or overstepped. Hence, proponents of this position were fond of exhibiting

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2 See pp. 70-89.

3 See W. MacDonald, "Academic Freedom and University Law," American Review, 3 (March, 1925), 191-199, reprinted in Johnson, pp. 104-110. "It is well to note the strange tendency to ignore the fact that, speaking legally, all persons receiving salary from a corporation are employees. This assertion has been resented bitterly by some writers who hold that college teachers are appointees, not employees, and that the corporation, having confirmed an appointment, has no authority to remove the appointee... The claim is without basis." J. J. Stevenson, "Academic Unrest and College Control," Scientific Monthly, 16 (May, 1920), 460.
a close connection between the legal organization of the university and the scope and exercise of academic freedom as a professorial privilege.

The only university known to the law is the corporation which holds and administers the property as a trust, and which is answerable to the state for its conduct under the law applicable to trustees. They are the governing body of the trust, chosen and renewed in accordance with the legal requirements of the charter, and subject to the legal obligations which apply to trustees of property held for non-profit, educational purposes. The trust can either be a private one or it can be public, in which case, the state university is an agency of the state rather than a private corporation. Instead of a charter, there is a statute or a series of statutes, but the corporate character of the organization is substantially the same for both a private and a public institution. Thus, academic freedom is a freedom exercised under the conditions of a corporate organization in which the university is the employer and the professor the employee. The professor has no legal responsibility for the direction of the institution as a whole except that he has contracted to perform certain duties; the administrative body is responsible in law for the execution of the trust, including the care of corporate property as well as the achievement of the educational purposes for which the trust exists.
Since these matters are incontrovertible, the question of their implications was (and is) what was at issue. When a question arises involving a charge against a professor for having done or said something (or failed to do or say something) which is allegedly in derogation of his duty as a professor, he may defend himself as having acted within the rights of academic freedom. Who should then determine the applicability of the freedom to the case at hand and then render a judgment after examination of the case? Those who were inclined to see the professor as a "hired man" or employee affirmed that the only body which could properly act with final authority on such matters would be the corporate body to which the property, administration, and welfare of the university have been legally committed as a trust.

It is inconceivable that a governing board intrusted with the custody and care of land, buildings, libraries, laboratories, museums, and productive funds set apart for educational purposes, authorized and required to pass upon questions of curriculum and degrees, and in general expected so to administer its trust as to win the respect and support of the community for the ideals which the university embodies and the social betterment it is set to achieve, should be expected to permit the reputation of the university, as the board conceives it, to be jeopardized by the acts of one of its employees without interference on its part, or concede a right in any professor, as professor, or in the whole body of professors acting as
a faculty, to do what the board regards as prejudicial to university welfare. [emphasis added] 4

In short, the definition of the extent and exercise of academic freedom is a function of the corporate authority of a university, and the authority that can make the definition is the authority to apply it. 5 This was certainly a wide-spread conviction among university trustees and administrative heads throughout the controversies which agitated American higher education throughout the period under discussion. Intrinsic to the argument was the belief that since legally the professor is an employee, it is right and proper that he should be treated as such.

It is not our purpose to delve into the details of specific incidents, but the Scott Nearing Case provides a near-classic illustration of a board of trustees acting as employers in a relationship with an employee. The facts of the abrupt dismissal of Nearing from the Wharton School of Finance and Commerce of the University of Pennsylvania need not be dealt with at length; but the manner in which


5 MacDonald, p. 109.
his employment was terminated is most interesting. Suffice it to men-
tion that the action of the board did arouse nation-wide controversy.
It was one of the most celebrated cases of the time, as the Ross case

Summarized briefly, in March, 1915, the faculty of the Wharton
School in the University of Pennsylvania sent the proposed budget and
teaching list for the ensuing university year to the trustees for their
approval. Late in June, the provost of the university sent a brief note
to Nearing informing him that his appointment as assistant professor
of economics had expired and that it would not be renewed. This
summary dismissal came at the end of nine years of teaching at the
Wharton School. A protest was submitted by Nearing's colleagues on
the faculty. The time and manner of the dismissal seemed to indicate
clearly that the trustees thought the university and general public
ought not to be involved with the issue; that, in short, it was a
private matter. Individual trustees were reported in newspaper inter-
views to have taken essentially that position.

George Wharton Pepper, for example, according to his news-
paper statement, seemed to class the professor with those who serve
as personal servants:

If I was dissatisfied with my secretary or any-
thing he had done, some people might be in favor of
calling him in here and sit down and talk it over.
Others might think it wiser to dismiss him without
assigning any cause. It all depends on the circum-
stances whether or not it would be wiser to state any
cause, but in any case, I suppose I would be within
my rights in terminating his employment.  

Obviously, Pepper and Company were within their legal rights in ter-
minating the employment of Nearing. Chancellor Day, of Syracuse
University, went further in providing a fuller defense for their action.
He was prompted to write to the New York Tribune to say that "the
Pennsylvania professor who proposed to hold his position in defiance
of the administration, which was the only authority as to the terms and
obligations of his professorship, was properly dismissed." Dr. Day
went on to defend his view:

That is what would happen to an editorial writer
of The Tribune if he were to disregard the things for
which the paper stands and, for instance, write Bull
Moose or Democratic politics into The Tribune because

7Quoted in F. Russell Smith, "Dismissing the Professor,"
Survey, 35 (November 6, 1915), 131.
such was his conscience or convictions. Conscience is not an infallible guide, as any novice knows, and convictions must be more than honest; they must be correct. If the professor has the right to give up his position because of his conscience and conviction, what about the right of the trustees to consult their consciences and convictions? Have they not as much right to act by their consciences as he has? Have they not the right to act according to their best judgment after securing all the facts?  

John Dewey saw in Dr. Day's statement a laying down "in the boldest terms the 'hired-man' theory of the status of the American college professor." He continued to rebuke the Chancellor for his "appalling" analysis:

If the trustees of the University of Pennsylvania indorse it, their indorsement is a warning to all scholars who do not put their knowledge of their special subject on a level with that of an aggregation of business gentlemen, however worthy and however competent in their own affairs, to keep away from that institution.  

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8Quoted in "Is the College Professor a 'Hired Man'?" Literary Digest, 51 (July 10, 1915), 65.

9Ibid. "To think of the professors as men hired to execute prescribed tasks in ways determined by an administrative body is to strike at the very heart of university life." "What is at Stake at Wisconsin's University?" School and Society, 1 (April 17, 1915), 564. Dr. Day's statement is also interesting because it encapsulates a rather startling conception of "academic freedom." Taking him at his word, it means freedom for the professors to teach and speak as they choose and freedom for the trustees to remove them from their positions for so doing! As Edward P. Cheyney, Professor of European History at the University of Pennsylvania, wryly remarked, "This definition involves, to use an old-fashioned objection, the fallacy known as 'direct accident.' It is the fallacy into which James I fell when he acknowledged the freedom of speech of members of parliament, but insisted on sending them to the
Here then was just one of countless examples where the image of scholar as businessman turned back upon the professor and to his distinct disadvantage. It would be an exaggeration to assume that the involvement of the scholar in the business community or, alternatively, his self-concept as a purveyor of intellectual wares were direct causative factors determinative of the actions of trustees involving academic freedom. Yet this much must be said: when the concept of scholar as employee or "hired-man" worked against the academician, he ought to have at once been more reluctant to give it support and encouragement outside the university community as well as within. But the notion of a hired man is clearly consistent with the image of the businessman-scholar. If, to gain public esteem and a sense of involvement in the world of affairs, he accepted the prerogatives of that image he had also to accept the same restrictions and limitations pertaining to his business colleagues. At the least, when the relationship of trustee to professor is that of superior to subordinate, employer to employee, this fact reveals the gross inadequacies of these two images. Seen in the harsh light of power struggles and conflicting

claims to authority, the images are thrown into relief and found wanting.

On the other hand, the professor was caught in a bind. He could embrace the role of detached observer of the human scene, remote and grandly removed from the storms of social controversy. But there was always still the danger that his most innocuous pronouncements could conceivably bring him into a whirlpool of censure should trustees choose to misinterpret his utterances. Particularly as his published findings or extra-mural expressions touched sensitively upon the nerves of those outside the academic fraternity, his position and security could be threatened. If he objected vociferously that he was most decidedly not an employee of anyone, least of all a board of trustees, he had to erect a coherent defense for the claims he made in the name of academic freedom. Further, realist that he was becoming to be, he understood that it would not suffice simply to exhort administrative heads, trustees, presidents, and influential donors to follow a "hands-off" policy. He had to demand a share in university government, express a willingness to sit on investigating committees, counter-balance the power plays of over-ambitious bureaucrats—he had to play the game of those he saw as enemies of the genuinely free educational endeavor. This he was peculiarly unfit to do.
The Analogy from Judicial Immunity

Another tactic open to the professor was to exhibit how, despite his legal status, the prerogatives of his position were essential to the proper discharge of his professional functions. One such attempt involved an elaborate analogy. It was provocative and it was carefully reasoned. As such, it deserves some attention.

This most full-developed theory advanced in support of academic freedom of utterance was provided by John H. Wigmore, Professor of Law at Northwestern University and President (1916) of the American Association of University Professors.¹⁰ It was notable, paradoxically, for the radical and uncompromising defense which the theory erected, while peculiar in the concession that it did make. Its contribution was to delineate an analogical argument from judicial immunity on behalf of scholarly freedom. It shared both the virtues and defects of most analogical argumentation, as subsequent discussion was to illustrate. Its roots were implicit in comments prepared some months previously in the Report of the Committee of the American Association of University Professors on Academic Freedom and Academic Tenure of

Therein, the university teacher's independence of thought and utterance was defended by comparing the relationship of professor to university trustee to that between judges of the federal courts and the executive who appoints them:

University teachers should be understood to be no more subject to the control of the trustees, than are judges subject to the control of the president, with respect to their decisions; while, of course, for the same reason trustees are no more to be held responsible for, or to be presumed to agree with, the opinions or utterances of professors, than the president can be assumed to approve of all the legal reasonings of the courts.\(^2\)

Although Wigmore was not a member of the committee which prepared the report, it is not unreasonable to assume in view of his position that he had access to it, and perhaps had been influential in its formulation. In any case, his amplification of the analogy was noteworthy both for its thoroughness and because it represented one of the few early attempts to advance beyond commencement day rhetoric.


\(^{12}\) "Report," 112.
A Superior or Supreme judge is not liable to civil action, on any ground whatsoever, for a wrong done by him while acting on matters within his jurisdiction and as a judge. This is a time-honored principle, acknowledged throughout Anglo-American law, with precedents extending back over three hundred years. The protection thus afforded the judge is tremendously inviolate. It concedes, first, that a judge's ruling may have been issued contrary to the law of the land. Secondly, it concedes that the judicial ruling may have been made with deliberate and personal fraud or malice. Nevertheless, the rule extends immunity to the judge. "The proposition," said Lord Esher, in a modern English case, "is true to its fullest extent, that

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14 Anderson v. Gorrie, 1895, Queen's Bench 668, quoted in Wigmore, 538. The following colloquy ensued in that case: The plaintiff said to the Master of the Rolls, "Then if your lordship were to order a policeman in court to bring to you on the bench a man from the body of the court, and your lordship were then to strike the man in the face, would the striking be a judicial act?" And his lordship replied that it would be a judicial act. ... Lord Esher said, "If I were to order a barrister in court to sit down, and he did not, and I shot at him and killed him, I much doubt if proceedings for murder would lie against me." From a letter by the complainant, printed afterwards in the London Truth and quoted in Wigmore, 538.
no action lies for acts done or words spoken by a judge in the exercise of his judicial office, although his motive is malicious, and the acts or words are not done or spoken in the honest exercise of his office. If a judge goes beyond his jurisdiction, a different set of considerations arise."

The policy for judicial immunity is fundamentally simple. If civil actions could be maintained against a judge by a losing party, it would constantly impose a burden of proof on him as defendant to show that he had decided with judicial integrity. Further, the second judge before whom the first judge was summoned would be subjected to a similar burden in his turn. Constant harassment by complainants alleging malice or corruptness would snarl the courts impossibly and prevent any judge from discharging his proper function. Thus, protection must be given to each and every judge, even at the cost of not reaching those judicial authorities who act maliciously.

Analogically, the reason for academic immunity is the protection of the competent scholar from offended parties--trustees, editors, ecclesiastical authorities, enraged parents, scandalized editors--so that he can remain unhampered in his discussion and research. The incompetents, extremists, radicals, and tactless demagogues may go unscathed, but that is the cost of affording immunity to the real searcher after knowledge and truth. Were the situation otherwise, charges would
be brought against any supposed offender that he was incompetent, in-
temperate or whatever. Precisely as all judges must have protection,
so too must all scholars--every professor.

It is impossible to protect the competent scholar,
who by general concession merits protection both in
the substance and in the form of his utterances,
without also protecting the incompetent one, who in
himself alone might be said not to merit protection;
because, if a line of definition be attempted, the
offended party will always believe and allege that the
supposed offender falls outside that line, and thus
the whole class of competent men will always be
hampered in their research and their utterances by
the likelihood of being required to defend themselves
against this allegation. 15

Terming the parallel between judge and scholar and the reasons
for providing immunity to each "almost amusingly exact," Wigmore drew
the analogy further. From the principle advanced, it follows, in the
first place, that there can be no line of distinction between the ortho-
doxy or unorthodoxy of any offending utterance made by the academic,
nor between his competence or incompetence, nor between the tactful
or tactless manner in which an idea is advanced. By thus claiming
the full scope of the protection called for in the principle, the argu-
ment seemingly grants no concessions, offers no restrictive qualifica-
tions on intramural utterances which could be seized upon by an

15 Ibid., 538.
opponent of academic freedom. Herein lies the chief virtue or strength of the position. Unlike other defenders of liberty of utterance, no hedging is permitted which, as a fault not covered by the principle, might be used as a foothold by those who oppose such liberty. For example, suppose a witless professor of Economics promulgates tenets derogatory of certain business principles. An influential member of the university board of trustees, most probably a devotee of conservative economic orthodoxy, takes exception; the culprit's professional qualifications are called into question and then used as a lever toward the radical spokesman's dismissal. If his competence is unassailable, the subversive character of the position can be proclaimed with identical results. Again, if the professor is unquestionably competent and his opinions not clearly subversive, despite their allegedly unsavory character, the charge might well be brought that they were presented without regard for the proper etiquette governing ideological discourse. Or perhaps it might be said (doubtless with a proper air of outraged dignity) that the professorial fulminations were disseminated maliciously and calculated deliberately to inflame public opinion and to cast disfavor on the university. Like Mother, God, or Flag, academic freedom is rarely attacked head-on by anyone. But setting careful limits to that freedom is tantamount to destroying it just as effectively by indirection.
Yet, secondly, the analogy of judicial immunity does point to a very real limitation, namely, that the professor is granted protection only so long as he remains within his own jurisdiction. Just as the judge is immune to civil action only within his legitimate sphere of responsibility, the scholar cannot expect protection if he ventures beyond the realm of the field to which he has been appointed. Admittedly the boundary lines are exceedingly difficult to draw in actual application. But for most purposes, as a postulate for assisting in decisions, the application of the principle is clear enough. The professor of Literature who presumes to pass judgment on tariff questions is plainly speaking outside of his own field of academic freedom. On the other hand, if a scholar versed in Political Science renders a decision as to the wisdom of some piece of recent legislation, surely he is within his jurisdiction.

The presumption that one can divide up subjects of controversy and pigeonhole them in spheres of academic jurisdiction was undoubtedly one of the weakest points in the argument. Predictably, it was assailed as unrealistic. Yet the entire analogy points to another limitation on freedom of utterance which weakens the argument still further. And in so doing, it makes a concession which potentially might be devastating.
Judicial immunity is given to the magistrate only insofar as his actions and pronouncements are made in the line of professional duty. So too, the utterance of the professor must have been made while doing some act of the strictly academic function, oral or written. This would include classroom discussions or lectures as well as publications in books and journals of a professional nature. But, on the other hand, "it plainly excludes utterances made on the stump in a political campaign and interviews published in a general newspaper. In the interval fall a number of arguable cases--paid articles in popular magazines, addresses in public lecture courses, casual addresses outside of the lecture-room but in academic groves, partisan action as a citizen, and so on."¹⁶ The professional publication and the classroom are the necessary places where discussion is to be protected. In his pursuit of truth, the scholar must have immunity here; but it need not go further.

It was at this point that the author of the argument turned it in a peculiar direction. He acknowledged the ancient lineage of the objection to the claim that a professor must give up his freedom of utterance as a citizen simply because of his academic position. But Wigmore claimed that the objection was no better for the fact that it

¹⁶Wigmore, 539.
was an old one. Unquestionably, he asserted, the individual must give
up a measure of his civil liberty when accepting his university affiliation. Why? Because university immunity was a special privilege over
and above the ordinary citizen and "it is not unfair that he should re-
linquish something in exchange." 17

Academic immunity signifies that the appointive powers have re-
linquished that which such authorities in other institutions retain in
full force--and retain by general acquiescence, if not by moral right.
Men invested with legal and administrative authority are not expected
to retain in their employment men who advocate antagonistic positions.
Grant that this analogy is not adequate really for the relationship be-
tween regents, trustees and presidents vis-a-vis professors. The
former are not employers, strictly speaking, of the faculties; they hold
a public trust with all that that responsibility implies. There is som-
ething crude and philistine about the appellation "employee" when applied
to the professor, as trustees are wont to do. Nevertheless, people who
hold appointive powers generally do expect some substantial harmony
of views with theirs on the part of the subjects of those powers. This
limitation disappears with respect to university employment. Trustees
abdicate the kind of power which otherwise they would feel entitled to

17Ibid., 539.
exercise. Hence, academic immunity implies a giving up of some part of freedom of action and utterance as citizen in exchange for the absolute immunity essential in the university community.

The immunity is akin to that accorded the medieval cleric who, in dedicating himself to divine works, received an exemption from military conscription, civil taxation and the liability to resort to temporal violence for his self-maintenance. In return, the churchman was obliged to abstain from worldly methods and confine himself to his clerical duties. The analogy here illustrates the sacrifices to be paid in exchange for a great immunity. So too, the professor must gladly forego some of the liberties of ordinary civic utterance in insisting upon the privilege necessitated by the nature of his scholarly works. He does not surrender his ordinary freedom as a taxpaying citizen, but there are narrower limitations to be imposed on his exercise of that freedom.

Is the analogy of judicial immunity apposite to the case of the professor? To be sure, the judge is not subject to civil action on the part of the injured party alleging improper or unjudicial conduct on the bench. Unlike judges, however, professors rarely do legal injury to people in their publications or lectures. In those rare instances where they do, there is a developed legal apparatus established to redress grievances. The point is, the complaints against a professor, or rather
the consequences following from an actual wrong committed by a scholar, are rather different in kind than those that pertain to the decisions of a judge in a court. Moreover, a judge is not entirely immune from being brought to book since there are articles of impeachment whereby he can be removed from office. These kinds of proceedings actually are similar to the charges of incompetency or unprofessional conduct frequently brought against professors. If sustained, the charges can lead to dismissal. Thus, Wigmore's legal analogy can be shown to point to a very different conclusion than the one intended.18

The sweeping immunity, it might be argued, suggested by the analogy is not altogether desirable, either. The reason is that it effectively debars the professional community from maintaining its own standards of scholarly conduct and competence. Particularly since the analogy attempts to point to complete immunity within a professor's own field of specialization, it means that those most knowledgeable and thus fit to pass judgment--his colleagues in the same field--could not take action to remove anyone from his position. This might well

18“The argument that the President of the United States appoints justices of the Supreme Court but cannot remove them is not accurate. The President nominates, but the Senate confirms or rejects. The Senate is the appointing authority, and it is the jury before which an impeached judge is tried. Similarly in a college, a committee or the president nominates candidates, but the trustees appoint or reject. No other condition is possible." Stevenson, 460.
prove entirely too great a price to pay for freedom of utterance.

The analogy is deficient in other respects as well. For example, the person who wields appointive powers in the case of the judge neither expects nor obtains a measure of agreement of views with his in the extra-judicial opinions of the judge he appoints. Thus, again, the argument points in an unintended direction. Surely the President does not control the activities and personal expressions of opinion of the judge when he is off the bench.

There is something amiss in arguing for the relinquishing of civic freedom in exchange for academic immunity of utterance by noting how the trustees, as appointive powers, give up the expectation of a harmony of views between themselves and the professors they appoint. Either the analogy fits or it does not. One can scarcely use it to defend academic freedom because there may be certain similarities between judge and professor, yet use the same analogy to prescribe limitations on that same freedom at the point where analogical argument breaks down. Either the relationship between professor and trustee is similar to that between employer and employee or it is not. One cannot consistently have it both ways.

A. O. Lovejoy of Johns Hopkins, who was to head the committee that issued a controversial report on academic freedom in war-time two
years later, objected that the question of freedom of utterance in the university ought not to be settled by analogy in any case. Instead, he proposed a consideration of the way the rule advocated by Wigmore would actually work in the instances to which it was proposed to apply it. Lovejoy insisted that it would work poorly. What the rule would do is make it possible for a hostile board of trustees to dismiss a professor whom they wished eliminated from the institution because of an allegation of disagreement between their views and his own in a subject outside that professor's professional domain. For example, a professor believed to have expressed strong political views at variance with those held by administrative officers, even though (or rather because) the professor held a chair in classical languages, could be subject to summary dismissal. As is often the case, the motive for a dismissal and the reason officially given are two very different things. What Wigmore's argument does is to concede that appointive authorities can rightfully demand of a university professor "some measure of substantial harmony" of views with their own outside of the professor's special province. This means, in practical instances, that academic freedom within a special province cannot effectively be defended unless

the teacher is also protected outside of it too.\textsuperscript{20} The spector of an employer-employee relationship returns to destroy the freedom which the argument was originally intended to preserve.

There is this much, however, to be said on behalf of the analogy. The hypothetical civic suit against a judge is analogous to the attack on a teacher's heretical doctrines in the sense that both share two common characteristics: the complaint is lodged by a person offended by the doctrine, and it is tried before a tribunal of persons who are likely to share the same sense of offense.

Whether the doctrine affect politics or economics or religion, the person attacking is one whose creed has been personally offended; and whether the triers be trustees of an endowment or regents of a State university, the same prejudices that have led to the charge are likely to be represented in many or most of the triers. Hence, the danger of harassment, against which the rule of immunity protects, is just as great, or greater, even though the precise form of the suit is not the same.\textsuperscript{21}

The rebuttal possibly misses the point. What is really at issue is not the danger of the harassment directed against judge or professor, nor even the points of similarity between a civic suit and an attack on

\textsuperscript{20}\textit{Ibid.}, 561.

a professor. The significant question is whether the same considerations that justify judicial immunity can be applied to justify professional immunity. One editorial writer, commenting on the issue, was perceptive enough to catch this point:

The reasons for maintaining professorial independence are not identical with those for maintaining judicial independence. The power with which the judge is clothed, the duty daily confronting him of deciding authoritatively questions at issue between man and man or between the individual and the state, the finality or quasi-finality of his decisions, the vital necessity that these decisions shall, so far as humanly possible, command the respect of all parties, however strongly their interests or passions may be affected—these things account for both the completeness of the immunity attaching to him in the exercise of his functions and the limitations imposed upon him in his outside activities... But no such public necessity can be alleged either for giving the professor unlimited immunity in the classroom or for limiting him outside it as exists in the case of a judge.22

Further, the writer questioned whether in fact the same probability existed that the professor would be subject to the kind and amount of harassment that a judge would be likely to suffer.

Wigmore raised additional points in defense of his analogy which pointed to issues whose significance and importance transcend the question of the analogy's appropriateness. He conceded that if a

22 "Judges and Professors," Nation, 103 (December 21, 1916), 581.
well-constructed process of impeachment were available for university teachers, as it is for judges, the professor should not be immune from such process of impeachment, any more than is the judge. Yet no such process exists.

What are the essentials of impeachment? A tribunal of responsible officers, in an independent branch of Government, disinterested in the judicial powers, and having ordinarily neither control of them nor subjection to them; a specific charge, formulated after inquiry by one branch of the Legislature as prosecutor, and presented before the other branch as a tribunal, upon evidence publicly produced, with counsel to argue. Here are safeguards for a definiteness of charge, an ampleness of proof, and an impartiality of judgment.23

No one would ask that a professor be immune from such a process. Recognition of the procedure in the judicial field suggests that it ought to exist for professors. A judicial committee of members of the academic profession might be constituted somewhat after the fashion of judicial impeachment trials for the purpose of disciplining an unworthy scholar. At the least, the procedures initiated by such a committee might be more likely to produce "a definiteness of charge, an ampleness of proof, and an impartiality of judgment." If it is rejoined that professorial committees provide no assurance that such criteria for a proceeding would be met, at least it is more likely that their deliberations would than the typical star-chamber tactics of a board of trustees.

After all, in the latter case, they are the accusers. The common interests of university scholars would take precedent over the unbalanced judgment of disgruntled individuals or partisan interests operative outside academic domains.

A second issue raised by Wigmore, above and beyond the analogy itself, was the legitimacy of limiting extramural utterances.

24 Consider for example the statement of J. Levering Jones, member of the board of trustees of the University of Pennsylvania in commenting to a newspaper interviewer on the abrupt refusal of the board to reappoint Scott Nearing to the faculty: "Our act was self-explanatory. It needs no explanation. You want to know, perhaps, what went on at that meeting, what were the arguments, how long the matter was debated, and just why we deemed it best not to reappoint Dr. Nearing. Why should the public know that? Would the controversy end when the public knew the reasons for his dismissal? Would the agitation end? In all its long history has the University of Pennsylvania been known to mistreat one of its teaching force? We dismissed Dr. Nearing because we thought it best for the institution." Quoted in J. Russell Smith, "Dismissing the Professor," Survey, 35 (November 6, 1915), p. 131. The Nearing case aroused widespread discontent at the tactics employed in his dismissal and the apparent refusal on the part of the board to clarify the facts involved. The dismissal was by no means "self-explanatory." "The condemnation of the Pennsylvania authorities was based essentially upon prosaid details of failure to define grounds, failure to allow a hearing, upon details of time and method of dismissal, with presentation of collateral evidence that these irregularities of procedure were due to unacknowledged objections to the tenor of his economic doctrines. This case affords a reasonably fair symbol of the usual situation." J. Dewey, "The Case of the Professor and the Public Interest," Dial, 68 (November 8, 1917), p. 435.
The question was a recurrent one and much debated in a variety of contexts involving academic freedom. Assuming that the analogy from judicial immunity will not stand sustained inspection, a separate issue is the desirability of limiting professorial freedom of speech outside the classroom, particularly if this question cannot be disinvolved from the question of freedom in the classroom. The same editorial which commented on the concept of judicial immunity as it might support academic independence implied that the two issues were interrelated:

A professor neither is, nor should be, as a rule, a man consecrated exclusively to the pursuit of his specialty. Besides being a scholar, he is a teacher; and the power of a teacher, especially a great teacher, in the development of both the mind and the character of students, is largely dependent on his personality. To impose upon a professor ardently interested in a public question the restraints indicated, . . , would be to stunt his personality; to have it understood that these restraints existed would be to lower in the minds of all students the human standing of all professors. Still greater would be the loss that the nation would suffer in such a limitation of the breadth and freedom with which opinions on vital questions could be uttered by one of the few classes of men whose intellectual training, whose ideals and whose conditions of work are calculated to make their utterances from time to time a salutary corrective of current opinion or an impressive protest against wrong accomplished or threatened.25

Despite the somewhat florid prose, the point had been made. First, if the analogy from judicial immunity necessarily implied restrictions upon the professor outside of the classroom or upon matters

25"Judges and Professors," 582.
whose connection with his specialization was tenuous, the analogy was self-defeating. And, secondly, were other grounds located for imposing these two limitations, it was to be understood that academic freedom would still be endangered. Not incidentally, the editorial had also given an invaluable assist to a sociological theory of the nature and function of the scholarly class as a gadfly to a society too readily susceptible to the changing tides of prejudice and injustice.  

In the final verdict, it must be said that the entire argument from judicial immunity, while tempting, failed to prove itself fully adequate. It provided a defense of sorts for unqualified freedom in the classroom and the scholar's study, but it was a double-edged sword. The tactic or resorting to analogy could be turned back to show as many real differences as similarities between the conditions governing the judge and those laid upon the university teacher. While one occasionally finds writers resorting to it in defense of academic liberties, by and

26 One need not be of too factitious a bend of mind to observe a paradox here; professors cannot be compared to judges with respect to jurisdictional immunity, yet (and because?) professors' public utterances can have salutory public benefits, they are judges in the sense that they sit in judgment before ill-conceived public opinion and render verdicts with respect to it.
large it did not figure prominently in the controversies of the years to come.27

A Framework for the Issues

"We are without organization, without discipline, without professional solidarity; and we are led when we ought to lead." So could one disgusted professor write of the American professoriat in 1915.28 Thus the founding of the American Association of University Professors in the same year assumed a special significance for thinking on academic freedom. The hope was born that a professional association could focus efforts to strengthen professorial prerogatives. In so doing, it might advance appreciably the cause of academic liberties in general.29 Acting with one accord, professors could repudiate the

27For example, two years later, Alexander Meiklejohn, briefly President of Amherst College, mentioned it in passing as follows: "The college has no fear of any opinions. It takes them all and judges them. If this be true, the tenure of the teacher is not that of one who is paid to work as he is told, who may be sent away if those who pay him do not like the work he does. His tenure is rather that of the judge who, by the very nature of the task assigned him, is placed beyond control or punishment by those on whom his judgment must be made." A. Meiklejohn, "Freedom of the College," Atlantic Monthly, 121 (January, 1918), 89.

28W. MacDonald, "Shall Professors Form a Union?" Nation, 101 (November 25, 1915), 622.

29An analysis of the conditions and circumstances surrounding the founding of this body has been made in Metzger, pp. 194-200ff.
concept of professor as "hired man." Just as the analogy from judicial immunity represented one effort toward this end, the new professional body's decision to establish a Committee on Academic Freedom and Academic Tenure represented another effort. The first report of this Committee laid down essential outlines of the issues of academic freedom and provided a statement of principles with respect to these issues.30

Two developments came out of this report. First, there arose a long discussion of the vexing problem of extramural utterances and how they ought to be protected. The 1915 document had the effect of stimulating as well as initiating much of the pertinent controversy in the decade to come. Secondly, there was a protracted debate on the whole strategy of safeguarding academic freedom with rules governing academic employment and tenure. This, in essence, was what the report recommended. After examining the general stance taken by Committee A in its first report, an analysis of these two developments will be found helpful in the attempt to trace the history of thought on academic freedom in this period.

30Reprinted in School and Society, 3 (January 22, 1916), 109-121.
The first statement of principles generally aroused favorable reaction and widespread support. It became the basis for further statements on academic freedom endorsed subsequently by the Association of American Colleges as well as the American Association of University Professors. Any adequate discussion of academic freedom, it was held, had to consider three matters: (1) the scope and basis of the power exercised by those bodies having ultimate legal authority in academic affairs; (2) the nature of the academic calling; (3) the function of the academic institution or university. With regard to the first of three, the fundamental premise was that trustees were public officials who were entrusted with the responsibility of discharging a public trust. Trustees "cannot be permitted to assume the proprietary attitude and privilege, if they are appealing to the general public for support."

Secondly, the nature of the academic calling is a public one; his responsibility is to the public itself and to the judgment of his own profession. In external matters, he has a responsibility to the authorities of his institution, but "in the essentials of his professional activity

31 For examples, see "The Professor's Place in the World," Nation, 102 (January 27, 1916), 96; and "Demands of the Professor's Union for Protection and Academic Freedom," Current Opinion, 60 (March, 1916), 192-193.

his duty is to the wider public to which the institution itself is morally amenable." To buttress the point, an appeal to the analogy from judicial immunity was made, as previously noted.

With respect to the third of the three divisions for discussion—the function of the university—the Committee did make some effort to define the public to which the institution is "morally amenable." The public is not to be confused with mass opinion or its political representatives. This would be highly dangerous.

Where the university is dependent for funds upon legislative favor, it has sometimes happened that the conduct of the institution has been affected by political considerations; and where there is a definite governmental policy or a strong public feeling on economic, social, or political questions, the menace to academic freedom may consist in the repression of opinions.

The nature of the university's responsibility was held to be somewhat different. Rather than being dependent upon the whims of public opinion, the university should be an intellectual experiment station, where new ideas may germinate and where their fruit, though still distasteful to the community as a whole, may be allowed to ripen until finally, per chance, it may become a part of the accepted intellectual food of the nation or of the world.  

33 "Report," p. 112.

The three primary purposes of the universities cited were: (1) to promote inquiry and advance the sum of human knowledge; (2) to provide general instruction to the students; and (3) to develop experts for various branches of the public service. The growth of human knowledge depends upon "complete and unlimited" freedom to pursue inquiry and publish its results. "Such freedom," the Report affirmed, "is the breath in the nostrils of all scientific activity."

As freedom for the investigator is essential, freedom of utterance is also absolutely necessary for the teacher. He must be free to speak fully and frankly, with candor and courage. Thus, academic freedom is mandatory if this second purpose of the university is to be achieved.

The university also must provide experts for the use of the community. Here again, academic liberty was thought to be essential:

It is obvious that... the scholar must be absolutely free not only to pursue his investigations but to declare the results of his researchers, no matter where they may lead him or to what extent they may come into conflict with accepted opinion. To be of use to the legislator or the administrator, he must enjoy their complete confidence in the disinterestedness of his conclusions.35

Summing up their conclusions with regard to the functions of the university, the Committee made a forthright statement of its general position.

It is clear, then, that the university cannot perform its threefold function without accepting and enforcing to the fullest extent the principle of academic freedom. The responsibility of the university as a whole is to the community at large, and any restriction upon the freedom of the instructor is bound to react injuriously upon the efficiency and the morale of the institution, and therefore, ultimately upon the interests of the community.36

On the question of extramural utterances, the Committee held that it was not desirable "that scholars should be debarred from giving expression to their judgments upon controversial questions, or that their freedom of speech, outside the university, should be limited to questions falling within their own specialities." It is neither desirable nor possible to deprive a college professor of the political rights guaranteed to every other citizen. While scholars have an obligation to exercise professional discretion in their extramural utterances--they should refrain from hasty, unverified or exaggerated statements--they should be free to speak as they will. Sensationalism and intemperance are to be avoided, however.

36Ibid., p. 114.
The Question of Extramural Utterances

The question of freedom of extramural speech agitated considerable controversy throughout the decades which followed the Committee's statement. One popularly-held view was illustrated in a strongly-worded editorial which appeared in the Scientific American. The writer began with the same assumption that Wigmore had made—that academic freedom is a privilege which entails the giving up of certain other liberties.

When a teacher accepts an invitation to become a member of a certain academic society, he automatically loses some of the freedom that formerly was his. He has voluntarily accepted the restrictions put upon him by the traditions and purposes of the institution with which he has associated himself.37

It is interesting to conjecture what "traditions and purposes" the writer might have had in mind that might justify restrictions. In any case, he continued with the now-familiar argument that the professor does not speak for himself alone:

Try as he may, he can no longer write or speak in his own name alone, were he to succeed in so doing, what he might have to say would, in nine cases out of ten, carry no significance and gain no bearing.38


38"Should a cheap demagogue now and then disgrace the faculty, two or three dull pedagogues will probably be at hand to balance him." V. D. Scudder, "Academic Freedom," Century, 92 (June, 1916), 228.
What he writes or says gains significance and a hearing because of the prestige of the academic society to which he belongs. To that prestige, with all that the word means, the academic teacher owes a distinct, a constant, and a compelling obligation.

Men of mature years who have achieved sufficient note to be invited to occupy a post of responsibility in a university ought not to have to be reminded that there is such a thing as academic obligation or that they fall short of it. No matter how strongly they feel about certain points, no matter how thoroughly convinced they are that they are on the side of right and truth, they should realize without reminder that they address their classes, and even their public audiences, not as Mr. So-and-So, but as Doctor So-and-So of Blank University. If they dispute this fact, a glance at the title page of their newest books will make them concede it.39

At this point, it was made clear that the writer believed a university could hold an institutionalized "official" viewpoint on a given matter and that the loyal professor ought not to derogate or contravene the party line:

It is absolutely clear that, regardless of what their own opinion be, regardless of what may ultimately turn out by agreement of the race to be recognized as right, regardless even of what may be the state of general contemporary opinion upon the matters of their discourse, they are not at liberty to retain their University connection while they preach what the university stamps as heresy. Freedom of thought the teacher must have; freedom of discussion with his academic colleagues, by all means yes; but freedom to impose upon receptive

minds, in the name of the University, doctrine of which the University explicitly disapproves—emphatically, no! . . . It is a clear case of conform or get out. [emphases added] 40

In like manner, the trustees of the University of Pennsylvania issued an explanatory statement for the dismissal of Professor Nearing in October of 1915 that seemed to carry the same assumption that a university connection entails restrictive responsibilities for extramural utterances. Curiously enough, a portion of that report quoted Huxley's famous definition of a university:

Universities should be places in which thought is free from all fetters, and in which all sources of knowledge, and all aids of learning should be accessible to all comers, without distinction of creed or country, riches or poverty. 41

In other words, the university "stands for" or supports no partisan view, advocates no sectarian ideology, represents no creed or doctrine as an institution. Yet within the same half hour, the trustees adopted another resolution announcing the existence of freedom of speech for professors when it is exercised "in a proper manner, upon

40 ibid., p. 450.

41 Quoted in F. Russell Smith, "Dismissing the Professor," Survey, 35 (November 6, 1915), 133.
proper occasions, and with proper respect for the dignity of their relationship to the university."\(^{42}\)

Apparently some such attitude motivated President Wallace A. Atwood of Clark University in 1922 when he abruptly closed a meeting of the local Student Liberal Club. (The speaker was, interestingly, Mr. Scott Nearing.) Almost at the end of the meeting, Atwood dropped in and took a seat at the rear of the hall. Finally, rising "in a condition of great excitement," he moved to the front to demand that the meeting be dismissed at once. (The record of the ensuing commotion creates a most melodramatic account.) After the lapse of nearly a week, in response to the students' request, the President issued a statement of his

\(^{42}\)Quoted in *Ibid.*, One is reminded of President Butler's remark that professors must enjoy academic freedom but as gentlemen. "Freedom imposes responsibility and there are distinct limitations upon university teachers which ought to be self-imposed. Academic freedom has been won at a great cost and it has produced noble results, but is open to grave abuse. The limitations upon a university teacher are those imposed by common morality, common sense, common loyalty, and a decent respect for the opinions of mankind. A teacher or investigator who offends against common morality has destroyed his academic usefulness, whatever may be his intellectual attainments...A teacher who cannot give to the institution which maintains him common loyalty and that kind of service which loyalty implies ought not to be retained thru fear of clamor of criticism." N. M. Butler, *Scholarship and Service* (New York: Charles Scribner's, 1920), p. 115.
policy on the question of academic freedom. The burden of the first part of this address revealed three underlying assumptions: (1) the university who sponsors a speaker bears responsibility for the content of whatever he says; (2) there are canons of taste and mode of expression which the institution is responsible for seeing are observed; and (3) it rests with an administrative official to interpret and implement such institutional responsibilities.

I closed the meeting because I was unwilling to have the university in any way, directly or indirectly, actually or apparently, responsible for our students' listening any longer to the sentiments which were being expressed by the speaker. The point at issue is not alone one of my disapproval of his malignment of the moral integrity of the American people. I take the position that not only the sentiments he was expressing, but the unscientific method of presentation and the intemperate manner in which he was conducting that address made it inappropriate for a university hall. Even if his beliefs and theories are right, and those of all others who differ from him are wrong, I know that, with a conscience and a sense of responsibility such as I happen to have, I should have closed that meeting. I do not regret that I have shown in a positive way that I disapprove of such influences within the halls of a university.

Gentlemen, I believe in the freedom of speech...43

43 Quoted in B. Bliven, "Free Speech, But--!", New Republic, 30 (April 5, 1922), 161. The offending statements were made in support of Thorstein Veblen's view that higher learning had come to reflect the philosophy of the modern business man. Dr. Atwood was Veblen's brother-in-law!
Dr. Atwood went on to announce himself in hearty accordance with the 1915 Report of Committee A. However, he drew a sharp distinction between utterances in the classroom, under the authority of the university and those made outside the university by the professor in his private capacity as citizen. The professor, he maintained, should present controversial matters in a "scientific" and passionless manner, giving all sides to the question under discussion. Yet while the Report of 1915 had stressed the need for decorum and restrain in extramural utterances, it was clearly implied that it was the freedom to speak that was important. It was not suggested that observance of prescribed modes of expression was to be, strictly speaking, the pre-condition for liberty of utterances. This fact Atwood carefully chose to ignore.

Lest it be thought that university presidents as a whole were arrayed against valiant partisans for extramural liberties, one needs only note the uncompromising valor with which many others stoutly defended the right of the professor to speak however and whatever he wished. For example, in his Annual Report to the Board of Overseers; 1916-1917, President Abbott Lawrence Lowell of Harvard delivered an unequivocal defense of the professor on this point. He noted that the

\[\text{44} \text{Ibid.}\]
professor acquires no rights that he did not possess before his appointment at a university so far as actions beyond his field outside of his classroom are concerned. The question, as he saw it, was whether the professor loses any rights that he would otherwise enjoy. The argument, such as that advanced by the Scientific American editorial, favoring restraining power by the university is based upon the fact that the professor who makes extremist or injudicious remarks can shock public sentiment. In so doing, he may harm the institution with which he is connected. When a scholar signs an article as professor in a certain university, he leads the public to believe that his opinions are approved by the institution and, moreover, that he is an expert on the subject. If, however, he holds a chair in some other field, he is not only misleading the public, he is misrepresenting his university, which would not occur if his title were given in full.

Lowell chose to draw very different conclusions from these facts. Despite the risk of injury to the institution, he viewed the objections to restraint upon professorial utterances as citizens as far greater than the possible harm done by leaving professors free. First, it would be a source of irritation and humiliation for the teacher to be subject to the censorship of some university authority. It infringes upon the professional dignity of an academic career. However, there is a greater objection to restraint from the standpoint of the institution. "If
a university or college censors what its professors may say, if it re-
strains them from uttering something that it does not approve, it there-
by assumes responsibility for that which it permits them to say. This
is logical and inevitable, but it is a responsibility which an institution
of learning would be very unwise in assuming." This logic seemed to
have escaped proponents of the argument for restraints on speech out-
side the university. As Lowell phrased the issue, "There is no middle
ground. Either the university assumes full responsibility for permitting
its professors to express certain opinions in public, or it assumes no re-
sponsibility whatever, and leaves them to be dealt with like other citi-
zens by the public authorities according to the laws of the land." 45

Here was a point that put the opponents of academic freedom
with regard to extramural expressions in a most uncomfortable position.
The "dignity" and standing of an educational institution cannot be pre-
served merely by insuring that acceptable opinions are passed by its
professorial representatives or by adherence to a gentlemanly code of
restraint by which public statements are delivered. This patently is
not enough.

The university or college takes responsibility for everything or nothing that is said. As the New York *Evening Post* put it,

> Unless radical professors be allowed to express their views with impunity, the utterances of conservative professors can have no weight with the public. The one thing that makes it possible to-day, upon any question of taxation or legislation, to cite the judgment of university professors in opposition to wild or crude proposals is the freedom with which, in our universities generally, opinions of the opposite kind can be expressed [sic] ... 

> The silencing of a single radical professor would perceptibly lower the value of everything that might be said by a hundred professors who stand for the established order. 46

This was an additional perspective that needed to be considered and one not adequately stressed by Committee A's statement. There is something important about allowing professors to have their say outside the university walls that transcends the security, dignity or public estimation of the institution. Society at large needs the considered

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46 Quoted in "Is the Professor a 'Hired Man'?" *Literary Digest*, 51 (July 10, 1915), 65. By way of sharp contrast, consider the following interpretation: "If a college teacher becomes involved in a public scandal, which may bring obnoxious publicity upon his institution, he should be separated therefrom to preserve the dignity of the college, the confidence of his constituency, so to speak, and to prevent the toleration of irregularities setting a bad example to the rising generations." E. Colby, "The Question of Academic Freedom," *School and Society*, 13 (January 22, 1921), 116. But which represents the greater threat to public confidence and the dignity of the institution—obnoxious publicity or the institution's reaction to it.
reflections (and partisan involvements) of men whose intellectual inclinations and training uniquely qualify them to add their voices to debates on pressing social issues. Though they may seem heretical and ill-advised, there is no a priori judgment competent and infallible to choke off the fulminations of university teachers and scholars without at the same time possibly doing society a gross disservice. The comments of college professors are more free from "entangling alliances" since their incomes and interests are not so directly drawn from productive, capital or labor interests. Because the professor can be free, he ought to be listened to.

One professor posed the issue as follows:

Without exaggerating the value of such contributions to current discussions, they seem to be increasingly customary, and will obviously continue to be asked for, given and published. Their value and interest, such as they are, must evidently depend on their being the real opinions of the men themselves, the real result of their thought and observation. Any suspicion of control by others would deprive them of all their force, and published opinions by college professors, whether conservative or radical, would lose any influence they might otherwise exercise on social judgments and popular opinion.47

Of course, this was the point which the Evening Post had mentioned.

A further consideration on academic freedom of extramural utterances involved the professor himself. Lowell had mentioned the affront

to his dignity that would accrue to restricting his civil liberties, amounting, in essence, to the assimilation of the professor's position to that of officers in the army and navy or officials in government who are debarred from speaking publicly on certain issues or questions. A second point he might have mentioned was the possible dishabilitating effect that restraint might have on the intellectual life of the professor. Should teachers be cloistered pedants, unaware and uninvolved with the problems of the world, likely to withdraw from passing judgment because constrained from expressing opinions? The limitation would undoubtedly prove unduly burdensome; really valuable men could not be kept quiet in this way. Any university founded on the principle of restriction and control would end up being manned by second-rate teachers.48

Looking at the university, therefore, . . . there is no escape from the necessity of granting entire freedom of teaching and expression to the members of its faculties, unless the very purposes for which the university exists are to be nullified or reduced to insignificance. A freedom restricted by external standards of what is a proper manner and what proper occasion in which to speak is as worthless as a freedom hampered by restrictions on what is to be said. The only freedom worthwhile is a complete freedom of members of the teaching force so far as restriction by the board of trustees is concerned.49

48Ibid., p. 65.

49Johnsen, p. 67.
One analysis of the situation which was too often overlooked but which could have strengthened immeasurably the position of those who would brook no restrictions upon extramural freedom of speech was provided by Raymond Alden, Professor of Language and Literature at Stanford University. Writing in the April 4, 1918, issue of the Nation, he questioned a root assumption in the argument against allowing professors full freedom of speech outside the classroom; namely, the meaning of the connection between a professor and his institution.\footnote{Raymond Macdonald Alden, "Academic Freedom in War Time," Nation, 106 (April 4, 1918), 401-403.}

As Lowell had seen, the force of the argument for extramural restrictions depends upon the harm that can come to the university if one of its professors speaks out of turn. What Alden asked was what it means to "represent a university."

In the first place, no professor presumes to speak for his school unless he is speaking on an educational matter concerning which the university has taken action. If he speaks concerning some non-academic matter—on some pressing controversy of the day—it will be in a field either related to his own area of professional competence or it will be in some outside area. If the former, it is obvious that the professor speaks for no one except himself, at most his own department. If the latter, it is equally obvious that he speaks only for himself, since
in a general public dispute many sides are presumably represented within the university.

Secondly, what does "the university" really signify? If it means the corporation, then no one supposes that professors express opinions representative of members of the corporation. (Or at least no one thinks so who is at all acquainted with universities!) If it means the faculty, everyone knows that professors are a contentious lot who find it well nigh impossible to agree on anything. If university is supposed to mean the student body (a most unlikely proposition), the general public is not dependent upon professors for obtaining student opinion.

The notion, then, that when a professor expresses himself on some issue, whether local or national, he represents anyone but himself, or an accidentally like-minded group is a baseless superstition, no doubt held by a certain ignorant portion of the public, but certain to lead to confusion and injustice whenever it is acted upon, and one which every intelligent person should try to dispel.

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51One professor presents an amusing characterization of this professorial propensity to disagree: "Faculty meetings are held fortnightly, or from time to time, for the purpose of discussing, refining, and multiplying our differences. They are enjoyed mainly by those who participate—which seems fair enough. Premature action is avoided by virtue of the fact that everyone of us has his own way of looking at a given problem, and because everything that we take up is a problem. Perhaps we are most nearly at one in regarding our president as an uneducated man. Although he has a degree or so, he frequently settles matters before all of the evidence is in, thus violating true scholarly method." Hoben, p. 818.

52Alden, 403.
But since the ignorant public will sometimes confuse individual professors and their institutions, might it not be responded that the university ought to restrict its professors in "self-defense?" Yet now the whole argument for abridgements of extramural utterances lapses into absurdity: restrictions have to be defended on the basis of the consequences of public ignorance; the responsibility of the university is not to muzzle its own but to educate the public and to tailor its public relations accordingly.

Thus, the basic soundness of the 1915 Report on freedom to speak outside the ivy hall becomes apparent. There were good and sufficient reasons for the stance taken. The Committee sounded a cautionary but perhaps not harmful note when it took up the manner in which the professor should speak or write outside of his classroom. One might wish that the priority of freedom over decorum had been more clearly spelled out however.  

53 The real problem involved was caught in a comment which evaluated this part of the Committee's position. "Academic freedom is a relative term. Attempts to formulate its precise character and content, although useful, are never in any final sense successful. When a trustee or patron, having a particular offender in mind, protests against his manners or the recklessness of his statements, he may be quite sincere, but may nevertheless be unconsciously an enemy of freedom, an obstacle to a desirable advance in public opinion. When a committee of professors, having no particular offender in mind, discussing the abstract question, protests in almost identical language against bad manners and recklessness of statement, it may be contributing very substantially to an effective maintenance of freedom. In other words, the obligation is on academic teachers to establish a respectful standard of manners and a
The equivocal note could have lent itself to some criticism such as is found in the following rumination. It might well have caricaturized the application of the Committee's dicta. What should be the professor's attitude outside his cloister?

Certainly not an automatic silence. Certainly freedom to join any organization he likes, partizan 'sic'; or scholastic. Certainly freedom to act in all circumstances according to his conscience. At the same time, a tedious, unremitting thought for appearance and consequence. Not for one moment may he act without the galling consciousness of his institution; always he must be measuring the probable reactions of his doings upon it. A man may hazard his own reputation gaily; he may take life with gallant insouciance, careless of inconsistency, experimenting with ideals, growing up in public, as many a fine creature has done. Pioneers of highest value thus toss prudence away, and lead on into open country, unaware whether firm land or quagmire awaits their tread. A delightful role, but not for our academician. His shall never be the luxury of the free-lance, the folly of chivalry, the whimsical adventuring with life or creed. He lives not for himself; his movements must be cautiously determined, he must continually think before and after. This is the price he pays for his group life; it is his tribute to the college which he serves. 54

 temperatence of language and so to protect themselves against false indictment, to strip bare even the unconscious misrepresentations of those who really attack academic freedom while making it appear that they attack only offensive manners." E. T. Devine, "Academic Freedom," Survey, 35 (February 5, 1916), 561.

54Scudder, 227-228.
Lest it be thought that this represents an unfair distortion of the Committee's position, it should be recalled that it was the manner of presentation as much as the content of Nearing's speech that called Atwood to close the meeting of the Student Liberal Club. Wherever one can muzzle an embarrassing speech-maker for his attitude or mode of delivery, if not for the content of his expression, the danger to academic freedom remains just as real. It seems a great deal to require sufferance for the demagogue and extremist agitator, but nothing less will suffice to protect the more sober members of academia in their extramural behavior.55

**Procedural Safeguards**

The Report of Committee A contained more than philosophical principles, however, it offered specific proposals as well. The major controversies were sparked by these rather than by the more theoretical considerations advanced. The two main demands made were intended to

55 The antagonism that greeted the AAUP code, even in the form it assumed is best typified by the following editorial which appeared in the New York Times: "Academic freedom, that is, the inalienable right of every college instructor to make a fool of himself and of his college by...intemperate, sensational prattle about every subject under heaven, to his classes and to the public, and still keep on the payroll or be reft therefrom only by elaborate process, is cried to all the winds by the organized dons." Quoted in "The Professor's Union," School and Society, 3 (January 29, 1916), 175.
limit the trustees' prerogative to fire teachers and to provide security in
the academic position through definite rules of tenure. 56 To achieve
the first end, it was proposed that professors were entitled to a fair
trial before a judicial committee chosen by the faculty. To secure the
second end, stated rules defining tenure were urged. A great deal of
commentary spoke to these two proposals.

The position of faculty members, expressed in the Report, was
nicely stated by President Schurman of Cornell apropos of the resigna-
tion of Professor Beard.

The American professor is apt to chafe at being
under a board of trustees, which in his most critical
moods he feels to be alien to the republic of science
and letters. Even in his kindliest moods, he cannot
think that board representative of the university. The
university is an intellectual organization and the
American professor wants the government of the uni-
versity to conform to that essential fact. His indict-
ment of the existing form of government is that it sets
up and maintains an alien ideal, the ideal of a busi-
ness corporation engaging professors as employees and
controlling them by means of an absolute and irrespon-
sible authority. 57

In contrast, the reaction of the Committee on Academic Freedom
and Tenure of Office of the Association of American Colleges, a

56See Metzger, p. 206ff.

57Quoted in J. Dewey, "The Case of the Professor and the Public
confraternity of college presidents, dismissed the proposal for greater faculty participation as unwieldy and impractical. "No way has yet been found," they responded, "to play the 'cello or the harp and at the same time to direct the orchestra." The Committee felt that "a man who is truly dedicated to teaching is likely to recognize the importance of the division of functions and usually does not wish to participate, except in the most general way, in administration."\(^5^8\)

Yet another critic objected to the Report of Committee A because it proposed to erect a university dominated by academic dons after the model of Cambridge or Oxford.

From the democratic point of view, this is rather less desirable than the university dominated by bankers, merchants, lawyers, landlords and other men and women of by no means the same personal interests. The university heads of department or executive committee are no more likely to protect the teacher's right to freedom of inquiry than are the trustees from the business world. It is well to remember what Adam Smith said upon this point

> Whenever three men of a trade gather, there is conspiracy against the general welfare in their own interests.\(^5^9\)


Nonetheless, it could be argued that greater faculty power would tend to preserve academic freedom because the faculty, more than any other class of men, have a vested interest in preserving it. Still, the approach assumes that such freedom is best guarded through rules and explicit procedures. To this assumption, however, it might be retorted that a spirit of freedom cannot be preserved by the mechanical application of rules. Rather, true academic liberties depend upon men of good will, dedicated to the preservation and strengthening of a climate of opinion within the university.

This latter claim is tremendously difficult to evaluate since it can be used to blur the distinctions between protagonist and opponent, between those who consciously seek to strengthen and preserve academic liberties and those who consciously or inadvertently would curtail them. The claim amounts to a denial that standardized rules, procedures and administrative guidelines can be sufficient to guarantee the cause of freedom. Yet adherents to this position, who appeal to the basic solidarity of all interests, tend to obfuscate the issues when real clashes of interest take place. Rules and criteria take the problems beyond the stage where motives must be considered, where personalities color the situation, or where the particularities of specific incidents assume unwarranted significance. Still, it must be admitted,
it is the spirit and not the letter of the law that must ultimately prevail if to be efficacious:

For my part, I am not much concerned about the exact allotment of rights and powers between president, trustees, faculty, alumni, etc. If any of these are shut away from real participation in university affairs, they are driven to indifference, or to hostility. In such a case, whatever its seeming prosperity, the university is sick and the sickness will appear in every side of its life. The sickness is not cured by any sort of mechanical organization of faculty, alumni, etc. . . . The possibility of health for the university depends upon the measure in which the university men have been possessed with real regard for one or another of the ideals which the university exists to realize.60

Academic freedom cannot be caught in a web of rules. Philosophical principles transcend the subtleties of particular situations involving individual men. What is required is a "climate of opinion," the exercise of freedom dependent upon men who bend their loyalties to it. Rules can be circumvented, principles misinterpreted, rhetoric ignored. One does not catch the necessary and sufficient conditions for the intangible referents of the slogan "academic freedom." Something more is required:

The real danger to academic freedom is within the university itself. Academic freedom means growth,

60William Lowe Bryan, "The Share of the Faculty in Administration and Government," School and Society, 1 (March 6, 1915), 341. Bryan went on to claim these deep-lying devotions are the sources of all the organization that will ever do any good and that only out of them come the attack on established abuses.
and the obstacles to growth lie always nearest that which is growing and changing. Not the trustees, but the president; not the president, but the dean; not the dean, but the head of the department; not the head of the department but the senior colleague; not the colleague, but the teacher's own thoughts of yesterday furnish the obstacles to growth.

In every college faculty, there are those who, having stood for freedom in their youth, have closed their sight to the new freedom of which they do not themselves feel the need. No open quarrels, no overt unfriendliness, may mark their relations to their associates. An oppressive lack of sympathy, a misconception of the process taking place in the minds of the younger teacher...may be far more dangerous than any hostile attack from the outside.61

Oppressive pressures can be generated in countless ways: in social pressure on the family of the college professor who is suspected of holding "advanced views" on political, social, or economic questions; in curtailment of the funds available for laboratory work, or even clerical assistance; in sharply limited library appropriations to prevent the purchase of "dangerous" books; in pressure on the choice of topics for doctor's dissertations in certain fields; and, in the larger institutions where careful research by members of the faculty is undertaken, by a flat refusal to aid such work, or even to permit it except strictly on the instructor's own time—which is usually non-existent.62

61 Devine, p. 562.

Rules also are not self-enforcing and where there is the will to circumvent them, a way can be found. The regulations are not the means whereby one catches the conscience of men whose sympathies are inimical to academic freedom.

Tenure by rank can be negated by overlong periods of probation, by refusal to make promotions, or by that "judicious course of vexation" that compels professors to resign. Salary by schedule can be subverted by a range of salaries within each grade, assigned to the various recipients with a malicious partiality. But this is merely to say that the bureaucratic organization, like other forms, requires implementation by men who are loyal to its standards and spirit.\(^{63}\)

This is simply a way of saying that academic freedom can be strengthened when its claims are supported by reasoned argument and consciences sometimes aroused by editorial denouncements— but never guaranteed. Furthermore, rules and regulations are not enough either. However, as the Report of Committee A for 1916-1917 pointed out, "The history of the safeguarding of individual liberties of whatever kind has been the history of the development of procedure." Pointing out that to this general rule the right of academic freedom is no exception, the Report reiterated its claim that "the real safeguards of academic freedom are the general safeguards of security of academic tenure, and these

\(^{63}\)Metzger, p. 181.
safeguards consist, in the main, of guarantees of adequate and appropriate procedure." 64

That this claim has considerable merit can be seen by noting that job security is certainly a pre-requisite for academic freedom. The professor who fears for his position is likely to be more circumspect than he might otherwise be, unless he is possessed of a rare and exceptional kind of courage. As one commentator put it some five years later,

Whereas the old theory was that a college professor was employed for life, subject to reasonable competence and good behavior, today appointments are being made for a limited period of years, in some cases as short a time as a single year. The burden of proof was formerly on the college to show cause for failing to continue a professor in his chair; today, the burden of proof is on the professor to show why he should be retained for another twelve months. . . . It should be obvious that genuine scholarship, careful research and full-spirited teaching are impossible in such an atmosphere as this. 65

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64 Reprinted in School and Society, 7 (May 4, 1918), 514.

Clearly the battle for procedural safeguards was important; it was equally clear that it had not yet been won.66

During the war years, the AAUP's Committee on Academic Freedom in Wartime issued a report distinguished mainly for its gospel of expediency. It expanded the morally legitimate grounds upon which academic authorities might dismiss professors. One disgusted writer in the Nation thought the Committee had handed over "the keys of the castle to the enemy."67 The ambiguity of the phraseology in the Committee's statement made the comment particularly acute. Hostile expressions against the government, support of propaganda tending to

66 Because, as subsequent events revealed, the chief concerns of the AAUP as an investigatory body were procedural, on this account it came in for some criticism. Upon the occasion of its investigation into the dismissal of seven faculty members from the University of Tennessee in July of 1923, a writer for the New Republic remarked, "Indeed, the most disquieting suggestion that comes from the printed record is that the AAUP is interested not in universities nor in the individual victim of injustice but in the professorial caste. That caste is defined not by excellence of scholarship or teaching but by rules of tenure. Consequently considerations of educational quality must be excluded from the examination of a university. Throughout . . . professors reprove their injured colleagues for a 'certain want of tact,' an 'inability to work harmoniously with their superiors under an organization which they disapproved,'--as if they were office boys under a head clerk with an ugly temper. . ." Quoted in "A Professorial Fiasco," School and Society, 19 (June 7, 1924), 677. See Metzger, pp. 216-221.

67 "The Professors in Battle Array," Nation, 106 (March 7, 1918), 255.
cause resistance to military regulations, and even action designated "to dissuade others from rendering voluntary assistance to the efforts of the government"—all became proper grounds for dismissal. All dismissals, of course, were to be based on "conclusive evidence" but who was to make this determination was left unclear. 68

Mention has already been made of how well the professor reacted to the war hysteria, to zealous super-patriotism, to mob fanaticism and the consequent abrogation of ordinary civil liberties. His professional representatives likewise failed to stand firmly in defense of academic freedom during this period of stress. In sum, as one writer has put it in evaluating the 1918 Report, "The unnerved professors of the Committee bear witness that not all the casualties of war are to be found upon the battlefield." 69

An examination of some of the other pronouncements on academic freedom issued by academic bodies during this period reveals the growing official consensus that emerged on the broad outlines of the principles of academic freedom. In 1915, as noted previously, the Association of American Colleges had placed itself on record in opposition to the 1915 Report of Committee A. Six years later, a reversal

68 See "The Professor's Union," Public, 21 (June 8, 1918), 732-734. Also, Metzger, pp. 221-230.

69 Metzger, p. 230.
took place and the former body came to accept officially almost all of the conclusions of the AAUP's earlier statement.\textsuperscript{70} By 1925, one might have been led to believe that a complete agreement among all partisans had been achieved on principles governing academic freedom.

After considerable negotiation, the American Council on Education called a convention in February of that year, attended by representatives of the Association of American Colleges, the Association of American Universities, the American Association of University Professors, and a number of similar organizations. A series of eight "conventions" or rules were drawn up, taken chiefly from the 1922 report of the Association of American Colleges. The Conference unanimously adopted the platform prepared, and resolved to recommend its adoption by the bodies represented.\textsuperscript{71} The text of the first four conventions, slightly abbreviated, were as follows:

\textit{Academic Freedom}

1. A university or college may not place any restraint upon a teacher's freedom in investigation. . .

\textsuperscript{70} "Report," Commission on Academic Freedom and Academic Tenure, \textit{Bulletin}, AAC, 8 (March, 1922), 100.

\textsuperscript{71} H. W. Tyler, "The Defense of Freedom by Educational Organizations," in \textit{Educational Freedom and Democracy} (Second Yearbook of the John Dewey Society, New York, 1938), 229-239. Although it was adopted by the AAUP and the AAC, among other professional associations, few colleges and universities accepted its provisions in the first fifteen years after its appearance. See H. M. Wriston, "Academic Freedom and Tenure," \textit{Bulletin}, AAUP (June, 1939), 329. A full account of this
2. A university or college may not impose any limitation upon the teacher's freedom in the exposition of his own subject in the classroom or in addresses and publications outside the college.

3. No teacher may claim as his right the privilege of discussing in his classroom controversial topics outside of his own field of study.

4. . . . the teacher in speaking or writing outside of the institution upon subjects beyond the scope of his own field of study is entitled to precisely the same freedom and is subject to the same responsibility as attached to all other citizens. If extramural utterances . . . raise grave doubts concerning his fitness for his position, the question should in all cases be submitted to an appropriate committee of the faculty...

A look at this remarkable text is most revealing. The price for a measure of agreement among academic bodies had been high indeed. Consensus had been bought at a price; thorough compromise, striking in contrast to the unequivocal opinions of men such as Cheyney, Lowell, Meiklejohn and others who carried the liberal side of the ideological battles for complete academic freedom. In a sense, this platform provided a fitting climax to a decade of controversy and agreement. It

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and subsequent statements, in particular the 1940 statement of principles by the AAUP and the AAC, and an analysis of their impact is to be found in Metzger, *Academic Freedom in the Age of the University*, pp. 212-216.

72The original statement is reproduced in Tyler. The abbreviation here follows "Is a Scholar an Employee?" *New Republic*, 42 (March 11, 1925), 57.
shows, among other things, how far "official opinion" lagged behind the discerning judgment of those who had come to realize that academic freedom is never real unless it is complete, that compromise amounts to capitulation.

The terms of the bargain struck are clear: the professor is free to do what he is employed to do. Suppose a teacher is hired to teach Philosophy. So long as he rehearses his students in the metaphysics of the Pre-Socratics and devotes his spare time to turning out still-born treatises on Leibnizean monadology, his freedom is unendangered. But beware lest he mention that Marx inverted the Hegelian dialectic for revolutionary purposes. Revolution belongs in the jealous custody of the Political Science Department. If he lectures to the local Discussion Club on Hume's Dialogues, he is likely to be brought up before a committee of his colleagues for presuming to air views on religion. This matter belongs in the Religion Department, or better yet, the pulpits of the local clergy. He has been hired to teach "safe" Philosophy and there his freedom ends. One could construct examples for any other discipline.

The phrase "own field of study" could be used by anyone to indicate a point of conceptual departure with the implication that any other field of knowledge might turn up to be a logical stop-over or destination. A "field of study" could well mean simply a point of
vantage of a specific concern from which one surveys the universe, a perspective that provides an initial starting-point. Yet, this latitudinarian definition was certainly not the one intended by the conventions on academic freedom.

It was held that no teacher could claim the right to discuss "controversial topics" in the classroom that lay outside his own field or specialty. Here was an interesting ambiguity. The intriguing question naturally arises, whose definition of "controversial" shall prevail? Further, who shall decide whether the topic at issue falls within or without a given field? Finally, by what devious means could an interested part ascertain precisely what was being said in anyone's classroom?

Another vexing proviso concerned the freedom of extramural utterances. It had been stated that if such utterances raised "grave doubts" concerning the professor's fitness, he could be called to account. Here the logical question would be—grave doubt in whose mind?

Thus, the basic issues remained unsolved. What was permissible in the classroom was restricted, with elaborate artificiality, to discussion on topics falling within one's own sphere of competence. Without, in his extramural expressions, the professor's right was hedged by the claim that he could be held accountable for what he said. The price
to be paid could involve his job. Inside the university, his status as appointee was ambiguous. Was he an employee? If so, in the legal sense, were there mitigating circumstances that ought to prevent his being treated as such? In a moral sense, were the appointive powers his employers? What share ought the professor to have in shaping his own fate and that of his errant colleagues? The majestic prose of the 1925 Conference scarcely contributed toward providing answers to these fundamental issues.

Sectarian Loyalty and Academic Freedom

Still another dimension of the problem of academic freedom not yet considered, appears on the periphery, as it were, of the main arena. Most of the discussion on professorial rights and prerogatives passed over the question of institutional differences. For example, one might ask whether the kind and degree of freedom appropriate to the university also belongs in the college; the two can be very different sorts of institutions. Or, more precisely, perhaps the issue ought to be framed in terms of the difference between the kind of school founded to elevate one position or doctrine as opposed to the school that elevates none to a pre-eminent position. Questions might be raised with regard to a school whose allegiance is to a particular social, political or economic doctrine, or sect, and whether its professors can lay claim
to the academic freedom required by their peers in the non-sectarian university. As a matter of fact, however, the issue was treated most thoroughly in terms of a contrast between the sacral and the secular institution. Therefore, the treatment cuts across both colleges and universities in pointing to a broader distinction.

The problem of academic freedom hardly emerged in the denominational college, as opposed to the university, until the latter part of the last century. Among the reasons for this must be counted the very elementary character of the curriculum offered in the early college. It was hardly as comprehensive as that found in modern secondary education. Also, the humanities, which together with meagre infusions of philosophy and science, made up most of the college curriculum, were thoroughly subordinated to the function of ministerial training. However, in time, the growth of the sciences, the Darwinian revolution, the raising of academic standards and other factors contributed to a conflict between scholarly loyalties and sectarian, denominational traditions. With the growth of some institutions, denominational ties were severed or weakened. By the twentieth century, the tendency to minimize sectarian affiliations and to extend scholarly freedom was accentuated. The process of secularization did not move evenly, however. What emerged was a graduation from the institution where denominational
influence was negligible to where sectarian control carried legal force.

The action of Carnegie in providing endowments to all but sectarian schools amounted to a virtual condemnation of the denominational college from the standpoint of efficiency and academic freedom. Other voices had been raised which, to mix a metaphor, cast a jaundiced look at the religiously-oriented, sectarian college. In 1916, for example, J. M. Mecklin remarked:

> It may be safely asserted that the denominational college is destined to play a role of decreasing importance in the problem of academic freedom in the future. The strictly sectarian college is doomed as a factor of importance in the higher education of the future, it cannot compete with those institutions where there is real academic freedom.73

Mecklin's comments reflected the general tenor of discussion on the subject as it was carried in two professorial statements influential in shaping the ideological debates of successive decades. The first "official" confrontation with the problem of sectarian allegiance and academic freedom in an institution of learning appeared in the Preliminary Report of the Joint Committee on Academic Freedom and Academic Tenure of the American Economic Association, the American Sociological Society, and the American Political Science Association.

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adopted at their common meeting on December 13, 1914. A brief note was included to the effect that the question of academic liberty did not exist in colleges under obligations to teach denominationalism, nor in institutions designed to spread specific doctrines of any kind. However, terming freedom of thought and the inculcation of a particular brand of thought "hopelessly irreconcilable," the committee affirmed that such institutions "should not be allowed to sail under false colors." The full implications of these comments were not spelled out until a year later when the newly-founded American Association of University Professors issued the report of its Committee on Academic Freedom and Academic Tenure. The statement took note of a class of schools which it termed "proprietary" institutions designed for the propagation of specific doctrines prescribed by those who furnished its endowment. Trustees of schools were held obligated to carry out the terms of the trust. Thus, if a church or religious denomination were to establish an institution with the express understanding that it was to be used as an "instrument of propaganda" in the interests of the religious faith.

74Reprinted in *School and Society*, 1 (April 17, 1915), 565-569. For an interesting account of the deliberations which took place at that meeting, see "The Holiday Conventions IV, Freedom of Teaching," *Survey*, 33 (January 9, 1915), 411-412a.

75"Report," 566.

76Reprinted in *School and Society*, 3 (January 22, 1916), 109-121.
professed by the church or denomination creating it, the trustees had a
right to demand that everything be subordinated to that end. Such in-
stitutions, it was held, did not, at least as regards one particular sub-
ject, accept the principles of freedom of inquiry, of opinion, and of
teaching; and

Their purpose is not to advance knowledge by the
unrestricted research and unfettered discussion of im-
partial investigators, but rather to subsidize the pro-
motion of the opinions held by the persons, usually
not of the scholar's calling, who provide the funds for
their maintenance. 77

On the question of whether or not such schools were desirable, the
committee refused to pass judgment. But a distinctly pejorative note
was struck when the phrase "It is manifestly important that they should
not be permitted to sail under false colors" was again reiterated.

Genuine boldness and thoroughness of inquiry,
and freedom of speech, are scarcely reconcilable
with the prescribed inculcation of a particular
opinion upon a controverted question. 78

Proprietary schools, the Report suggested, were coming to occupy with
respect to the freedom enjoyed by the members of their teaching bodies,


78Ibid. The identity of phraseology with the earlier Joint Report
is unmistakable and points to the same authorship. The later committee
had six of the same men who had served on the earlier committee. Both
committees were chaired by Edwin R. A. Seligman of Columbia Uni-
versity.
the position of "untrammeled" institutions of learning, differentiated only by the natural influence of their respective historic antecedents and traditions. However, any institution which lays restrictions upon the intellectual freedom of its professors proclaims itself a proprietary institution and should so describe itself whenever it makes a general appeal for funds. Accordingly, the public should be advised that the institution has no claim whatever to general support or regard. The implication, of course, was that sectarian schools were prone to misrepresent their true character and bias.

The apparent lack of any attempt to provide a defense for the denominational college against the charges implicit in the committee's report is surprising. It had been contrasted unfavorably with free and "untrammeled" secular institutions and it was expressly stated that the demands of sectarian, denominational loyalty were in conflict with the requirements of genuine academic liberty. One defender responded with the rather lame suggestion that non-denominational colleges and universities were no more free, since subject to pressures toward political or economic orthodoxy. The observation passed deftly over the

79 "There is a cool assumption [in the above-mentioned Report] quite contrary to fact that certain institutions not denominational give to a professor rights to intellectual honesty denied in the denominational institutions. I submit that the state university professor cannot attack the democratic state or the economic regime by which it is maintained. Nor can he advocate or even expound sympathetically the form of religion that he happens to accept. I submit that the professors of the
obvious point that the denominational college is presumably subject to precisely the same influences. To this, it adds whatever limitations are implicit in an a priori religious commitment, as a sectarian institution does not. Granted, a state school, supported by the state, might find itself embroiled in controversy for disseminating heterodox political doctrine sufficient to arouse a legislature. However, it would be unlikely that a sectarian school could long endure as a bastion of radical political thought since similarly subject to pressure from its trustees and agitated contributors. It was alleged also that the denominational institution afforded great liberty of utterance of personal religious conviction. While undoubtedly true, this rejoinder failed to note that only one doctrinal position would be represented by the sum of expressions of religious conviction in the type of institution under discussion. Which type of school is more genuinely free: the one that permits the expression of one viewpoint or the institution which commits itself to none?

The questionable claim that denominational schools masquerade as non-sectarian institutions was implicitly assented to by Alexander

richly endowed and alleged 'free' university are far more tied to the fashions of this world than are the professors of the 'trammed' denominational institutions. . . The very nature of freedom is conflict between various ideas and institutions, and . . . no style of institution gives entire freedom." W. E. Chancellor, "Academic Freedom," School and Society, 3 (February 12, 1916), 242.
Meiklejohn some two years later: "They must... deal honestly with those for whose support they ask. They have no right to put a label on and then to act and teach as if the label did not mark them off from others; that is what labels do." But this is still peripheral to the more basic issue: does the character of an institution with a denominational commitment inherently preclude the full exercise of academic freedom? Elsewhere, the same writer seemed to reject the assumption.

The Church has long been a benefactor of higher education, he noted, and hence, the question arises whether a college teacher has some kind of intellectual responsibility to the Church. The answer was in the negative. An institution pledged to support a point of view recognizes that the learning which it needs cannot be pledged to any point of view. Belief welcomes criticism; faith requires doubt; creeds presuppose an honest searching after knowledge. The Church abdicates any claim to laying restrictions upon the free inquiry after truth and its dissemination: it does so with the firm assurance that this is the wisest policy.

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81 A. Meiklejohn, "To Whom are we Responsible?" *Century*, 106 (September, 1923), 643-650.
High-sounding words indeed. The argument was certainly more prescriptive than descriptive. The history of religious communions and their relations with institution of higher learning does not support the claim that the former typically pursues a hands-off policy. It is exceedingly difficult to imagine a Church-supported college forbearing what it considers heresy or theologically subversive teaching. The liberal perspective expressed by Meiklejohn scarcely addressed itself to hard possibilities such as this. In fact, few took it upon themselves to face the issue squarely in the decade which followed.

There were some who simply affirmed the reality of academic freedom within the denominational schools, but the first candid and thoughtfully-considered analysis of the problem did not appear until 1929. Dr. Edmund D. Soper, newly inaugurated President of Ohio Wesleyan University spoke frankly to the issue at some length. A brief examination of his argument is instructive because it sets the problem in clear relief.

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Whatever else may be entailed by way of policy and procedure, Soper argued, academic freedom means the right to teach freely, with no external restraints imposed by those in authority. It is the right which enables a teacher to express his most cherished and deeply-held convictions without fear of censure or of dismissal. The freedom guarantees to the member of the faculty engaged in research the right to publish the results of his study, knowing that it will not detract from the esteem in which he is held, not matter how far he may be at variance from his fellow workers and from the generally accepted conclusions on the topic under investigation. Yet a distinctively denominational college presumes to possess the right and duty to control its teaching. It does so in order to fulfill the intention of its founders and the purpose of those who support it. If academic freedom is the final and determinative factor to which all else must be subordinated, it is clear that this freedom is irreconcilable with the control imposed in the interest of an a priori commitment. If academic freedom is an absolute, without qualifications, then it is not the kind of freedom possible or even desirable in a proprietary institution.

The sort of freedom appropriate in a denominational college, Soper suggested, is circumscribed only by an explicit Christian commitment on the part of the teaching faculty. The terms of
employment in light of this allegiance should be clearly spelled out. 84

This commitment is at once the initial beginning point and boundary condition for educational freedom. A life of intellectual restraint is not implied nor conformity to a single doctrinal statement. There is to be no institutionally defined set of doctrinal proscriptions nor prescriptions for belief. But the overriding commitment must be clear, though of necessity left in the broadest terms possible. The characterization of this general faith stance suggested was "an attitude towards the universe and a belief in God which give life and thought its content and direction. A Christian is a man of deeply reverent spirit whose God is the one personal creative Spirit at the center of the universe, a God who can be in significant contact with personal beings through prayer."

The Christian allegiance distinguishes the man "who has caught the

The Report of the Committee on Academic Freedom and Tenure of Office of the Association of American Colleges, previously discussed, offered an interesting comment apropos this point: "A man who accepts a position in a college which he has reason to believe is a Christian institution and who, further, may properly infer that the canons of good taste forbid, perhaps, the asking when the contract is made, of intimate personal questions about his own religious belief, can scarcely assume that freedom of speech includes either the right privately to undermine or publicly to attack Christianity."

"Report," Committee on Academic Freedom and Tenure of Office, op. cit., p. 51. As is shown, however, the problem is not nearly so straightforward as implied here.
meaning of Jesus Christ and who sees in him and his way of life the hope of social righteousness and the assurance of personal emancipation." Upon the one condition of holding an attitude such as this, Soper would grant large scope for individual conviction openly expressed.

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85 Soper, p. 525. Undoubtedly, Soper's intent was to provide a theologically flexible, informal affirmation of the distinctively Christian position. While not a creed, its intent was to represent the essential elements or "fundamentals" of the Christian religion. Certainly something distinctive is meant by the appellation "Christian." Yet consider what can happen when those of more orthodox persuasion set down the essentials in like manner and then employ it as a standard by which fitness to teach may be judged. The following statement of a faculty oath reportedly used in one Christian institution serves as an extreme example: "We believe in the Scriptures of the Old and New Testaments as verbally inspired by God, and inerrant in the original writings; and that there is no difference in kind in the inspiration of the books of the Bible. We reject the notion that just the thoughts and not the words of Bible writers are inspired of God, and believe that the Scriptures are of supreme and final authority in faith and practice. We believe in the immediate creation of man by Almighty God, rather than in his mediate creation. We therefore utterly reject the anti-biblical and unscientific doctrine of evolution, whether it be theistic, atheistic, materialistic, or any other form whatever. We believe that the first and second chapters of Genesis, which include the account of the making of Eve from Adam's rib, are historically correct and scientifically accurate. We reject utterly the mythical interpretation of these chapters. We believe that Adam and Eve were the first created human beings in the entire history of the world, and that all nations, kindred and tongues had their origin in their loins. We believe in the resurrection of the crucified body of our Lord, in his ascension into heaven, and in his present life there for us as High Priest and Advocate, and in the personal return of our Lord and Saviour, Jesus Christ, to earth. We believe in the bodily resurrection of the just and the unjust, the everlasting blessedness of the saved, and the everlasting conscious punishment of the lost." Quoted in Slaten, p. 75.
"When his fundamental attitude to Christ is assured, I can see no limit to his freedom."

There was an assumption built into the argument that such a fundamental attitude, a primary viewpoint, could become fixed in the mind of a professor. Such a man could willingly and gladly accept employment in a Christian school when his basal convictions had solidified. The preservation of the Christian character is the primary consideration to be kept in view, and men who accept a Christian faith would subscribe to this fundamental educational purpose.

Should a teacher find himself holding views contrary to the position of a Christian college it would seem to me that common honesty would lead him to feel the anomaly of the situation, that he is in an institution whose position is well known but in which he cannot teach without doing violence to that position, and that it would be better for him quietly to retire.86

And what of the recalcitrants who insist on teaching views inconsistent with the character of the institution and who look upon any suggestion that they are not where they belong as an affront to academic freedom?

It is here that real firmness and conviction must be shown. What is the college here for? If these teachers are not only out of harmony but are positively injuring the relation of the college and the students who come under their influence, no appeal to the abstract principle of academic freedom can be allowed as contrasted with

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86 Soper, 528.
the right of an institution to be what it was intended to be and to dispense with the services of those whose influence would quickly change its character if it should gain control. 87

Similarly, should a man find it necessary to depart from the standard religious attitude and point of view because of newly discovered facts in his research or new perspectives attained in his thinking, Soper held that he should be dismissed.

It is plain that he recognized the inconsistency of untrammeled academic freedom and the need for limits imposed by an institutional commitment. From the Christian perspective, presumably the freedom generated by an institutional commitment is infinitely more desirable than academic freedom in its conventional unrestricted sense. 88 Soper's intent was to transfer the test of a professor from

87 Ibid, p. 528.

88 Particularly in the Catholic confession, the conviction is that the true denominational university is intrinsically freer than those which do not postulate any prior system of revealed truth. Thus Archbishop Karl J. Alter, in a graduation address at Xavier University (June 6, 1951), declared that "a Roman Catholic institution such as the university in question enjoys a greater intellectual freedom because it possesses a coherent philosophy which excludes inconsistencies and contradictions but places no inhibitions on the sum total of truth." Quoted in Robert M. MacIver, Academic Freedom in Our Time (New York: Columbia University Press, 1955), p. 287.
dogma to conduct, ideals, aspirations and quality of personality. Yet
decapitation was advised for those who hold "views contrary to the posi-
tion of a Christian college." Hence, it must be observed that the
policy recommended could lend first-class support and excuse for ad-
ministrators who are willing to descend to the usual crude types of in-
quisition and of execution for heresy. Soper, a liberal himself, wanted
to rise above all censorship of scholarship, but the policy recommended
turns out to be only a liberalized application of the old ecclesiastical
censorship of opinion and knowledge. One might argue that because
the formula given as defining a Christian attitude are vague, in propor-
tion to their ambiguity, they furnish opportunities for critics to mis-
apply them.

A further difficulty in the position revolves around the assump-
tion that there is a fixity to the content of religious faith such that in-
stitutional policy can safeguard an academic uniformity consistent
with belief. Admittedly, the rough-and-ready criteria which Soper ad-
vanced to identify belief inimical to a Christian philosophy of life were
generous. Further, he emphasized the point that it is difficult to
frame a precise formulation of the chargeless part of Christian belief.
But the admission is very revealing. As one critic phrased it,

Fixity or no fixity, there is danger both to aca-
demic freedom and to religious liberty in any attempt
to employ as a test what has not been made precise
by either historical or scientific investigation. The elusive truth can be so interpreted in each situation as to fit the administrative policy that then is dominant, or to fit the popular religion that it may seem expedient to placate. 89

Negatively, the three main criteria laid down to identify views hostile to Christianity were: (1) any theory which denies implicitly or explicitly the existence of God; (2) any theory which denies the possibility of conscious relations with God; (3) any theory which denies the reality of a human self as the citadel of personality, actively self-directing and free. 90 The changing fashions of theological thinking have seemed to vindicate the judgment of Soper's critic on this point. The "elusive truth" of Christian faith has been so variously interpreted that it would seem tremendously difficult, if not impossible to provide any adequate definition which could be employed as a standard for orthodoxy. Generous as Soper's guidelines might seem, it is not altogether inconceivable that a body of beliefs might fail to meet such standards yet self-professedly be Christian. (One thinks immediately of Bonhoeffer, Hamilton, Tillich, and the radical "Death of God" theologians of the 1960's.) Hence, even the kind


90 See Soper, 529.
of freedom envisioned by Soper within an academic community might turn out, in the final analysis, far more limited than the kind intended in the argument. Where there is no final arbiter of truth, the danger exists that someone in power will presume to perform the function. What then becomes of academic freedom?

Suppose, however, that there is a discernible content to a religious faith and that it might be applied fairly as a test to measure belief. Assume further that a teacher's fundamental attitudes can be adequately defined by his own introspection. Could they then be clearly tested by a prospective employer and then guaranteed by the employing institution? Secondly, there is a psychological factor that enters in which would seem to be highly inimical to any kind of intellectual freedom. In essence, the man who subscribes to the conditions of employment in a denominational institution affirms his allegiance to a set of convictions and a complex of supporting attitudes. The presumption inherent in his subscription is that those convictions and attitudes will remain the same. This further commitment could well become self-stultifying.91 The pledge required would tend to mark off limits to the directions his teaching and scholarly research could take if he intimated disastrous consequences to his faith by treading in those directions.

91 See Coe, 679-680.
In other words, were a professor to claim in good faith that his orthodoxy was vouchsafed for the future as well as for the present, his claim would amount to an abdication of any intellectual responsibility for subjecting his faith to continued scrutiny and analysis. Insofar as his scholarly concerns and activities were bound up with his religious convictions, they too would be preserved from any process of self-renewal and growth. It is not too much to fear that a man's intellectual life could be preserved only by pickling it. On the other hand, if a man could compartmentalize his scholarly concerns from his religious beliefs, he would thereby cease to be of positive benefit to the institution he served. At best, he could only guarantee that his teachings and research would not contravene the religious purpose of the college or university.

Given a set of theological premises, it is entirely reasonable for anyone who accepts them to acknowledge that they may require limits to be set to the full range of academic freedom. No injury is done to the search for knowledge or to freedom of teaching, since nothing can be true which stands in contradiction with theological truth or the pronouncements of those directly guided by such truth. Truth is an organic whole, all of whose parts must be maintained in a consistent pattern of harmonious relations. No part of knowledge, whatever its subject matter, can be rightly taught or even properly conceived unless
its relation to the divine Unity of Truth is seen explicitly. Failing this, since every segment of knowledge is what it is by virtue of its place in relation to God, knowledge becomes incoherent, fragmented, and incomplete. It is false and misleading, and those who view it disjunctively from its ultimate divine source see "through a glass darkly."

Hence, the epistemological claim advanced produces a clear mandate for any institutional policy coincident with that claim. The denominational school has a double function; one of these is common to all institutions of higher learning whereas the other is particular to it and at the same time paramount for it. In consequence, so far as it fulfills the second function, it must set some limits to the range of academic freedom. Soper was honest and perceptive enough to acknowledge this point. From the perspective of one who sees in the institution of higher learning an inherent commitment to no doctrinal position, the allegiance to a theological position constitutes a limitation upon academic freedom. Contrariwise, those who accept an institutionally

\[92\text{See MacIver, pp. 285-289.}\]

\[93\text{"The members of the teaching profession cannot possibly follow their intellectual loyalties nor exercise their right to shape the ideals of the profession where they are subject to credal limitations or even where they are influenced by merely sentimental denominational traditions. Academic freedom demands for both instructor and student the freest and the highest exercise of the intellectual powers. In recognition of this fact, it is entirely necessary that those to whom is entrusted the task of intellectual leadership shall have no other restrictions laid upon them than their loyalty to the truth, their responsibility to the,}\]
defended faith are likely to claim that the supposed limitation is no limitation at all and that the denominational institution is intrinsically freer than those which do not postulate any a priori system of revealed truth. While they may differ in matters of doctrine and creed, the epistemological claims of both Protestant and Catholic confessions are sufficiently the same to allow the generalization to apply to both.

Is some kind of architectonic frame for knowledge with its authoritative prescriptions of truth desirable for learning? Leaving aside the weighty problem of the true value of such pivotal epistemological principles, the question arises whether they generate and foster habits of mind antithetical to the free search for knowledge. To the extent that they elevate the place of authority in the entire scheme of knowledge, it would seem that they do. If an attitude of doubt is essential as a stimulus for inquiry, then to the extent that religious faith sets prescriptions for interpretation of certain classes of phenomena, it stifles doubt and hence inquiry in certain areas. Correspondingly, an attitude of deference for authority is inculcated in the minds of community and their regard for the ideals and themethods of the teaching profession." J. M. Mecklin, "Academic Freedom and Status," School and Society, 3 (April 29, 1916), 624. Of course, the crux of the issue is, to what truth is loyalty to be given? Logically, if one postulates degrees or levels of truth, fullest loyalty is owed to the highest kind of truth. This, in essence, sets the problem of academic freedom and sectarian loyalty.
students. The process of questioning, re-interpreting, re-defining and revising is dishabilitated.

Of course, another element must enter into any consideration of this problem. One must consider the degree to which the authoritative prescriptions are acknowledged as authoritative and how far they bind conscience in a given area of actual or potential investigation. Also, in a given case, the "climate of opinion" shaped by the administration of a particular school may well determine how effectively any limits function on freedom of teaching and research. If there is a rigidly authoritarian hierarchy governing a school, the limitations upon learning are likely to be more severe than those obtaining under a more liberal administration. Yet even so liberal a figure as Soper recommended a policy which exhibits limits. As remarked above, the particular danger involved here might be the very indefiniteness of those limits. If one cannot specify precisely what thought or action constitutes a violation of the commitment to which the institution is pledged, the resultant climate would not be conducive to a testing of the limits. If a professor is unsure of where he stands, he may fear to venture further into uncertain territory.

In sum, the problem of academic freedom and sectarian loyalty exhibits a conflict between two contending epistemological claims. One holds that no final and irrevocable truths exist, immune from further
investigation and revision. Since truths are partial and incomplete, the fullest advance of learning proceeds with tolerance for error in all domains of knowledge; the possibility always exists that cherished truths may one day turn out to be mistaken. Truth is uncovered only when all possible avenues of approach are left open. The second view sees a transcendent Truth finally and authoritatively discerned. Since known, the need to tolerate error is dispensable. Particular formulations of that Truth may be errant or incomplete, but any claim which clearly and unmistakably contravenes truth is necessarily mistaken and a verdict must be rendered against it accordingly.

Institutionally, these two views create, respectively, the non-denominational, non-sectarian school in which it is more nearly appropriate to make academic freedom an absolute, and the school with an a priori commitment which accordingly qualifies or limits freedom of inquiry and teaching. Little was said in the decade or two following the First World War on this matter. But when discussion did take place, it is historically interesting to observe that sectarian schools were beginning to measure themselves against the model of the university. Inevitably, they found it necessary to reject the image of the "untrammeled" university freedom as inappropriate to their raison d'être. Yet, it is significant that men such as Soper could even raise the question of complete academic freedom as an absolute. What this
might mean for the future and character of the sectarian college remained to be seen.

**Summary**

The years following the founding of the American Association of University Professors witnessed significant developments in the history of thought on academic freedom. A new image of the institutionalized intellectual emerged which reflected the fact that the scholar-professor was being drawn more closely in contact with the social movements of a maturing nation. Particularly in the growth of the social sciences, points of conflict were reinforced between the demands of scholars for more freedom and a social order reluctant to acknowledge the necessity for such liberties. To the increasingly bureaucratic complexity of the university was added an impetus for academic freedom derived from, among other sources, the German tradition in higher learning. Conflict gave birth to impassioned rhetoric but also to more balanced assessments of the nature and scope of academic immunities for the teacher. Principles of freedom of teaching and learning were systematized for the first time. An apparatus for investigating alleged violations of academic freedom was constructed.

In the decade and a half following a wartime period when academic freedom was suppressed, a literature grew up which reveals
certain dominant emphases and concerns. Among these was a strongly felt need to explicate more thoroughly the legal and moral status of the professor within his educational institution and the consequent implications for the extent of the freedoms he ought properly to enjoy. Two contending theories were advanced, the one a legalistic view which framed the professor as an employee, the other as a defense for the scholar as an appointee with a moral freedom which transcends the ordinary hired man. The first view was buttressed by an analogical appeal to the legal structure of the university; the second by an analogical appeal to the tradition of judicial immunity. The seeds of controversy were implicit in both approaches and neither was to prove fully adequate.

When debate ensued, its focus was largely upon the question of extramural utterances; that is, what freedoms pertain to the university teacher in his public pronouncements outside the classroom. The more basic issue of what academic freedom might mean in terms of liberty to teach in the classroom without outside interference received scant attention and still less analysis. Although this issue lay dormant, it was to come to the fore later in the critical years of the 1930's and again in the 1950's.

There was too a series of important documents produced by learned societies and professional societies which contributed
significantly toward shaping thinking on the nature of academic freedom. In their defense of academic freedom, university administrators and professors tended to focus on procedures and regulations rather than philosophical principles. Questions of tenure and the conditions for academic dismissal received more attention than theoretical formulations of the freedoms that rules and regulations were ostensibly intended to safeguard. Almost in the nature of the case, the strategy of compromise and accommodation was universally adopted. The lines of conflict among actual or potential factions were softened and blurred. Still, no systematically conceived resolution of the fundamental issues had yet been achieved.

Perhaps as an unconscious reflection of the debate that was to come concerning the nature and purpose of the institution of higher learning in the 1930's, the question arose as to whether the same kind and extent of academic freedom is appropriate in any and all of the higher schools. The issue was delineated in terms of the denominational college as contrasted with the non-sectarian university. This was the arena wherein the question of educational and intellectual priorities assumed clearer definition and where it first became apparent that academic freedom, whatever it might be, need not stand in first position in an ordering of priorities, yet the educational function of an institution might not thereby be necessarily subverted.
CHAPTER IV

FREE TEACHING IN A FRIGHTENED SOCIETY: 1930-1949

A Climate of Crisis

 Freedoms of all kinds, including academic ones, are endangered in times of upheaval and unrest. It almost goes without saying that the Depression of 1929 inaugurated a period of stress, conflict, and anxiety unprecedented in the history of American political, economic, and social thought. As fortunes disappeared overnight, as breadlines began to wind ominously along the streets and banks collapsed, the fundamental capacity of the national economic system of capitalism and free enterprise to endure was thrown into doubt. The demand for reform became well-nigh irresistible; chaotic and often mutually contradictory schemes for salvation were proposed from all corners of the country. Amid the controversy, Hoover seemed to hang on, as inflexibly as the situation would permit, to the private, voluntary methods that had hitherto served in his administrative career. He accepted, with what seems in retrospect to have been unfortunate naivete, the nativist view of the economic debacle that it came from abroad, that it was the product of repercussions of unsound European institutions, and not of
any deficiencies in the American economy. But as national distress deepened it became clear to a majority of the electorate that new, drastic and even radical measures would be required.

The resulting flood of legislation that became the New Deal represented a kind of chaos of experimentation. Predictably, in proportion to its failure to achieve an equipoise of interests, its characteristic proposals appeared to many to be outrageously subversive rather than restorative of American traditions. Pallid nostrums gave way to comprehensive programs of legislative reform without precedent. For the first time, the federal government was to be responsible for the condition of the labor market as a part of its concern with the dis-habilitation of industry as a whole. It had to assume primary responsibility for the relief of the employment; it had to play a new fiscal role in response to imperative needs and in so doing, it shaped decisively the course of the entire national economy. President Roosevelt was accorded previously unimagined powers to regulate and regiment industry. Agriculture came under governmental control as the general taxpayer was loaded with the burden previously carried by the over-producing farmer. Bureaus without number proliferated to deal with

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various phases of the business situation, and preeminently with unem­
ployment, with transportation, with finance, and banking.

From the very beginning, the New Deal developed under the
shadow of the spectres of new totalitarianisms, left and right. Roosevelt
and Hitler took office within a few months of each other, and from that
time down to the last days of the New Deal reforms, premonitions arose
of ultimate horrors to come. Critics influenced by images of catas­
trophe abroad thought they detected the beginnings of fascism or
Communism implicit in the new governmental intervention. "Critics
from the left thought, for instance, that the NRA was a clear imitation
of Mussolini's corporate state. And... critics from the right at first
thought they saw fascist tendencies in the 'violations' of fundamental
liberties with which they regularly charged the architects of the New
Deal. Only later did they find it more congenial to accuse the New Deal
of fostering Communism." 

^Ibid., p. 327.

^Ibid., p. 327. Hofstadter, following Granville Hicks, holds
that the Communist influence and its ties to the New Deal have been
grossly exaggerated for this period. As the former puts it, "It was the
depression that began to put American Communism on its feet and the
New Deal that helped to kill it. The Communists, as consistent ideo­
logues, were always contemptuous of the New Deal. At first they saw
fascism in it, and when they gave up this line of criticism during the
Popular Front period, they remained contemptuous of its frank exper­
imentalism, its lack of direction, its unsystematic character, and of
course its compromises." n. pp. 326-327.
But the New Deal was only a convenient target for abuse and criticism born of anxiety and frustration. In a larger sense, the rapidity and shattering effects of social change had stimulated an urgent sense of impending crisis involving democracy itself. In the last War, and its aftermath lay the ruins of three great European empires and the destruction of the last vestiges of absolute monarchy in the Western hemisphere. One commentator described the results as follows:

As a result of the social and economic consequences of the struggle, democracy itself, with its essential organ the deliberative assembly, has come under grave indictment. By its two great opponents, fascism and communism, it is alleged to be sordid, corrupt, and hopelessly ineffective to meet the demands of the modern world. The former alleges it to be crippled by the neurotic delusion of equality among men; the latter denounces it as smitten with the fatal disease of capitalism, whereby the rich always and inevitably exploit the poor.  

The upheaval also was accompanied by a passionate and particularly virulent strain of nationalism, reflected in, and nourished by, the creation of high tariff walls and a spirit of isolationism. To preserve the eternal and immutable verities of Americanism, a strong aversion

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to European institutions and ideologies made itself manifest, complemented by an exaggerated sense of the virtue of native institutions.

If it is valid to make any generalizations about the intellectual climate of opinion for a given period, it would not seem unfair to characterize the 1930's as a time of felt crisis. It was an era when social and political orthodoxy came to be prized as bulwarks against subversive influences within and alien ideologies from without. As sociologist Newell Sims of Oberlin College phrased the order of the day,

We find ourselves living at a time when freedom of political, social, economic, and, to some degree, religious thought is being challenged, outlawed, bludgeoned by growing forces that would rule by might and not by reason. These forces, in crusading for power, fasten upon the nation increasingly restrictive laws and build up state ways and mores that are viciously coercive. The voices of freedom are forbidden to ring in the land.\(^5\)

Every age is likely to exaggerate its problems and conflicts in the stress of the present moment, but there was more than mere alarmist concern in Sims' remarks. In a land once dedicated to liberty of thought, he saw the coming rule of

\begin{itemize}
  \item big business, plutocracy, militarism, capitalism,
  \item Coueism, Volsteadism, Comstockism, partyism,
  \item Nordicism, rotarianism, Babbittism, "rugged individualism," hundred-percentism, and numerous other isms,
\end{itemize}

\(^5\)Newell L. Sims, in a paper read before the Ohio Sociological Society, on April 8, 1932, at Delaware, Ohio, and reprinted as "The Sociologist and Academic Freedom," in School and Society, 36 (September 17, 1932), 353-358.
all of which amount to irrationalism, mobism and Fascism. The proponents of these united isms want to turn these United States into a United Paradise for cowards, conformists, dictators and inquisitors, he complained. There was a not inconsiderable body of evidence to support his contentions.

The impetus toward what Popper has since termed the Closed Society was by no means an abrupt, new phenomenon. The forces of extreme conservatism and reaction had been mounting attacks throughout the preceding decade. As early as the Wilson administration, Attorney-General A. Mitchell Palmer opened the Pandora's box of witch hunts and rampant fear of communist infiltrations. Deliberately reviving war emotions, his description of the situation in 1920 was unequaled for its hysteria and its tacit invitation to volunteer spy-hunters:

Like a prairie-fire, the blaze of revolution was sweeping over every American institution of law and order a year ago. It was eating its way into the homes of the American workman, its sharp tongues of revolutionary heat were licking the altars of the churches, leaping into the belfry of the school bell, crawling into the sacred corners of American homes, seeking to replace marriage vows with libertine laws, burning up the foundations of society.6

The furor was not confined to public pronouncements such as this, however; it proceeded to drastic acts. Wholesale raids led to

arrests, which probably exceeded 10,000 in Boston, Paterson, Buffalo, Detroit, Chicago, and other places. Dragnet operations were launched in gross violation of due process. Five duly elected Socialist members of the New York State legislature were discharged in April of 1920, despite the fact that they had been seated and their qualifications approved. Sedition laws were passed in a number of states, among them West Virginia and Pennsylvania, whose provisions were phrased as broadly as possible to snare as many politically unorthodox persons as could be conjured up to frighten the public. In California, books were placed on proscribed lists by the Better American Federation; another self-styled patriotic organization, the American Defense Society, was organized to uncover subversive textbooks and "dangerous" professors.

Loyalty oaths came to enjoy a new popularity. Particularly teachers were singled out and accorded special treatment in this respect. In South Dakota, Oregon, Oklahoma and Colorado, teachers' oaths were prescribed in 1921; other states soon followed suit or took

7Wriston, p. 67. For a complete account of teachers' loyalty oaths during this period, see Howard K. Beale, Are American Teachers Free? (New York: Charles Scribner's Sons, 1936), pp. 34-35, 59-60; 67; 68; 603-604; 641-642.
similar measures. A *New York Times* editorial on April 22, 1920, strongly approved a proposed law for its state, saying:

> There has been only too much evidence of the success of the Socialists in imparting their fatal doctrines to young and ductile minds. It is incredible that the State should allow schools or teachers whose teaching is for the express purpose of destroying the State. The danger is not that any loyal teacher will be disqualified, but that disloyal teachers will profess loyalty.\(^8\)

However vitriolic the diatribes might have been in the 1920's against alleged radicals and subversives, the fresh outbreak against social and political heterodoxy in the 1930's was, if possible, even more strident. It was stimulated, in part, by private agencies. One guardian of orthodoxy published a "Who's Who" of subversives as a kind of handbook for super-patriots. Communists, Socialists and anyone left of center were lumped together as equally injurious to American political life. Among those who had charges leveled against them were Mahatma Gandhi, Albert Einstein, Jane Addams, and Bishop G. Bromley Oxnam. Others who, it was alleged, had knowingly or unknowingly contributed in some measure to the "Red movement" in the United States included Mrs. Eleanor Roosevelt, Max Eastman, Clifton R. Fadiman, Waldo Frank, and Mrs. Louis D. Brandeis.\(^9\)

\(^8\)Quoted in Wriston, p. 67.

Not surprisingly, the halls of learning came in for a large share of attack. The Illinois senate, by a large majority, adopted a resolution calling for a full investigation of communistic teachings in the public schools. Agitation arose for a Congressional investigation of the "open teaching" of communism at Howard University. The perennial propensity to obstruct discriminations by equating incommensurate ideologies with one another so as to imply an identity became a favorite tactic of vigilante groups. For example, in 1926, Fred R. Marvin, editor-in-chief of the New York Commercial, said, "Internationalism is the direct opposite of nationalism, it is Socialism, or as often called today Communism." The grab-bag quality of "un-Americanism" was rarely stated as explicitly as this, but Marvin's pronouncement was typical in revealing the nationalistic isolationism of his day and throughout the decade which followed.

During the Thirties, as Hitler's power grew steadily, the League of Nations faltered and stumbled in indecision, and appeasement dominated European policy, American college students became much concerned about peace. But Russian "peace" propaganda had tainted

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11 Quoted in Wriston, p. 71.
the word until anyone with pacifist sympathies was suspect. Any movement which suggested a tendency toward accentuating the already dizzying pace of social change was hailed as a front for totalitarian deceivers. The Progressive Education Association and the American Federation of Teachers, as well as the editors of liberal educational journals such as the *Social Frontier*, were attacked as subversive influences.13

Countless other facts might be cited in support of the claim that the 1930's was a time of retrenchment against real and imagined

12 In 1935 at the University of Chicago, school recognition of the National Student League and the Socialist Club was withdrawn, ostensibly because members of these organizations had disregarded a rule forbidding participation in unauthorized off-campus activities. Reportedly some students had taken part in a south side Communist parade in protest against the holding of Memorial Day services. At Columbia University in the same year, six students were dismissed from the University Medical Center for their membership in an anti-war committee. Again, at Rensselaer Polytechnic Institute in New York, Granville Hicks was fired supposedly for reasons of "financial retrenchment." However, since it cost that institution an additional five hundred dollars to pay a replacement for the remainder of the academic year, it was alleged that he had actually been dismissed for his professed communist sympathies and pacifist inclinations. See "Academic Complications," pp. 776-779.

assaults on the free enterprise system and traditional social doctrines.

Stated succinctly,

As faith in our economy waned, doubt was engendered regarding the virility of the political institutions which formed its framework. In that mood and in those circumstances many felt that democracy had lost its dynamism. To such the available choice seemed to be between the "new" forms of government. Some people, weary of democracy, felt that the fascist idea was an authentic "wave of the future." To others fascism seemed to offer the most immediate, the most direct, and the most powerful threat to the United States. Many who recognized the menacing character of the fascist and nazi governments believed the Soviet to be the only implacable foe of those ideologies. Overconcentration upon the nazi menace blinded them to the serious dangers that lay within communism.\(^\text{14}\)

Over and against these two movements were the sometimes hysterical reactionary groups determined to save American democracy, at whatever the cost, from communism and fascism alike. Predictably, the colleges and universities of the country were caught in the crossfire. Increasingly, pressures were applied on all sides to make these institutions conform to partisan visions of what they ought to become in such a period of stress and storm. They should become bastions of tradition and conservatism rather than centers of free controversy and innovation. While it undoubtedly represented only a vocal minority opinion, in all probability widespread support could have been mustered

\(^{14}\text{Wriston, pp. 81-82.}\)
for the position taken by the Memphis Commercial Appeal in a 1932 editorial berating the teachings of Communism:

For the greater part the educational fads that are offensive to intelligent people are nothing less than a reversion to primitiveness rather than an advance through new conceptions to new ideas. These fads are repulsive to forward-looking people as much because they are antiquated as because they seek to wreck the modern structure of society.

The great majority have been tried and found wanting. So why waste time, energy, money, and experience in their repetition? 15

More and more university administrations were beset by those anxious to save the institution from peril of deadly sins, or from what they, without any grounded knowledge of university life and traditions, assumed were perils. As the harried President of the University of California put it,

Conscientious conservatives, on the one hand, under the appealing name of patriotism, have sought

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15 Quoted in "'Angels of Darkness' on the Campus at Chapel Hill," Literary Digest, 114 (October 15, 1932), 23. Apropos this sentiment is this caustic remark of Newell Sims: "Conservatism holds that all the thinking has been done and that a moratorium should be declared on mental effort of the originative type in the social field. In this asses' pasture, or more appropriately lions' den, the liberal or radical lives by sufferance, if at all, for he is deemed a public enemy because he holds that the thinking has yet mostly to be done, proposes to keep at it and demands an open season for ideas along with a chance to try them out." Sims, 353.
to have the university teach that "the American system" is to be identified with prevailing practices and policies and with the particular phase in which our changing institutions find themselves at this moment in time. Restless radicals, on the other hand, have attempted to use the university as a sounding board for Marxian dialectics and to exploit its position of authority for the profit of their unpopular cause.16

Thus it was that the 1930's turned out to be a kind of culminating period when conflicting forces were moving the university toward a reconsideration of its fundamental nature and purpose. The endemic struggle between liberalism and conservatism had rarely become so embittered by the excesses of reaction and revolution. Its most frequent impulse in the years before World War II was to be found in the colleges and universities where conflicting viewpoints on academic freedom (particularly as it impinged upon the fields of politics and economics) found focus. The institutions of higher learning hesitantly set out to walk the narrow line between those who saw protection, coercion and indoctrination as the cure for social ills and those who thought it lay in freedom of thought and unlimited social experimentation. In the process, new emphases and concerns were generated amidst the continuing debate on the nature of academic freedoms. Attention shifted discernibly from the question of how and whether academic freedom affords protection to the professor in his extramural utterances to the more

microscopic issue of the liberties he ought to enjoy within his classroom. Secondly, the whole issue of the role and purpose of an institution of higher learning in a troubled society came to the fore. A significant literature was created which addressed these vital problems.

For those charged with the maintenance of the higher learning in America, this much was clear: the colleges and universities must not be permitted, under the pressure of contending factions, to suffer the same lamentable fate that had befallen the universities of Europe. University scholars and administrators alike were awed and shocked by the captivity of foreign institutions at the hands of totalitarian usurpers. Time and time again, one finds eminent academics pledging that they would labor to avoid the unhappy state into which their European counterparts had fallen. For example, President Angell of Yale lamented in 1934 as follows:

We have before our eyes the pitiful spectacle of the German University, a little while ago the justly venerated home of creative thought, with freedom of teaching, freedom of learning, and freedom of utterance as its inalienable rights. And behold it now, stripped of its glory! Many of its most learned scholars scourged into exile before the fury of the mob, its freedom in shackles, its teaching prostituted to the ends of political expediency.  

Angell, 132.
President Hutchins of Chicago, in an address delivered the following year, remarked similarly that the universities of Russia had sunk to be mere mouthpieces of the ruling party. Look also at the universities of Italy, he warned, where only those doctrines which the government approves may be expounded. It seemed that the lights were going out all over the world as famous centers of learning became obsequiously subservient to political opinion, however transient or doctrinaire. Bertrand Russell drew attention to the fact that it could happen on American shores as well.

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18 Robert Maynard Hutchins, "What is a University?" *School and Society*, 41 (May 25, 1935), 713.

19 See, for example, Harry W. Chase, "Academic Freedom and Freedom of the Press," *Vital Speeches*, 7 (February 15, 1941), 286; and Harold J. Laski, "Universities in These Times," *New Republic*, 81 (January 23, 1935), 294–296. "In Germany, in Italy, in Russia today, there are no universities, only names and shells from which the spirit has departed. In each of these totalitarian states, universities have become the agents, the adjuncts, the subordinates of the state. In Russia, they mouth the Marxist credo, in Italy, they expound what Caesar approves, in Germany they determine knowledge by the measure of its Aryan blood. Truth needs not to be sought; it has already been discovered, determined and described by Der Fuhrer, Il Duce or the Executive Committee of the Communist Party. Newspapers, churches, and radio clank their chains in the triumphal procession of the dictators." Sproul, 723.

guarantee that it would not. Millions of people elsewhere had come to suffer a way of life based upon the egregiously conceited belief that some governing individual or group knew all of the final answers. Inflexible dogma and creed had been elevated to the point where any other intellectual considerations were stifled. Would American universities

21 Consider the following excerpts from the Astronomical Journal of the Soviet Union for December of 1938:

"1. Modern bourgeois cosmogony is in a state of deep ideological confusion resulting from its refusal to accept the only true dialectic-materialistic concept, namely, the infinity of the universe with respect to space as well as time.

2. The hostile work of the agents of Fascism, who at one time managed to penetrate to leading positions in certain astronomical and other institutions...has led to revolting bourgeois ideology in the literature.

3. The few existing Soviet materialistic works on problems of cosmology have remained in isolation and have been suppressed by the enemies of the people, until recently.

4. Wide circles interested in science have been taught, at best, only in the spirit of indifference toward the ideological aspect of the current bourgeois cosmologic theories...

5. The expose of the enemies of the Soviet people makes necessary the development of a new Soviet materialistic cosmology.

6. It is deemed necessary that Soviet science should enter the international scientific arena carrying concrete achievements in cosmologic theories on the basis of our philosophic methodology."

The above is quoted in Russell, p. 30, as a classic illustration of how even scientific theory can be subordinated to the demands of an ideology. Likewise, under Fascism, the principle is explicit. Dr. Ernest Kreick, speaking for Heidelberg at an anniversary celebration on June 30, 1936 said:

"The science of a nation is an expression of part of its total life, and therefore, is bound by the necessities, direction, and purposes of the national life. We do not know of or recognize truth for truth's sake or science for science's sake."

inadvertently lend themselves to such a program? Or, to phrase the
question differently, could and would these institutions withstand the
maelstrom of pressures impinging upon them? The questions of academic
freedom were to be raised against this urgent concern.

Attacks on Higher Learning

It had become clear by the mid-thirties and in the years imme-
diately preceding the outbreak of World War II that academic liberties
were in serious jeopardy.\textsuperscript{22} Self-appointed snoopers were sleuthing

\footnotesize{\textsuperscript{22}A typical expression of the sentiments of the time is revealed
in a letter by President G. W. Diemer of Central Missouri State Teachers
College, Warrensburg, Missouri, to the research division of the
National Education Association: "We school people must be more con-
cerned in these times with the security of our American democracy and
of the American people as a whole than we are with the rights of the
teacher to write and speak as he pleases, and, at the same time, be
guaranteed that he will continue to hold his job. . . I am in favor of
academic freedom properly interpreted, but let us beware lest, in our
efforts to insure academic freedom, we protect the incompetent or de-
defend the teaching of activities that are injurious to the cause of educa-
tion because they are dangerous to the American conception of demo-
cracy." Quoted under "Two More Opinions on Academic Freedom," in
School and Society, 52 (October 12, 1940), 328-329. Also, see George
Norlin, "Is Radicalism Rampant on the American Campus?" School and
Society, 45 (January 23, 1937), 120-122. Although it came under the
stress of approaching war, an editorial of July 26, 1939 in the
Bellingham Herald by Frank I. Sefrit typified a popular hostility
toward academic freedom: "Freedom to teach whatsoever they like;
. . . freedom to suggest to students any type of reading which may be
the fancy of the instructor; freedom to defy those who employ them;
freedom to fellowship with subversive and unmoral characters; freedom
to belittle, handicap, and even destroy capitalism--these. . . come
under the modernistic definition of 'academic freedom.'" Quoted in
"The AAUP Reports on the Western Washington College of Education,"}
about the schools and colleges trying to uncover signs of subversive teaching. Any action on the part of teachers or students which failed to exhibit a proper patriotic spirit was called up for elaborate investigation. For example, when students protested in 1934 at the University of California for the abolition of compulsory ROTC training, their demands were summarily repressed. On the same campus a year earlier, it was alleged by the liberal Student League for Industrial Democracy that the university administration had failed to take action against campus athletes who bodily assaulted students distributing leaflets for a meeting to protest a proposed budget cut. In so doing, the

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administration seemed to tacitly condone such violence. Clearly, the climate of opinion on campuses across the nation was not conducive to the dispassionate discussion of academic liberties.

To cite another case dealing with the issue of compulsory military training, a similar issue arose at Connecticut State College in 1935. Particularly revealing was a resolution adopted by the trustees:

"That any formal public agitations or formal public discussions on the campus promoted by individuals on the college staff or individual students, which reflect upon the college military instruction or training, will subject such individuals to cause for removal." After protest

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24 John L. Rockwell, et al., "How Liberal is Dr. Sproul?" New Republic, 82 (April 3, 1935), 215. The group also alleged that in April of 1934 the administration had allowed lectures on campus by the Fascist Van Kuhlman, but refused to allow Lord Marley, head of the World Committee to Aid Victims of German Fascism, and Vice-Chairman of the House of Lords to speak on campus. Subsequently any student groups tainted by liberalism, such as the National Student League, the Student League for Industrial Democracy, and the Students' Rights Association were disbanded without explanation or hearings. Cited in Rockwell, 215.

ensued, another resolution was adopted which said, "The board recognizes the individual's right to freedom of speech and has no desire to curb it"—yet, they did not rescind the provision for dismissal. In other words, any individual—student or teacher—was perfectly free to "reflect upon" the issue but they would be expelled for so doing. A similar willingness to ride roughshod over the elementary rights of free speech was explicit in a statement issued by the board of trustees at The Ohio State University in 1931 when the self-same issue of compulsory ROTC was raised:

The board feels that the university should not be subjected to emotional criticism because of the unripe vociferations of a small group of students and a very few members of the faculty who were under no compulsion to come here and are under none to remain unless they can subscribe to the fundamental purposes of this university.

The history of events surrounding the colleges and universities in this period provided a fitting context for arrogance such as The Ohio

26 "Is Militarism Sacrosanct in Connecticut?" 716.

27 Record of Proceedings of the Board of Trustees of The Ohio State University, July 1, 1929 to June 30, 1931 (Columbus, Ohio: The Ohio State University), p. 173. The statement was inserted into the record of the Board's May 20, 1931, meeting. See Robert Tucker, "Ohio State: Battleground of Freedom," Christian Century, 48 (June 17, 1931), 805. At least as represented in the liberal journals, The Ohio State University had a deeply-imbedded tradition of conservatism antithetical to the best interests of free teaching and learning. For examples, see "Klu Kluxism at Ohio State University," New Republic, 67 (June 10, 1931), 83-85; and Norman Thomas, "Hire Learning" at Ohio State," Nation, 132 (June 17, 1931), 654-656.
State trustees had expressed. It was not surprising that the "fundamental purpose" of the university could be so badly misconceived; the public at large seemed anxiously willing to formulate it; higher education should promote one hundred per cent "Americanism." In Grand Rapids, the local Press attacked the state university in an editorial entitled "The Reds at Ann Arbor." Hearst reporters disguised as inquiring students laid traps for professors at Syracuse University and at Columbia University hoping to wrangle admissions of subversive opinions. "Keep the boys and girls away from the red-plague spots," screamed the Hearst American. A campus debate upon "Does preparedness lead to war?" was cancelled at one institution because, according to officials, "the subject is of such a political nature that it would not be fair to present it to the students." The Arkansas legislature launched an investigation at Commonwealth College at the same time that five Wisconsin state senators were riding a Red hunt across the state's school campuses looking for "communism, atheism, and agnosticism." Dr. Willard W. Beatty, President of the Progressive Education Association warned, "The right of free thinking and free speech is at stake. And unless we protect those rights, guaranteed

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28 Cited in "Practise and Malpractice," 164-165.
to us in the Fifth Amendment, soon there won't be any American democracy left." The President of the State Teachers College at Milwaukee echoed this view: "Repression of certain groups is the first step toward fascism. Such repression is already an accomplished fact in many communities in America." In exasperation at vigilante committee demands that the curriculum be purified at the University of Michigan, the President retorted, "Yes, we teach communism, socialism and all radical beliefs. We teach typhoid, poliomyelitis and influenza, stress and strains and imperfections in concrete and steel. We teach right and wrong. How else shall the world be saved?" 


30 Quoted in "Practise and Malpractise," 164.
Anti-Intellectualism and Brain Trusters

The hostility directed at institutions of higher learning was not without a distinct anti-intellectualist bias as well. In other words, it was not simply the case that colleges and universities were thought to be in need of drastic purges; frightened popular opinion showed general disaffection with the value culture of the scholar as a whole, the liberal traditions of free intelligence, free thought and searching examination associated with advanced learning. These attitudes were best exemplified perhaps in a reaction against the brain trust gathered to guide and direct the New Deal.

At first, the constellation of intellectuals gathered in Washington encountered little popular resistance. But popular prejudices were soon galvanized in opposition to the professors who presumed to know how to wield power.

The celebrity the professors enjoyed for a time enabled them to overshadow old-line politicians and businessmen, who found it particularly galling that a class of men hitherto so obscure and so little regarded should eclipse them in the public eye and make their role in society seem so much less significant. 31

31 Hofstadter, Anti-Intellectualism in American Life, p. 218. Compare this with a complaint expressed by the Secretary of the Interior at the commencement exercises of the University of Alabama in May of 1935: "In the beginning, this administration was derided and jeered at because, in its efforts to meet wisely the social and economic crisis...it called to its aid men of trained intelligences. It seemed outrageous to certain people that a highly paid lobbyist or
As H. L. Mencken characterized the transition, "A few years ago all
the New Deal Isaiahs were obscure and impotent fellows who flushed
with pride when they got a nod from the cop at the corner; today they
have the secular rank of princes of the blood, and the ghostly faculties
of cardinal archbishops."^ ^ In their success, the brain trusters had
come to believe in their own remedies. Consider what you would do,
he asked,

if you were hauled suddenly out of a bare, smelly
schoolroom, wherein the razzberries of sophomores
had been your only music, and thrown into a place
of power and glory almost befitting Caligula, Napoleon I,
or J. Pierpont Morgan, with whole herds of Washington
correspondents crowding up to take down your every
wheeze, and the first pages of their newspapers thrown
open to your complete metaphysic? 33

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the representative of selfish interests should be relegated to the rear
and, instead, a college professor consulted on a subject on which he
had special knowledge. This was revolutionary; our government had
not recently been run on the bizarre theory that disinterested and
trained intelligences should be called into the public service instead
of 'practical' men who knew exactly what they wanted and how to go
about getting it." Harold L. Ickes, "Academic Freedom," School and
Society, 41 (June 8, 1935), 754.

32H. L. Mencken, "The New Deal Mentality," American
Mercury, 38 (May, 1936), 4.

33Ibid., 4, and quoted in Hofstadter, p. 218.
Critics were fond of exaggerating the power of the intellectuals and portrayed them as "impractical, irresponsible, conspiratorial experimentalists, grown arrogant and publicity-conscious because of their sudden rise from obscurity to prominence." Right-wing agitators had a field day trumpeting their failures and shortcomings. Old traditions of anti-intellectualism were strengthened with new suspicions and resentments. One spokesman for an ultra-conservative group drew the astounding conclusion that the subversive, radical teaching of the universities was proved by the fact that so many of their graduates had become advisers to the President. As one who played a part in the brain trust, Edgar Goodspeed wryly commented:

So the poor professor appears in caricature. His tattered academic gown flaps about his bony knees, and his battered mortar board perches awkwardly upon his tousled hair, as he goes busily about his supposed task of undermining the Constitution, unbalancing the budget, sapping our institutions, upsetting our industries, and corrupting our youth.

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35 See "Shackles for Scholars," 600.

36 In "The Twilight of the Professors," Atlantic Monthly, 156 (August, 1935), 212. Continuing, with melodramatic exaggeration, to describe the casualties of reactionary abuse, Goodspeed suggested a
In all parts of the country, but with particular enthusiasm in places of entrenched privilege, hymns of ridicule were sung in derision of the brain trust. Harold Ickes, Secretary of the Interior, analyzed a progression in this movement:

From this initial attack upon particular professors, it was natural that criticism should widen and become more general. Soon it began to be hinted that something was wrong with the colleges themselves. Not only did they produce ridiculous professors... but the interests of the students were permitted to range too widely. It came to be charged that our colleges were not "conservative" in their teachings. In due course, it was discovered that some of them had radical learnings. The next step was to allege that the colleges generally were hot-beds of radicalism, following which came accusations disheartening decline in the status of the brain trust, and with it the academic intellectual: "The professor is now very, very bright,—too bright, in fact,—but he is no longer respectable. He is suspect, he is a socialist, a communist, a share-the-wealther, or a brain-truster. There have been a good many of us in Washington, it is true, helping to prime the pump. Our chief fault lay in the fact that we there occupied trough-side places that other noisier men than we, even, thought should have been theirs. Even in Washington, but yesterday the Valhalla of professors, where it seemed they reveled and drank deep, making wild wassail all the day long—even in Washington the *Professoren-dämmerung* has been observed. Indeed, professors of our acquaintance recently escaped thence loudly proclaim that the twilight was first reported there. It is, they say, none of your romantic, velvety crepuscules, but a dark, wintry variety that there prevails, more chilling and forbidding than any elsewhere known." *Ibid.*, p.212.
that Communism was actually being taught in certain of our institutions of higher learning.\textsuperscript{37}

The record of university cases involving alleged abridgements of academic freedom, at least those which attracted public notice, by and large evidence a consistent pattern where political pressures were successfully exerted to dismiss unpopular and controversial teachers.\textsuperscript{38}

\textsuperscript{37}Ickes, p. 754. Three years later, the situation prompted Dean Grayson N. Kefauver, of Stanford University's School of Education to remark, "I am concerned with the effect of this unwarranted attack in causing many teachers to refrain from considering important social problems for fear they will be criticized or their positions be put in jeopardy. Such an effect would seriously devitalize instruction in this important field at this time when there is great need of it." Quoted in "Interfering with Education," School and Society, 41 (March 9, 1935), 343. Robert Hutchins of Chicago flatly denied charges of subversive infiltration in the universities: "As a matter of fact, I have never been able to find a Red professor. I have met many that were very conservative, and some who would admit they were reactionary. I have met some who were not wholly satisfied with present conditions in this country. I have never met one who hoped to improve them through the overthrow of the government by force. The political and economic views of university faculties are those of a fair cross-section of the community." Hutchins, 712.

Or, alternatively, dismissals or reprimands ensued in response to the generalized attacks against any teacher suspected of social or political heterodoxy, such as those described by Secretary Ickes. 39

Before turning to an examination of the arguments raised on behalf of academic freedoms and free universities, it is instructive to note in passing some of the more ludicrous aspects of the anti-intellectualist polemics and the antics performed by those who would have throttled genuinely disinterested learning. Almost at random one finds countless incidents that characterize (and admittedly caricaturize) the climate of opinion against which serious, fundamental discussion took place. For example, great excitement was caused in 1932 by a petition presented to Governor O. Max Gardner by a certain L. A. Tatum,

asking the former to "take the initiative" in preventing the "angels of
darkness" in the persons of Bertrand Russell and Langston Hughes,
Negro poet, from coming, respectively, to the campuses of the University
of North Carolina and the North Carolina College for Women. Both were
accused of having offended the religious and traditional susceptibili­
ties of the petitioners. "Their lives and writings violate the very
decencies of life and the most sacred things of our hearts," read the
address accompanying the petition. 40

Russell's philosophy was described as "the reincarnation of
paganism, drest (sic) up in inveigling and seductive non-Biblical
terms, and properly branded as neo-paganism which is rated by
eminent writers as being far more destructive of civilization than the
old paganism." In support, the document quoted from an editorial in
The Southern Textile Bulletin, which called Russell a "protest disbe­
liever in God, advocate and practiser of free love." From the same
paper was quoted an editorial criticizing Hughes for making "insulting
remarks about the people of the South" in an article endeavoring to en­
list sympathy for nine Negroes convicted of assaulting two white girls
on a freight-train.

40 Quoted in " 'Angels of Darkness' on the Campus at Chapel
Hill," Literary Digest, 114 (October 15, 1932), 22.
In the same address, the publications of the University at Chapel Hill were assailed thusly: "Straws that show whither the wind is blowing--toward Moscow--and whence it is coming--the classrooms of the University," To climax this invective the address concluded:

And why should we marvel when, in America even in the once boasted "Bible Belt of the South," and even in North Carolina, many prominent educators garland with roses men like Bertrand Russell...and bid the youth of our land sit at his feet and hear the words of wisdom that proceed from his mouth: "This Pied Piper to the tune of whose seductive strains vast throngs have danced, and are dancing, in blind and riotous revelry to the hell on earth which awaits his followers. The earthly hell wherein lurk carnality and crime, slavery and suffering, disease and death."\(^{41}\)

Sims contributed several vignettes of similar extremist prejudice mobilized to the detriment of free learning. He related that as a result of teaching that man evolved from the apes at an unnamed southern institution, "some local specimens demonstrated it forthwith, especially certain of the clergy who visited the university to denounce me and set up a hue and cry that was echoed in the swan song of William Jennings Bryan at Dayton, Tennessee."

\(^{41}\)ibid., 22. The petition was signed by 300 prominent citizens. To his credit, Governor Gardner declined to "take the initiative." The President, Frank Graham, likewise affirmed that the university would never close the book of knowledge.
To make matters worse, I very unwisely discussed rather sympathetically the Russian revolution. Thus evolution plus revolution proved my undoing and placed me among the unemployed after an interesting session of the State Board of Control, whose guest I was and whose chairman asked if I believed in the virgin birth. Such are the thrills to which [professors] may be treated and of which they may be assured in the exercise of academic freedom.  

More than a decade later at the University of Texas, eloquent statements issued by members of the board of trustees attested to the fact that the intellectual climate, at least in some quarters, had scarcely improved. Asked if he believed that a professor should never question any law, a regent answered, "I don't think anyone has a right to question or violate the law." The same individual went on to say, "We should be non-political in our views, which of course precludes any faculty criticism of the Board of Regents." One of his colleagues said for the record that "if he [an instructor in economics] did not think the sit-down strike the most damnable thing in American life, he didn't deserve a place on the University faculty."  

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42 Sims, "The Sociologist and Academic Freedom," School and Society, 36 (September 17, 1932), 355.

43 Quoted in DeVoto, The "Easy Chair," Harpers, 191 (August, 1945), 135. Another regent prepared a questionnaire to be given to all faculty members—a "patriotism test"—to reveal their economic and political beliefs. Reportedly the same author attacked the teaching of Dos Passos' book U.S.A., terming it "the dirtiest, most obscene, most perverted book ever written in the English language." He forthwith distributed a six-page mimeographed pamphlet composed of extracts from the book designed to show its evils. As DeVoto laconically remarked, "This may be the only case on record of a university official's distributing wholesale what he thought, or at least said, was obscenity," Ibid., 135.
In all candor, one can scarcely say that the American Association of University Professors compiled a distinguished record for forthright defense of harassed professors in the decade and a half preceding the Second World War. In the main, their reports from investigating committees were cautious and equivocal. The investigators analyzed, judged and wrote up evaluations, but little action was taken. For the most part, the AAUP investigations had a limited purpose—to warn and to illustrate, rather than to avenge and redress. As one critic complained, "The Association of University Professors... could lead the children of Israel out of Egyptian bondage were it not for the Red Sea in which they are afraid to wet their feet." The complaint may have been


46 Sims, 354.
somewhat unjust, but it echoed a prophetic disdain voiced in 1918 for the timidity exhibited by the AAUP: "By this time 'academic authorities' have become quite hardened to the reports of the Association's committees. Unless the Association goes beyond reporting it will remain dignified and respectable, and futile. By taking action, it may lose dignity and respectability but gain something for the dignity and freedom of the academic world." The observation was, if anything, more apposite to the situation in the Thirties and early Forties. Continuing, the same writer had noted, "Among the more youthful masses of academic instructors there is a good deal of scepticism about the Association... Let it! beware lest there appear to shock its judiciousness and respectability an academic I.W.W."47 For better of worse, this warning had passed with little effect.

The Ideal of Unprincipled Institutions: A Paradox

Perhaps it would have been too much to expect a healthy regard for teaching and learning freedoms within institutions of higher learning at a time when they were being so vociferously attacked from without. Those who composed the faculty and administrative hierarchies of the colleges and universities were not immune to the influences shaping

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47 H. M. Kallen, "The Professors' Union," The Public, 21 (June 8, 1918), 733-734.
opinion outside their walls. Teachers, executives, presidents and regents alike were sometimes guilty of discouraging debate, controversy and discussion. The chairman of the AAUP's Committee A in its 1932 Report noted that cases of open and clear interference with freedom of speech were few. The more baffling cases were those in which a steady and powerful, but almost invisible and inpalpable pressure of an academic hierarchy suppressed, discouraged and seriously interfered with the usefulness and development of the original, independent thinker. 48

The thought that provision ought to be made for the criticism of social institutions, for example, as well as for their advocacy, enjoyed little support in the groves of academe at more than one institution. 49

One disgruntled commentator went so far as to suggest that in their concern for security of tenure, professors had become the greatest enemies of academic freedom; the public, he feared would lose interest

48 John Dewey, "Political Interference in Higher Education and Research," School and Society, 35 (February 20, 1932), 245. With characteristic wit, Sims put it picturesquely as follows: "The first problem... of academic freedom... lies in the scholastic sphere itself. The social scientist's beloved brethren of the Academic Groves are mostly adverse to any serious thinking about the social order and almost unanimously opposed to any innovations in human relations or agitation in that direction... The sociologist's colleagues will take measures to make their little household safe for non-thinkers." Sims, 354.

in its preservation with the realization that in most teachers social conservatism was actually a symptom of intellectual and scientific standpatism. Particularly in the social sciences, because their practitioners were wont to further aggravate fears of social innovation, conservatives within the schools characteristically distrusted the sociologist, economist, political theorist, or social psychologist.

That self-styled indefatigable defender of academic freedom, President Butler of Columbia, raised his voice in the pre-war years to reiterate essentially what he had contributed to the debates a decade or so earlier. As has been seen, his stand for university freedoms was

50 Donald Slesinger, "Professors' Freedom," Harpers, 175 (October, 1937), 550. "There are no more stodgy defenders of the status quo than our university faculties. The word academic has come to have a derogatory connotation when applied to the arts, and the same connotation is appropriate to the academic intellectual life. Most of the professors in America are engaged in a tiresome elaboration of the obvious and fiercely resent any innovation of method or content." Ibid., 550.

51 "I know of one college president who recently told a sociologist whom he engaged for his faculty that he expected him to be a damned fool part of the time. But neither presidents nor colleagues generally will permit you to be as much of a damned fool any of the time as they themselves mostly are all the time." Sims, 354.
equivocal and susceptible to misinterpretation and criticism, resting as it did on a canon of decorum for professors. In fact, Butler's views were more an expression of an institutional policy rather than a principled defense of academic freedom. In the Thirties, Butler's utterances are noteworthy as much for their reflections of an attitude characteristic of the attitude complained of above as they are for any contributions they might have made to refining the meaning of academic freedom.

In his report to the university in 1935, he denied that academic freedom had ever meant or could ever mean the privilege or right to use the authority, prestige and influence of a university relationship to "undermine or to tear down the foundations of principle and of practice" upon which the university rests. What those principles and practices might be, Butler did not elaborate; but he was confident that were a university to permit conduct contravening these, it could only lead to a slow undermining of the university's influence and repute. In

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52 See Nicholas Murray Butler, "Academic Freedom," *School and Society*, 43 (January 18, 1936), 99-100; and "President Butler Explains," *Nation*, 140 (May 29, 1935), 617-618. Throughout his presidency, one notes an almost humorous pattern repeating itself: Butler would deliver himself of a statement on academic freedom; his remarks would be attacked in the public news media; he would then offer a clarification which typically only served to obfuscate matters further. The furor would subside until he took it upon himself to issue yet another observation on the subject at which time criticism would again be aroused.
partial clarification, Butler distinguished between academic freedom of any kind or sort, and university freedom which is "the right and obligation of the university itself to pursue its high ideals [again left unspecified] unh hampered and unembarrassed by acts or conduct on the part of any of its members which tend to damage its reputation, to lessen its influence or to lower its authority as a center of sound learning and moral teaching."53 Those whose convictions conflicted with this latter freedom, he asserted, should in ordinary decency and self-respect withdraw from university membership.54 Some five years later, he incorporated the same theme into a speech wherein academic freedom was related solely "to freedom of thought and inquiry and to freedom of teaching on the part of accomplished scholars." He made it clear that this right in no way applied to students; moreover, "university freedom" of necessity took precedence over this academic freedom.55

53 Ibid., 100.

54 Butler resorted to a rather dubious analogy elsewhere to make the same point: "No reasonable person would insist upon remaining a member of a church, for instance, who spent his time in publicly denying its principles and doctrines." See his "The True Function of a University in This World Crisis," in Vital Speeches, 7 (October 14, 1940), 11-12.

55 For a survey of interpretations and reactions to this speech, see "President Butler Inquires Into Academic Freedom," School and Society, 52 (October 12, 1940), 328. His rejoinder to his critics is summarized in "President Butler Further Clarifies His Stand on Academic Freedom," School and Society, 52 (October 19, 1940), 359.
Perhaps no clearer contrast to Butler's view could be found than in Datus C. Smith's plea for "unprincipled education." It might easily have been written as a rebuttal to Butler; it surely repudiated the position Butler and others espoused. Written in 1937, the argument is remarkably unequivocal, keeping in mind the time in which it was advanced. 56 "High ideals" and principles, Smith observed, have done more harm to learning than both stupidity and indolence together. The Moral Urge—the attempt by scholars to promote morality as well as knowledge—ends by damaging both and leads to grief and embarrassment. The defense of academic freedom that pleads for tolerance for dissenting views (the tactic consistently employed by the AAUP among others) is wrong; it misses the point. More aptly, when a scholar is under indictment for dissenting from official opinion, the real question is to ask by what right the theoretically non-partisan university has adopted a partisan position, thereby forcing the scholar into the heretic's role. Tolerance is a necessary condition for freedom, but the obligation of the university to be totally disinterested is still more necessary. To be disinterested requires a thorough-going neutrality with respect to religious and moral principles, political factions, and

any and all other broad issues popularly assumed to be sacred and above debate. For example,

a university dedicating itself to the overthrow of capitalism would be just as false to the ideal of disinterested education as are the hundreds which today do violence to the spirit of free inquiry because the "American system must be preserved." The disinterested university does not care whether capitalism is preserved or not.

Sharp objection to this principle was made by Gerald Chittenden who posited a significant exception to the rule. So far as the individual professor in a university is concerned, he has a duty to the authority vested in a board of trustees or an equivalent body. The teacher, it was maintained, has a duty towards this body for the "sordid and sufficient" reasons that he receives his salary from them. "Since nearly all trustees represent a capitalistic society and capitalistic ideas, it follows that the teacher has a definite duty towards capitalism."

57 Compare this with Hutchins' often-quoted statement: "A university is a community of scholars. It is not a kindergarten; it is not a club; it is not a reform school; it is not a political party; it is not an agency of propaganda. A university is a community of scholars." Hutchins, "What is a University?" 711.

58 Smith, 412.

59 Gerald Chittenden, "What is Academic Freedom?" Scribner's Magazine, 97 (February, 1936), 116. Note the similarity of this implication with the analogy drawn from the legal relationship of a board of trustees to professorial employees pressed some years earlier.
Chittenden went on to say: "To draw pay from a university organized under a capitalistic society, and then to attempt the destruction of that society is commercial dishonesty and cannot, by any stretch of the imagination, be the foundation of intellectual honesty." The implication is interesting because it derives an intellectual responsibility from a legal obligation.

Smith, however, might have rejoined that intellectual honesty—whether it pertains to a constituent member of the university or the institution considered in itself—rests on unprincipled disinterest and complete independence of judgment; it cannot, in the nature of the case,

60Ibid., 116. In response, one writer objected as follows: "A teacher is responsible to mankind and not to the form of society in which he finds himself. Society in this sense has never been more than a blundering form of human association, a tool—not always a good one—to serve the needs of mankind. One's responsibility to mankind might, therefore, demand radical change as in revolution; whereas a sense of duty to a form of society is all too likely to demand the support of a particular form even though such support is inimical to the greater good of mankind." The author went on to observe that if a teacher believes that the capitalistic system should be overthrown, he cannot be intellectually honest if he supports it, even though he has a commercial obligation to do so. Edward L. Findlay, "Academic Freedom," Scribner's Magazine, 99 (May, 1936), 320.

Chittenden's rejoinder to this criticism was to insist that the teacher's responsibility to society is never direct, "but must pass through the channels of the prevalent organization in order to become effective." The right to revolt, he continued, "involves a separation from the group and war against it. Such war is honorable when waged from the outside; it is dishonorable when waged from the inside." Gerald Chittenden, "Nothing But Respect," Scribner's Magazine, 99
derive from a legal or commercial base. In fact, Smith was willing to follow this argument quite consistently through to its logical conclusions.

The most startling of these is that an institution can and should profess disinterest with respect to its sources of income. When a university refuses money because it is "tainted," i.e., it disapproves of the donor or his ethics or the position he represents, then that college or university has issued a moral judgment. When it presumes to pass judgment either on the donor's method of acquiring his money or on his personal convictions, then it has as a corporate body abandoned its academic neutrality. No matter for what laudable motives, its position of disinterestedness has been sacrificed to partisanship.

In the fall of 1934, Harvard University refused an offer of $1,000 for a travel scholarship in Germany. The donor, a prominent Nazi and personal friend of Hitler, was discouraged by President Conant who wrote to express Harvard's unwillingness to accept a gift from one associated "with the leadership of a political party which has... struck at principles we believe to be fundamental to universities

(May, 1936), 320 + 14. Thus, for a revolutionist, Butler would presumably advise dismissal; Smith and Findlay, sufferance; Chittenden, suppression. Given the times, when the viability of capitalism was a much-debated question, the issue was very real and immediate.
throughout the world." Consistent with this, Conant also turned down a similar offer from another Nazi enthusiast shortly thereafter. President Tyler Dennett, in the same year, refused funds from the Federal Emergency Relief Administration for Williams College's needy undergraduates. While moneys were badly needed, the President expressed his disapproval of the whole notion of federal almsgiving:

If there is any professor here who approves the New Deal, he is perfectly free to say so, but if he does not approve it, he at least does not have the embarrassment of knowing that when he teaches that FERA economics are bad he is arguing against his salary.62

Undoubtedly, there is a fine sense of sacrifice for principle and a feeling of moral independence to be derived from the position taken by Conant, Dennett, and their colleagues across the country. The difficulty, as Smith pointed out, is this: when an institution rejects a donation on grounds of morality from one source but accepts a contribution from another source, it inevitably places its stamp of approval on the morality of the latter contributor. The principle is mistaken because it posits a commercial base for intellectual endeavor and honesty;

61 Quoted in Smith, 417-418.

62 Quoted in Smith, 418.
and, furthermore, seems to confirm the belief that the teaching of an institution is affected by the sources of funds that support such teaching. When an institution accepts multi-million endowments from individual capitalists, it implicitly sanctions the capitalist system. One cannot consistently reject a gift from a fascist or communist or whatever, by reason of disapproval of the source, and yet accept a capitalist's largess, without thereby approving of the system under which it was produced. Moreover, if it were true that teaching is corrupted and biased by income received, then it is inevitable in any case that the university has committed itself to the principles of a given economic system. But since both ideas violate the spirit of disinterestedness normatively characteristic of a university, both must be rejected. It follows, therefore, that the university ought to profess perfect indifference as to its sources of income, with the clear presumption that it officially neither condones nor condemns such sources. Further, the university's obligation is to make clear that the temper and content of its teaching will not be influenced thereby. It may be tempting and easy for an institution to espouse high moral principles (especially when it is siding with the bastions of public opinion), but when it does so it sacrifices its non-partisan neutrality. As Smith phrased it,

The usefulness of universities derives from the fact that they have no axe to grind. The minute they espouse some cause they lose their charter in society.
And sincerity is no defense. Once a university decides to be high-principled and to enter upon the field of ethical guesses, it is estopped from performing its unique service to the community. It is then on a par with the American Liberty League and the Communist Party--each undeniably sincere, industrious, and, according to its lights, high-principled, but each starting with a predetermined moral judgment.

Is there no place for unprincipled institutions? 63

Taken literally, there is something singularly disconcerting in the concept "unprincipled institution." At face value, the idea is meaningless if we interpret it to mean that an institution of higher learning "stands for" nothing at all. Disinterest and non-partisanship are principles to be adhered to or violated as are their opposites, particular ties and partisanship. These are, in fact, correlative pairs of ideas, whose respective meanings inhere in the difference between them. Neutrality takes its connotation from its antonym; and this is as much a discrete ideal or principle as its opposite. Freedom to teach and to learn, fidelity to scholarship, adherence to rational procedures to

63Smith, 420. Apropos his point here is this further comment: "Each American university is operating on an 'inarticulate major premise' which, in greater or less degree, distorts the teaching and colors the scholarship at that university. The major premise may be so simple a proposition as 'Roosevelt delundus est,' or it may be a more basic concept such as 'capitalism must be preserved' or (none of record) 'religion is the opium of the people.' Whatever the major premise may be, there can be no real academic freedom, however tolerant a university may be, so long as it is officially committed to the essential goodness or wickedness of certain fundamental ideas." ibid., 412-413.
adjudicate questions of fact, the pursuit of new knowledge or the responsible re-arrangement of data to form new and illuminating patterns—these are ideals or principles essential to the functioning of the university. They incorporate values to be prized. Thus, it is not quite adequate to claim, as Smith seemed to do, that because a university is under a moral obligation to eschew any "entangling alliances,"—be they financial, intellectual or moral,—that it must therefore be without principles or ideals, that it holds to no system of values whatsoever. Moreover, Smith's argument rested, at root, on an assumption concerning the necessary conditions for the fulfillment of the university's role in the social order. What was inadequately stressed in his analysis, it seems, was the responsibility to realize that service, given the proper and necessary conditions for the conduct of its mission. And when this aspect of the problem is considered, in the last analysis, the university has no right to demand immunity from social judgments. It is the creator of society and it must justify to society its existence by the service of pursuing and teaching truth with disinterested objectivity. To be sure, it must not institutionally adopt partisan causes and pass social judgments, but it must expect to be judged by society according to how well it discharges its function.  

64 See Angell, 133-134.
Yet, the perennial problem of what to render unto Caesar is never solved. If the university does stand for, and pledges its allegiance to, an insistence that freedom is the indispensable condition for teaching and for research, has a given institution a moral responsibility to take action when another institution is threatened? Laski, for example, urged that the criterion of a university's honesty of purpose in the work it is engaged in is its willingness to fight for that freedom wherever it is threatened.\(^6\)

In other words, it is not enough to struggle for freedom within the walls of a single institution. Truth disregards frontiers; intolerance is never confined within the borders of one school or even a single country. A university is only a part of an international company of scholars. Whenever and wherever academic freedom is attacked, no university can afford to remain silent; its obligation is the duty of protest. One safeguards one's own freedom, Laski believed, by combating its foes elsewhere.

If it is objected that a university cannot move along a united front to some action-directed goal and since the habit of a university is variety of opinion, the obligation to initiate protest cannot be met, the

\(^6\)See Laski, "Universities in These Times," 295-296.
response would be that bodies of scholars unwilling to fight intolerance are untrue to the sole condition upon which their own professional effectiveness depends. "If a university cannot attain unity of outlook upon this principle," Laski asserted, "it lacks the self-respect that alone entitles it to be part of the company of scholars." In the realm of mind, no penalty can be set upon habits of thought; professors must fight for the right of others to think freely, the more securely to safeguard their own thought.

The trouble here is that to discharge the obligation to protest against abridgements of academic freedoms, universities are thereby thrust into the arena of partisan involvements. The motive is clear: to protect and foster a principle of liberty—but protest is never made "in the abstract." Protest is directed against specific parties and particular ideologies. Thus, the university as an institution is plunged into the maelstrom of social and political conflict. The paradox is plain: to

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66Laski, 295. It must be remembered that Laski was writing at a time when European universities were being taken over by totalitarian ideologies. Thus, he appealed for the creation of an international organization for the protection of academic freedom whereby universities could act corporately to protest to governments against any interference with university freedoms. Echoing this view, Slesinger urged that in return for the academic freedom they enjoy, professors should join in the fight for civil liberties wherever they are violated. See Slesinger, 551.
protect the freedom requisite for neutrality, the institution must give up its non-partisanship and combat any party, person or idea whose interests are inimical to the university's freedom. It must stand on principle to preserve and defend its right to have no principles. In sum, if there is to be any ideal which the university enshrines, it cannot be capitalism, or democracy or any other "ism." It must defend its liberty to be disinterested. If in fact this stance involves a paradox, it is clear that the terms of it were not and have not been clearly worked through. Almost in the nature of the case, no pat formulae are admissible. The question of the duties and responsibilities of the university as an institution remains one of the integral and enduring issues of academic freedom.

Intramural Utterances

Inextricably bound up with the debate in the Thirties on the need for the university to preserve its independence and objectivity was the issue of how the professor ought to teach in the classroom. Just as the university must balance social concern and scholarly disinterest, the individual teacher must not use his classroom as a platform for promulgating his personal causes. After all, when we speak of the university, we are talking about the members who collectively constitute the institution. In the Twenties and earlier, more attention had been given to
the problem of how and whether academic freedom protects the teacher in his extramural utterances. But in the years when the professorial role seemed tainted with subversion, when anti-intellectualist suspicions lent new urgency to defining freedoms for the scholar, and when universities were fighting to preserve their autonomy from the fatal embrace of partisans (left and right), the dominant center of concern moved back to intramural utterances.

In the first report of the AAUP's Committee A in 1915, it was held that the teacher is under an obligation to observe restraints when instructing immature students. The instructor should present his views with discretion, introducing new conceptions gradually with consideration for the student's preconceptions and traditions. The teacher is to be especially on his guard against taking unfair advantage of the student's immaturity by indoctrinating him with the teacher's own opinions before the student has had an opportunity fairly to examine alternative opinions upon the matters under discussion, and before he has sufficient knowledge and "ripeness of judgment" to be entitled to form his own definitive opinions. Scholarly responsibility entails a need to habituate students to look methodically and patiently on both sides of a controverted issue before coming to a conclusion. Explicit indoctrination has no legitimate place in the classroom. 67

For the most part, this general outline was uncritically reiterated in the literature in the decade or so after its initial appearance. Evidently few thought the problem required further elucidation and analysis; moderation, discretion and a certain balance of judgment amply described the canons governing the classroom professor. In the years of Red scares, witch-hunts and debate on the universities, however, this question of the difference between indoctrination and instruction came to the fore. Where does one draw the fine line between the two? Can propaganda ever be justified? If the university is to remain neutral, and if this means that the individual professor must strive for objectivity, what are the limits wherein academic freedom protects utterances made in the classroom?

Again and again, one finds voices raised on these concerns. Undoubtedly, in part the comments were strategies adopted to ward off attacks against alleged subversion in the schools, but they also represented attempts to define more clearly what it means to be free to teach and what duties or responsibilities are thus entailed. "The college professor must not confuse propaganda with learning or political partisanship with eternal principle," asserted the President of the University of Oklahoma.68 Echoing this view was the comment of another writer

that the university has no place for "the loose talker, the soap-box orator or the propagandist. Such a one cannot long survive in a university atmosphere." The function of the university is to seek and to transmit knowledge and to train students in the processes whereby truth is to be made known. To convert, or to make converts, is alien and hostile to this dispassionate duty. Where it becomes necessary, in performing this function of a university, to consider social, political and sectarian movements, they should be dissected and examined and the conclusion left with no tipping of the scales as to the logic of the facts. Thus, essentially, the freedom of the university, according to another university president, is the freedom of competent persons in the classroom. Scholarly competence and obedience to its standards is the criterion by which acceptable teaching may be judged.

As it developed, the difficulty of defining an adequate criterion was troublesome in the extreme; that much became clear at the outset. The obvious rejoinder to the latter criterion proposed is that any sincere and convinced partisan believes that the facts interpret themselves and point unmistakably to the conclusion he himself accepts. Thus,

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69 Norlin, "Is Radicalism Rampant on the American Campus?" School and Society, 45 (January 23, 1937), 121.

70 President Robert G. Sproul of California in a statement to the academic senate of the university on August 27, 1934, and quoted in "Academic Freedom," School and Society, 40 (September 15, 1934), 356.
scholarly competence, in his view, is not incompatible with, but actually reinforces, his particular version of truth. It is difficult to draw a clean-cut and complete line of demarcation between "teach" and "advocate." All processes or transactions or movements exist, not as absolute and easily distinguished wholes or separate entities, but in relative and frequently very subtly distributed degrees. Blatant advocacy is easily distinguished from the best example of true teaching. However, where persuasion is only slightly affected by the personal bias of the teacher, advocacy and good teaching tend to meet in a middle ground which is not so easy to label. Perhaps Alexander Meiklejohn was belaboring the obvious when he contrasted the intent of the propagandist with that of the teacher:

The fundamental sin of the propagandist is that he weakens the mind of his victim rather than strengthens it. He merely wants to use the pupil for the furthering of a cause. . . The propagandist is trying by cajolery or trick or pressure to get the student to accept opinions which the pupil has no adequate basis for believing. The teacher. . . wants thinking done as the proper way of arriving at conclusions. The propagandist wants believing done, no matter what the road by which the belief is reached. In the one case there is respect for the integrity of the reasoning process, in the other contempt, the subordination of intelligence to all the forces of passion and self-interest which can be used to confuse and becloud its vision.

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Like all caricatures, Meiklejohn's protagonists are relative rarities. As had been pointed out, the blatant propagandist was easily identified. What seemed required, rather, was a code, a set of standards, or intelligible criteria to separate the "true" teacher from the sincere but misleading proponent of sectarian interests. This difficulty, it should be noted, was not simply a matter of "academic" interest. If it was believed fervently in some quarters that subversive influences were at work insidiously gnawing at the foundations of American Freedoms, then it was doubly important to locate and exterminate such forces. On the other hand, those who thought the heretic hunters posed a more formidable danger to liberty required a coherent theory of academic freedom to protect dissenting minority voices. From both sides, the issue was real and immediate.

73 "Within the past few years, some of the educational institutions in this nation have allowed un-American thought to creep into the student body. The Legion firmly believes that communism, radical pacifism, and other alienisms have no place in our schools. . .We will not stand idly by and see American schools made over into centers for the dissemination of propaganda aimed at undermining American principles and American ideals." H. L. Chaillauv, Director, National Americanism Commission, American Legion, Annals of the American Academy (November, 1935), 118, and quoted from Julia E. Johnsen (ed.), Freedom of Speech (New York: H. W. Wilson Company, 1936, p. 167.

74 "Is there after all any real danger to reasonable academic freedom? Yes, there is great danger. . .Reactionary demagogues, often masquerading under the cloak of patriotism, can by threats seriously lessen the discussion of controversial economic and social issues. . .This danger to our schools and thru them to our civilization
Selecting illustrations almost at random, one discovers writers much concerned to specify limits to the kind of teaching which ought properly to be permitted and protected. All freedom, academic or otherwise, is limited; no right can exist unless it is balanced by a duty. Thus, as Chittenden argued, if we define academic freedom as the right of a teacher to say what he thinks, the definition is as inadequate as it is popular; it represents an effort to reduce a complex matter to its lowest terms. Shall we say then, as did the Superintendent of Schools of Pasadena, California, that it is the right of the teacher to teach the truth, without interference or hindrance of any kind? But whose truth may be taught? The Superintendent felt that teachers could not demand the right, under the cloak of academic freedom, to "pass over from the realm of truth and fact" into the "twilight zone of opinion," and use the schools as forums for propaganda. Yet, who was to act

is very real and very great". . . "The main purpose of education in a democracy. . . is to enable the average citizen to act more intelligently with respect to the real problems of his day. When we neglect to perform this function of organizing full inquiry on these vital matters, we play into the hands of the demagogues, whose only hope of establishing a dictatorship on this soil lies in a condition of widespread civic ignorance." William H. Kilpatrick, quoted in Johnsen, p. 169; and from Studebaker, 134.


John A. Sexson in the April (1935) issue of Sierra Educational News, 17-18; and quoted in Johnsen, Freedom of Speech, p.167. See Alexander Meiklejohn, "To Whom are We Responsible?" Century Magazine, 106 (September, 1923), 649.
as judge to winnow truth from opinion, fact from propaganda, was not mentioned.

The Chancellor of Syracuse University took a slightly different tack in stressing the criterion of decorum and circumspection as the 1915 AAUP Report had done. He noted that historically, the professor's freedom of speech was correlated with the student's freedom of listening.

The former could say what he pleased; the latter could attend or absent himself as he chose—a fair sporting proposition. In these later days when a student is compelled to attend, and possibly to listen, and is dependent for a grade on the fairness, if not the favor, of the professor, the same sportsmanship will limit the teacher to dispassionate and scholarly treatment of the subject for which he has been chosen, to the exclusion of extraneous, controversial, or offensive discussion.77

However, the Chancellor went on to show that the issue of student immaturity can become a "red herring" when it is used to urge restraint on the part of the professor. Students are not as gullible as many alarmists and inquisitors suppose. The modern youth is not a docile, passive receptacle of professorial viewpoints, who accepts uncritically all that is set before him, "malleable at the professor's will, shaped on the

77Charles Wesley Flint, Syracuse University Bulletin (July 1, 1935), 16.
classroom potter's wheel." The professor with views at variance with sound thinking and sane judgment finds it difficult to play the Pied Piper. Students are not so easily led astray. On the other hand, one can only agree that the teacher ought to accept as a proper restraint the duty of tempering teaching and of guarding against taking unfair advantage of immaturity by indoctrinating before the student has been trained in the technique of independent inquiry. Responsible teaching avoids the ruthless ripping up of the student's anchorage, the smashing of his soul's furniture without leading from little to more. The teacher's task perhaps is best performed not by teaching any theory or system but by leading his students to think for themselves. Independence and discrimination are best learned not by being taught to accept views, but by learning to question every view presented. But let this self-imposed

78 Ibid., 17. "At every age their elders have a way of overestimating the pliability of the young. As a result many people seem to have the notion that the student comes to college a sort of plastic mass, to be molded by the teacher in whatever likeness he will. But at 18, or 19, or graduation from high school, it is far too likely that the student has solidified, and too often in more ways than one. The most that a teacher can hope to do with such students is to galvanize or stimulate. If he wanted to, he could not hope to persuade." Hutchins, 712.

79 See Baltimore Bulletin of Education (March, 1935), 55; quoted in Johnsen, p. 170. It is said that the philosopher Morris Cohen was once upbraided by a student for having destroyed everything she believed in, and he had not replaced it with anything else. Reportedly, he responded that it was his pedagogical duty to clean out the stable but not to fill it up again.
restraint be balanced by an appreciation of the fact that students typi-
cally are more intellectually intractable than commonly presumed.

In retrospect, the effort to demarcate liberty from license, ad-
vocacy from instruction, prosleytizing from teaching, was a laudable but
misguided approach. It contributed little toward a clearer conception of
academic freedom, and this for two fundamental reasons, first, because
the problem as it was set was unsolvable. The border between scholarly
exposition and partisan bias is amorphous. Teachers present the facts
within a context or pattern which renders the data intelligible; whole
and complete objectivity is never attained but achieved only in partial
measure. Also, so far as academic freedom is concerned, the question
in how and by whom is a teacher's classroom performance to be judged.
In specific cases, if a professor is accused of utilizing his position to
win converts rather than to impart knowledge, it is only in extreme
situations that a responsible assessment of the charges can be made.

Secondly, the debate tended to obscure the important point
that if academic freedom is to afford any meaningful protection what-
ever, it must protect the dissident view, the unpopular opinion, the
heterodox doctrine. True intellectual freedom requires that all per-
spективes be open for examination, all positions placed for inspection
and analysis. In the life of the university, there is no source of creat-
ive activity other than the individual human spirit. As one eminent
writer phrased it, "Confine that spirit within rigid limits, and it soon becomes sterile." Disinterest, detachment, a cautious striving for balance can too easily degenerate into intellectual rigor mortis. There is something to be said for the untrammeled clash of diverse opinions as opposed to the dead conformity of an unspoken orthodoxy. Refusal to pass upon opinions, to subject open-ended and unfinished questions to discussion, can become a stifling orthodoxy--an orthodoxy of method as much as of doctrine. The search for truth and the task of disseminating it entails a constant, unrelenting endeavor to pass beyond the boundaries of established knowledge to unexplored frontiers. Few will argue the claim that academic freedom entails responsibility, but the balance between the two is precarious and subtle. The attempt to codify and define responsibility may end up threatening the freedom which entails that responsibility.

**Social Mores and Professional Responsibility**

An alternative but related approach to the problem of free teaching was no more successful in specifying the limits of "acceptable" intramural utterances, but it grappled with the more fundamental issues of the teacher's ultimate social and intellectual responsibility, and the

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sociological foundation of academic freedom as a privilege accorded by society to the university. In essence, rather than asking **how much** freedom can be accorded the professor in the classroom, the issue was framed by the larger question **why and how** does society accord academic freedom. Since places of research and learning are created by and for society, what kind of responsibility do they have to the social order which sustains them? That is, academic freedom rests, first of all, not upon the principle of protecting something for the professor, but of protecting something that is worthwhile to society. It rests upon the notion that we have in society certain bodies which we call colleges and universities that must be absolutely free to carry on the quest for truth, and in which we have men and women who have the right to express the results of their investigations. This way of putting things yielded the question of intellectual responsibility in a new and more fruitful way.

Chittenden argued that the teacher is responsible to society—as it exists in his time and country. Not society as it ought to be if all men acted altruistically and intelligently, not society as it actually exists. This is not to say that responsibility to society means acquiescence in everything society does. Criticism is essential to the teacher's responsibility. Society's structure changes and must change, hopefully toward eliminating its obvious imperfections. But the
professor's role is to criticize the change as it goes on, acknowledging that it is caused by vast forces beyond the control of the educator. He may be tempted to set himself up as a prophet, called to cause and guide the change to a definite end. Yet, he ought to limit himself to the role of critic, not seer or reformer. "His responsibility to society is to evaluate what has been and is being done; when he tries to start anything, he is out of his province." Criticism should be purely judicial, not destructive nor yet constructive. Judicial criticism is a search for truth without prejudice toward either side of a controversy. 81

81 Chittenden, 115. An interesting view of the relationship between education and social change has been developed by Sidney Hook. Driving between two simplistic alternatives—that schools are engines for social transformation, and that the overhauling of society is a prerequisite for educational change—Hook writes: "The schools cannot rebuild society. The decisive steps in social transformation depend upon crises that are prepared not by education but by the development of the underlying economy, existing technology, and the chances of war. What education can do is to prepare, through proper critical methods, the attitudes and ideals that come focally into play when crises arise. It can develop the long-term patterns of sensibility and judgment which may be decisive in resolving the short-term problems whose succession constitutes so much of the substance of contemporary history." In Education for Modern Man, A New Perspective (rev. ed.) (New York: Alfred A. Knopf, 1966), pp. 91-92.
Therefore, the teacher should have no convictions where social problems are concerned:

He must know what the problems are; he must. . . . state them with fairness to both sides; he must be familiar with the solutions which have been tried; he must investigate the causes of their success or failure . . . He must not become an advocate of any one solution, and in particular, he must be on his guard against utopianism, which is the besetting sin of his profession . . . His convictions will often drive him to scathing criticism of things as they are, but we should seldom if ever discuss things as they ought to be, for to do so is to take the short road to propaganda. And a clear idea of the difference between criticism and propaganda is essential to a definition of academic freedom.82

Chittenden's position was admirably fitted to suit the temper of the times. Implicit in it, however, was a tendency to discourage real and vital discussion on controverted questions, issues upon which men were likely to have strong emotions. As has been noted, to make the demand that teachers attain a perfection of detachment and objectivity might also inadvertently take out the vigor and vitality of the discussion. Can criticism be sustained without partisan spirit?—this is a hard question. Still, Chittenden's argument had the strength of candor and honesty about it, and it did represent a sustained effort to explicate the kind of responsibility to which the scholar ought to be bound.

82Ibid., 115-116.
In the main, other voices raised on the question of academic responsibility advanced variants of the same theme Chittenden had pursued. A notably different emphasis was provided by a professor of education at Southwest Texas State Teachers College who pointed out the role of social mores in shaping the educator's task. In addition to the discovery of truth and the transmission of knowledge, ideas, and points of view, he wrote, the teacher's work involves the function of selection. There is strenuous competition for survival among various fields of knowledge and among theories of more or less far-reaching consequences. There arises then the problem of what is to be favored for survival in the transmission of human culture. To this dilemma there are two conflicting answers: one demands that the professor be guaranteed absolute freedom to advocate any point of view, in the conviction that students will do the evaluating and selecting for themselves. The other answer acknowledges the effectiveness of mores in all matters involving the exercise of judgment in selecting for survival and transmission any knowledge or belief. As the writer explained it, the degree of academic freedom that society is willing to support or grant in this respect depends on two factors. The first of these is the educator's capacity for sensing, and his will to sense, the social acceptability of that which the teacher judges to be fit for survival or emphasis. Or, secondly, it will depend upon the individual's capacity

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for real leadership in that he is successful in blazing a new path along which society is willing and able to follow. The exercise of selective judgment on the part of the educator is inevitably bound up with the system of prevailing mores. This is not to affirm that this judgment must cater to popular favor, caprices and ignorance. Rather, the professor must be sensitive to the unformed but real limits of tolerance which society can sustain. This second answer seemed more characteristic of the troubled years of the Depression. Reflecting the temperament of caution and discretion, the author of the above analysis concluded:

"Academic freedom, then, is not a mysterious garb underneath which the educator may advocate his favorite ideas, theories or points of view irrespective of their worthiness from the standpoint of the prevailing mores, but it is rather a trust committed to the profession, not to be abused by the educator, but to be accepted by him with a sense of moral obligation."

Looking back at the decade of the 1930's, it seemed an open question of how liberal the prevailing mores might be in setting the bounds of permissible freedom in the colleges and universities. In a statement vividly prophetic of the coming international situation, Robert Hutchins had said that the crucial question before the world was whether people could and would tolerate the search for truth. "If they will," he

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84 Ibid., 634.
affirmed, "the universities will endure and give light. . .If they will
not, then. . .we can blow out the light and fight it out in the dark;
for when the voice of reason is silenced, the rattle of machine guns be-
gins." If the cause of maximum academic freedom had had a chequered
career in the Thirties, there were indications that it would fare no
better in the difficult years to come.

As war clouds gathered, thoughtful educators grew apprehensive
lest the pressures of a wartime emergency create suppression of aca-
demic freedoms. Writing in October of 1940, President Henry M.
Wriston voiced his fears thusly:

We have drawn scholars from different parts of
the world and some of them speak with a decided
accent. If, as now seems tragically likely, the United
States goes to war, we shall be faced with public
suspicion of men who have given up their native land
for liberty. . .and I shall be hard put to it to defend
their academic freedom. It may be that in the public
excitement the reputation of the institution will suffer.
It may be that, as prejudices grow more intense, con-
tributions will be curtailed and the university will
suffer financially, but integrity is more significant
than public acclaim or growth in financial resources. 86

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85 Hutchins, 713-714. See Harold C. Hand, in the California
Journal of Secondary Education (Fall, 1936), 105; quoted in Johnsen,
pp. 166-167.

86 "President Wriston's Views on Academic Freedom and Demo-
cracy," School and Society, 52 (October 26, 1940), 390. See Lucille B.
Milner, and Groff Conklin, "Teachers in Wartime," American Mercury,
50 (June, 1940), 162-167.
Reminiscent of certain events during the First World War, colleges and universities hastened to proclaim their nationalist loyalty and their willingness to gird their loins for the struggle which lay ahead. For example, Butler pledged the entire resources of his university to federal leaders for the defense of the nation. Certain stirrings in Washington presaged ominous events to come. And when war did arrive, few

87 "President Butler Inquiries Into Academic Freedom," 328. In contrast, consider this statement by Wriston: "War lays upon the university no obligation to surrender its essential functions of truth in teaching and the enlargement of the borders of truth. Only as those who feel confident that they can express the truth as their minds see it, can either the perpetuation or the expansion of knowledge really be effective."

88 There were many who fervently believed the explanation given by the Washington columnist, Otis T. Wingo, of why Roosevelt "had suddenly reversed his previous stand and become urgently insistent on the passage of a conscription bill. Wingo alleged that the motivating factor in this reversal was Archbishop Schrembs of Cleveland who convinced the President that an investigation made by the former had revealed the schools to be centers for the teaching of "un-American and communistic philosophy." He quoted Roosevelt as having vowed to a group of congressmen, "Gentlemen, I am going to choke Americanism down the throats of American youngsters whether they like it or not!" Hence, he said, the draft bill suddenly received strong administration support. See "Why Did Mr. Roosevelt Demand Conscription?" Christian Century, 57 (September 25, 1940), 1165.
voices were raised on behalf of academic freedoms; the exigencies of the national emergency commanded preeminent attention.

The Bertrand Russell Case

On the eve of the Second World War, a series of incidents took place which created a notorious cause célèbre in the literature on academic freedom. This was the Bertrand Russell affair, a case which attracted as much public attention and editorial clamor as the Bemis, Ross, Cattell, or Nearing episodes had done years before. The case is significant, not only because of the philosophical and literary eminence of the chief protagonist, but because it raised a number of fundamental issues pertaining to the nature of academic freedom.

In 1940, Russell was unanimously voted by the Board of Higher Education of New York City to the faculty of the College of the City of New York as Professor of Philosophy. Prior to this appointment, he had

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served briefly at the University of Chicago, the University of California at Los Angeles, and at Harvard. The opposition began with the *New York Sun*, which attacked Russell as a pacifist, noted that he had been jailed as such in his native England, and questioned whether a man with such opinions should be given a post in an American tax-supported institution. Bishop William T. Manning of the Protestant Episcopal Church immediately shifted the battle to stronger ground by denouncing Russell as "a recognized propagandist against both religion and morality, and who specifically defends adultery." Manning's protest was taken up by other clergymen of the major religious bodies and by a number of organizations, including the New York City Council, the Knights of Columbus, the Holy Name Society, the Ancient Order of Hibernians, the Catholic Daughters of America, the National Catholic Alumni Federation, the Guild of Catholic Lawyers, the Newman Clubs and the Sons of Xavier. Archbishop Spellman joined the Hearst press and certain Lutheran and Baptist organizations in demanding the cancellation of the appointment.

There were other clergymen who wholeheartedly rejected Bishop Manning's position, notably Guy Emery Shipler, editor of *The Churchman*, who denounced the former's point of view as "stemming from the Dark Ages." Other groups arrayed on Russell's behalf came to include the American Civil Liberties Union, the American Committee for Democracy and Intellectual Freedom, and the New York Teachers Union, besides the
Parents' Association of City College, the Women's City Club of New York, the New York chapter of the Lawyers Guild of America, and a long list of professional educators' organizations.

Despite severe pressures to rescind the decision, Dr. Ordway Tead, chairman of the Board of Higher Education, reaffirmed the decision to appoint. Then Mrs. Jean Kay, a taxpayer, brought suit before the New York Supreme Court demanding that the appointment be revoked on the grounds that Russell was an advocate of sexual immorality and that he was an alien. The American Committee for Democracy and Intellectual Freedom devoted an issue of its News Service to the case, presenting the pros and cons and ended with a ringing resolution in Russell's favor. "The opposition," it declared, "has not attacked his competence as a teacher but his religious and social views. The electing board has indicated that Mr. Russell was invited to teach mathematics and logic. His religious and social views are clearly irrelevant to the teaching of these subjects." The article invoked the constitutional guarantees of religious liberty and added, "We are alarmed by the note of a religious test for appointment which has crept into the public debate over the case of Mr. Russell."

91Quoted in "The Test of a Teacher," Christian Century, 57 (April 10, 1940), 471.
Thus, the bulletin of the American Committee boiled the whole issue down to this question: Shall a man's right to teach in an institution of higher learning, and particularly in a public institution, be determined solely by his competence, as established by the faculty and administration of the institution involved, or shall there be a further requirement of conformity with the religious and social views of a majority of the community? The presumption behind the statement phrased this way was that Russell's opposition was out on a heresy hunt. There was considerable justification for this view, particularly since the indictments made included charges that Russell was "atheistic" and "anti-religious." In response, the executive board of the American Committee summarized its stand in three principles:

1. The irrelevance of a man's religious and social views in determining his right to teach at an institution of higher learning;
2. The obligation of colleges and universities to present conflicting points of view;
3. The right and obligation of public institutions of higher learning to maintain the same standards of freedom of teaching and discussion as private institutions.

The editorial writers of the Christian Century questioned the stand taken by the American Committee, noting that while it was needful to affirm the value of teaching and discussion, it backed away from the only question involved that was seriously important. That question, it was held, is this: Can the "competence" of a teacher in a
college be completely disassociated from the teacher's opinions about society and his conduct in society? 92

Summarized briefly, the *Christian Century* 's argument granted that the demand for "conformity with the religious and social views of a majority of the community" would lead to a system of blatant endoctrination and true education would become a thing of the past. But, it was noted, it is something quite different to ask whether a college teacher's fitness to teach is to be judged solely by his competence in the subject he is to teach. The American Committee would have answered this question in the affirmative; since Russell was hired to teach mathematics and logic, nothing else should have mattered. But the *Christian Century* argued that no such separation is possible between technical competence and the qualities of personality and character essential to a teacher; it is possible to demand these latter qualities without being committed to an odious and self-defeating policy of enforced conformity with the religious and social views of the majority.

"Would any protagonist of academic freedom," the editorial asked rhetorically, "care to go on record as saying that the college authorities and the community should be indifferent if an instructor becomes scandalously involved in 'woman trouble,' or is frequently found drunk and

92 Ibid., 472.
disorderly, or is publicly and flagrantly obscene in speech outside of
the classroom, or is notoriously dishonest in money matters? Instructors
of no great eminence have fallen by the wayside for all these reasons,
and no champions have arisen to declare that these immoralities should
not be held against them so long as their campus appointments are
regularly kept and their teaching of physics or French or mathematics
is above criticism."93

Finally, it was held that each case must be decided on its
merits; because behavior and opinions, ideas and characters are inex-
tricably interwoven in human personality, teaching is an enterprise that
cannot be departmentalized to an extent that makes irrelevant everything
about a teacher except his ability to teach his subject. Lofty gener-
alities about academic freedom are not sufficient--intelligent decisions
require consideration of particulars and personalities.

If this route blocked out by the Christian Century has been
followed as a matter of policy, the consequences would be (and have
been) disastrous for the cause of academic freedoms. In the first place,
the argument posited a distinction without a difference--"qualities of
character and personality which are essential in a teacher" and "con-
formity with the religious and social views of the majority." Character

93 Ibid., 472.
is evaluated by, and in the light of, prevailing social mores, customs, traditions and beliefs; if a judgment as to the worthiness or unworthiness of a personality trait or quality of character is not dependent upon these, then from where does the judgment originate? Secondly, in each of the examples cited, one notes that, for better or worse, there are laws and an apparatus for enforcing them. It is an entirely different question whether a man has broken a legal law and whether he is competent to teach; the problem of distinguishing between these is straightforward, explicit and clear-cut. It may be the case that obedience to law is and should be a prerequisite for holding a teaching position. But there is a negotiable difference between an opinion and an overt act. With one or two significant exceptions, recognized jurisprudence always takes account of this difference. Thus, the real question is whether advocacy of a position at variance with accepted views and customs should be imposed as a test for the holding of a professorship. Reminiscent of the debates on extramural utterances of the teens and twenties, this venerable argument was resurrected once again. The implication, whether intended or not, was that such advocacy could and should be determinative of a man's right to teach in an institution of higher learning.
Finally, the argument promulgated could be easily employed by any embarrassed and harried executive to professionally decapitate an errant professor on the basis of his personal social or religious convictions. No matter whether he was guilty of having broken the law (as, for the record, Russell was not) he could be dismissed solely for his unpopular, controversial opinions. The whole intent and purpose of the AAUP and other professional bodies had been to elevate issues of academic freedom above questions of individual personalities, to demarcate a line between personal views and professional competence, with incompetence to be the sole criterion in deciding a man's fitness to hold a professorship. To define competence in terms of anything but ability in a given field or fields of knowledge would be to impose further social and moral tests which the editorial writers in the *Christian Century* ostensibly deplored.

Another significant but inadequately discussed aspect of the American Committee's report concerns their contention that universities have an obligation to present conflicting points of view. In its setting and in the light of the stimulus which evoked this resolution, it was somewhat inapposite, since it was not to be expected that a teacher of logic and mathematics would provide much in the way of controversy—conflicting views—on matters outside these domains. Supposing though that Lord Russell had been appointed to a post in sociology or political
science, the unanswered and even undefined question remained: in what sense should institutions of higher learning present conflicting points of view? One can interpret this contention in either of two ways. First, it could mean that all views can and should be represented dispassionately, with scholarly objectivity and academic disinterest. Or, secondly, it might mean that colleges and universities should be untrammeled arenas of free, uninhibited controversy, with partisans freely taking sides. It would seem, in the case of the American Committee's statement, that the latter connotation was intended. This was the question which never achieved a "consensus of resolution" in the decade or so when discussion on the topic ranged most freely. The issue, it should be noted, can scarcely be disinvolved from the problem of defining scholarly competence. The ability to mount a podium and prosleytize for a cause hardly constitutes professorial competency. Yet, there is a tacit concession that the advancement of differing points of view can best be facilitated by gathering men with differing commitments. After all, in the Russell case, it was the fact that he did believe and champion unpopular causes that was the root source of all the controversy. In their defense of Russell (or perhaps more accurately upon the occasion of his defense) the American Committee's resolution on the point under discussion seemed to provide an alternative to the view that scholars should be unbiased and non-partisan. As has been
seen, this discussion was but one of many that taken together provided a thematic continuity in the debates and exchanges on academic freedom throughout the previous decade. In retrospect, it seems that the relationships between providing for a range of diverse views and affording a theory to protect advocates of these views was never adequately delineated.

When Russell's case was heard before the court, the presiding judge, John E. McGeehan decided against the legality of the appointment. He decreed that the Board had no right to appoint an alien or for that matter anyone whose competence had not been tested by competitive examination. The decree was rather obviously a subterfuge to bar the defendant since it was contrary to universal usage in all institutions of higher learning. McGeehan furthermore declared that Russell's books preached "immoral and salacious doctrines," and that the Board's action in appointing him to a "chair of indecency" was illegal because it sponsored and encouraged violations of the penal law governing sex relationships. (This latter contention the judge later retracted.)

This decision highlighted a most significant issue: the right of a law court to void an appointment in a college or university because of its objection to the opinions of the appointee. 94 It was clear that this

94 The following exposition follows Maclver's interpretations, pp. 155-157.
was the basis for McGeehan's decision in overriding the faculty that had recommended Russell's appointment and the constituted educational authority that approved it. It has been pointed out frequently that this kind of gross judicial intervention subverts all civil liberties, but nowhere more eloquently than in Thomas Jefferson's Resolution of the Bill of Rights of Virginia.

To suffer the civil magistrate to intrude his power in the field of opinion, or to restrain the profession or propagation of principles on the supposition of their ill tendency, is a dangerous fallacy, which at once destroys all liberty, because he, being of course the judge of that tendency, will make opinions the rule of judgment, and approve or condemn the sentiments of others only as they square with or differ from his own.

The judge's edict, in effect, represented a brand of thinking found frequently which grants that there shall be no official establishment of religion but that there ought to be an establishment of morality, with specific ideas proscribed by law and others enjoined by the same force. McGeehan had not only failed to permit Russell to be heard in his own defense, he attacked his position with bitter and lurid invectives. He concluded, in essence, that a man holding different doctrines from his own was unqualified to be a professor of philosophy; his decision was tantamount to establishing an official morality against which others were to be judged. Moreover, he utilized his
position to confer the force of law upon his own particularized version of morality. 95

Bertrand Russell did have an opportunity, of sorts, to reply finally to his critics. For this reason, it is instructive to have delved into some of the particulars of this case for the incident produced an eloquent and well-reasoned document on free intellectual inquiry, an analysis which constituted a significant contribution to the literature on academic freedom. As one commentator put it,

Mr. Russell is first of all a great man. Everything he says and does, whether right or wrong, bears the authentic stamp of a deep humanity. And the touchstone of this quality is his respect for the human dignity of even the pettiest and most abusive of his opponents. His clerical critics have descended to the most obscene attacks on Mr. Russell, and to the most ignorantly bigoted attacks on our higher education. Yet Mr. Russell's only answer has been an objective and dispassionate analysis of the fundamental issues of liberty in intellectual pursuits. Thus he literally elevates these little people into participants in a historic discussion—an honor they ill deserve. For the Mannings of this world defend what they call morality with the methods of intellectual gangsterism. 96

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95 In defense of Judge McGeehan's decision, and typical of this sentiment is the following opinion: "If Lord Russell is really a learned man, he should be able to distinguish between academic license and pandemic licentiousness. It shows once more that the most stupid faker often parades under a cap and gown. . . . In America, it is still the moral and legal right of any American mother to protect her daughter against the vicious mouthings of sex mongers, even if they are disguised in academic robes," Andrew P. Keefe, "Bertrand Russell's Defense of Freedom," American Mercury, 50 (June, 1940), 250.

Russell put the question of academic freedom plainly. Controversy on such questions, he asserted, derives from the fundamental difference between the liberal and the illiberal outlook. The former regards all questions as open to discussion and all opinions as open to a greater or less measure of doubt, while the latter holds in advance that certain opinions are absolutely unquestionable, and that no argument against them must be permitted a hearing. "What is curious about this position," Russell wrote, "is the belief that if impartial investigation were permitted it would lead men to the wrong conclusion, and that ignorance is, therefore, the only safeguard against error." The essence of academic freedom is that teachers should be chosen for their expertness in the subject they are to teach, and that the judges of this expertness should be other experts. Once certified as qualified, he ought to be permitted to teach without hinderance. The opponents of academic freedom, on the other hand, hold that other conditions besides a man's skill in his own department should be taken into consideration.


98 As Ogden Mills put it, "I would have little faith in my own beliefs and principles if I felt that they needed the shelter of authority and could not withstand the searching analysis of those who honestly hold otherwise. And I assume, of course, that in any well-conducted institution both sides of controverted questions will be adequately presented. Doesn't it all come down to picking a group of clear-thinking scholars, who are primarily scholars, balancing the inevitable tendencies to right and left, and then letting discussion rage?" Quoted in Keppel, 664.
He should, they think, never express opinions which controvert those who hold and wield power.

Of course there was nothing particularly novel or new in Russell's remarks on this distinction between those who favor and those who oppose the utmost intellectual freedom possible. However, he took this distinction and related it to two views as to the proper functioning of democracy.

According to one view, the opinions of the majority should prevail absolutely in all fields. According to the other view, wherever a common decision is not necessary, different opinions should be represented as nearly as possible, in proportion to their numerical frequency. The results of these two views in practice are very different. According to the former view, when the majority has decided in favor of some opinion, no other must be allowed to be expressed, or if expressed at all must be confined to obscure and uninfluential channels. According to the other view, minority opinions should be given the same opportunities for expression as are given to majority opinions, but only in a lesser degree.99

Now the analysis opened up in a significant direction. The teacher, Russell asserted, should not be required to express majority opinions, though naturally a majority of teachers will do so. But absolute uniformity of opinion should be avoided, since diversity among preceptors is essential to a sound education. In a free society, it is

99Russell, 27.
essential that minds be trained to weigh competing arguments and to accept the side which appears the more reasonable. Bigotry and fanaticism, breeders of strife and rank intolerance, thrive on intellectual repression and closed minds. Education worthy of an open society has another function to perform, namely, the strengthening of intellect to withstand the democratic abuses of power. Here Russell reiterated De Tocqueville's misgivings about American democracy and its alleged propensity to further the diminution in stature of the individual over and against the huge Leviathan. Moreover, democracy is prone to producing irrational eruptions of collective sentiment. Sometimes it is hate, stimulated by mob hysteria; sometimes, more innocuously, it is a fashion in thinking. Against these well-nigh uncontrollable and poorly understood forces, the effort of rational deliberation is called for with special urgency. Serious intellectual progress depends, Russell argued, "upon a certain kind of independence of outside opinion, which cannot exist where the will of the majority is treated with that kind of religious respect which the orthodox give to the will of God. A respect for the will of the majority is more harmful than respect for the will of God, because the will of the majority can be ascertained." 100

100 Russell relates that at the turn of the century in the town of Durban, a member of the Flat Earth Society challenged the world to a public debate. This challenge was accepted by a certain sea captain whose only argument in favor of the world's being round was that he had traveled around it. This argument, of course, was easily disposed of, and the Flat-Earth propagandist obtained a two-thirds majority. On one naive theory of democracy, one would have to conclude that in
Collective wisdom is almost never an adequate substitute for the intelligence of individuals.

Thus, academic freedom must protect the dissident minority view and create a protective climate for the free-wheeling expression of all opinions, however unpopular they might be. Only in such a climate can professors sustain an education sufficient to prepare the individual to preserve his intellectual, moral and spiritual autonomy in the face of the tyranny of the Majority. In connection with this point, in a statement grimly prophetic of an era to come, Russell observed:

The man who has the art of arousing the witch-hunting instincts of the mob has a quite peculiar power for evil in a democracy where the habit of the exercise of power by the majority has produced that intoxication and impulse to tyranny which the exercise of authority almost invariably produces sooner or later. 101

Russell’s whole argument was important because it tied somewhat random observations on the importance of academic freedom to a theory of the function of education, and this to a theory of relationships within Durban the earth is flat. Russell went on to comment, "I hope that from that time onward, no one was allowed to teach in the public schools of Durban (there is, I believe, no university there) unless he subscribed to the declaration that the roundness of the earth is an infidel dogma designed to lead to communism and the destruction of the family. As to this, however, information is deficient." Ibid., 32.

101 Ibid., 29.
a democracy. It did not found academic freedom on a particular form of
government, but it did exhibit a relation between affording teachers
freedom to teach and a function of democratic government, i.e., the de-
liberate nurture of minority views and the rights of a minority to present
its case before the community. The analysis was noteworthy also be-
cause it provided a clear rejoinder to Russell's critics who argued that
society is under an obligation to see that students are not compelled to
listen to and to absorb unsound doctrine. Leaving aside the fact that
Russell would have been teaching logic and mathematics, his answer
was, what is unsound doctrine? What can afford greater protection
against it than free inquiry into many doctrines? This is the educational
and intellectual correlative of social democracy, rightly conceived,
that no one may presume to dictate authoritative and final answers on
any question and that intellectual progress proceeds only through never-
ending debate and inquiry. The alternative is social and intellectual
ossification.102

102 The famous words of Chief Justice Holmes often appealed to
by defenders of liberty of speech, make much the same point. The
Naturalization Act of 1906 required applicants for United States citizen-
ship to swear to support and defend the Constitution and the laws against
all enemies. Mrs. Rosika Schwimmer, a pacifist, offered to swear
allegiance to the United States but would not promise to take up arms
if called upon to do so. Her case went to the Supreme Court, where a
majority of the judges held that objectors to military force were as
detrimental to the safety of the republic as those who merely refused to
bear arms. Justices Brandeis and Holmes dissented. In the minority
opinion (279 U. S. 653) Holmes wrote: "...

,. if there is any principle
In sum, Russell's statement was yet another testimony to the ancient and everlasting difficulty of how to combine liberty with order. To employ an apt but hackneyed metaphor once again, between Scylla and Charybdis, the protagonists arrayed on the various sides of issues touching academic freedom have had to steer a precarious course between two positions. The one, seeing the evils of liberty, makes a

of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought—not free though for those who agree with us but freedom for the thought that we hate." Reprinted in Howard Mumford Jones (ed.), Primer of Intellectual Freedom (Cambridge: Harvard University Press, 1949), p. 35. Ickes utilized this principle as a justification of full and unimpaired academic freedom, quoting Holmes as follows:

"When men have realized that time upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out."

Ickes' defense for academic freedom rested on discernably different grounds than John Stuart Mill's defense of liberty of thought, but it did follow, as did Holmes' view, the affirmation of Mill to the effect that if all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind. See Ickes, "Academic Freedom," School and Society, 41 (June 8, 1935), 757-758.
fetish of order; the other, stressing the horrors of unbridled authority, recognizes no restraints on liberty. The Russell case, occurring when it did, pointed dramatically to the phenomenon of a nation that had stressed order, orthodoxy and retrenchment at the expense of freedom. The refusal to appoint him to his post could have been an instructive symbol of an abuse of power to the detriment of freedom of inquiry. It was symptomatic of a fear of the radical in a society groping for secure anchor points. Economic calamity, totalitarian aggression abroad, suspected leftist subversion at home—all had helped to shape a climate of opinion inimical to heterodox doctrines. The onslaught of abuse, the diatribes against immorality, and the slander directed against Russell are more easily understood, in part as an unfortunate but enduring feature of American intellectual and social life, but also as the manifestations of frightened people beginning to be caught up in titanic struggles at home and abroad.

In a world distracted by war, tormented by persecution, and abounding in concentration camps, the issues of academic freedom raised in this period may not have seemed of themselves of the first magnitude. As Russell himself noted though, they were (and are) part and parcel of the same battle. What was at stake in the greatest issues as well as in those that seemed smaller, was the freedom of the individual human spirit to freely express its hopes and beliefs, whether
they be shared by many or by few or by none. "New hopes, new be-
liefs, and new thoughts are at all times necessary to mankind, and it is
not out of a dead uniformity that they can be expected to arise."103 In
the period of adjustment following the war, it remained to be seen
whether the nation's social life would tolerate academic liberties as a
sign of confidence in free intellectual endeavor. Already there were
growing signs that it would not.

Summary
The period of the New Deal inaugurated a time of felt crisis in
the American experience. To the threat of totalitarianisms abroad was
added the fear of economic collapse at home. An exaggerated sense
of nationalism grew up, in part a defensive reaction to inner fears that
the political and economic system which had hitherto served so well
would prove itself inadequate in the difficult years ahead. A new wave
of witch-hunting, reminiscent of the hysteria of the early 1920's,
broke with full force in the 1930's. The colleges and universities of
the nation were caught up anew in the turmoil and confusion.

A literature grew up reflecting concern for the role of disinterested
institutions of higher learning and their place in a society seeking a new

103 Russell, 33.
equilibrium. First, the problem was to safeguard the universities from the fate that had befallen their European counterparts. This, in turn, led to searching analysis on how far such institutions ought to be dis-involved from any partisanship whatsoever. The most vocal segments of popular opinion evidenced an anti-intellecutalist bias against any such endeavor. Part of this hostility was reflected in animosity toward the professorial brain-trusters, part of it in the demand that colleges and universities become bastions of social, economic, political and religious orthodoxy.

Within educational institutions as well, it was noted, there were stubborn if subtle forces inimical to free thought, free teaching, and untrammeled learning. Within this situation, advocates of full academic freedom had to wrestle with the perennially perplexing problem of scholarly loyalties. Does, for example, intellectual responsibility devolve from a legal obligation shaped by the economic system which supports the university? Can an institution assume a posture of total and complete moral independence though sustained by the society it serves? A negative response to this question stressed the responsibility of the university and its faculty to endorse and defend capitalism as an economic system. An affirmative answer, on the other hand, produced a seeming paradox with respect to the relationship between a
free institution and the social forces impinging upon the discharge of its proper mission.

A correlative, almost parallel, concern was how the professor ought to behave in the classroom. Just as discussion a decade or so earlier had been concerned with professorial extramural utterances, now the emphasis tended to shift back to intramural deliverances. Questions involving criteria to distinguish the propagandist from the true teacher shaped debates on the limits of protection which academic freedom might afford. A different set of related questions asked for the sociological basis upon which academic freedom is founded. It was noted that social mores and the educator's sensitivity to the limits of tolerance of those mores pragmatically determine how much freedom a teacher shall enjoy as much as does any theoretical set of principles.

Although not so blatantly as in World War I, the forces of reaction and repression acted to curtail academic liberties during the Second World War as well. The climate of opinion of this period was symbolized fittingly in the opposition to the 1940 appointment of Bertrand Russell to a position at the City College of New York. Amid the controversy, many fundamental issues pertaining to the nature of academic freedom found expression. Chiefly, the discussion concerned the threat of judicial interference with a university, the threat to free thinking represented by those who would promote an "official" morality, and
the relationship between a social system and the protection of unpopular opinions. It was Russell himself who reiterated some of the essentials of a rationale for academic freedom.
CHAPTER V

OLD FEARS AND NEW ASPIRATIONS: 1949-1967

The Climate of Opinion

Two difficult problems arise when an attempt is made to characterize and describe something so elusive as a social and intellectual "climate of opinion." On the one hand, the account can be anecdotal, in which case the over-all pattern of thoughts and events may disappear. On the other, the account may be so general that the historical events are lost. Yet, despite these dangers, something must be said in the way of preliminaries about the American post-war period as it affected thinking on academic freedom. It was a time of fear, of intellectual vigilantism, of constrictive distrust. The decade from 1945 to 1955 repeated the pattern of heresy-hunts, loyalty oaths, and investigations for subversion that began in the early Twenties and reached near-hysterical heights in the 1930's. Americans again passed through a crisis of national confidence. It was to become a time of national testing, a crucible in which more debate about academic freedom was fired.
An enumeration of instances of restrictive practices and flagrant violations of academic freedom in this period makes for depressing reading.\(^1\) Harold Laski, reporting on a trip to the United States in 1949, noted disquieting symptoms of the furor to come.\(^2\) An academic career for a known Communist would be difficult, if not impossible. An teacher fundamentally critical of the American "way of life" would work under censorious watchfulness. It was unwise to write on issues about which there were deep divisions of opinion, unless the writer refused to commit


himself to a position. Academic espionage, followed by repression of those supposedly offensive to the academic authorities or the press, was common, especially in inverse proportion to teachers' status. The Congressional Committee on Un-American Activities and similar bodies acted, as Laski put it, as a "pre-natal" censor upon many teachers. Professors went through elaborate intellectual gymnastics to avoid the image of "trouble maker." Invasions of privacy by the more raucous weeklies and gossip mongers acted as deterrents to free utterance in a number of universities, in innumerable, subtle, and devious ways.

Two years later, the repressive climate and consequent intellectual timidity of professors was beginning to show up in college students. A 1951 survey of seventy-two major colleges disclosed a discernible trend toward caution and self-censorship.\(^3\) This took the forms of a reluctance to speak out on controversial issues in and out of class, a reluctance to handle currently unpopular concepts even in classroom work, an unwillingness to join student political clubs or humanitarian causes because suspect as subversive fronts, and a self-serving concentration on "academic" problems to the exclusion of broader social concerns. Buttressing these generalizations was a Purdue Opinion Panel Poll of

3,000 students from 15,000 high schools across the country, a fair sample of the spectrum of college and adult political opinion. Here, student apathy toward political action and a fear to become embroiled in controversy was, if anything, even more pronounced. The development of strongly anti-democratic attitudes was as evident as it was alarming. The tendency of teachers at all levels to "play it safe" was not without its special dangers. H. H. Wilson, a professor of politics at Princeton, offered this explanation:

Our whole educational system is only secondarily an institution for encouraging independent thought and

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5"The poll showed that 49 per cent believe that large masses of the people are incapable of determining what is and what is not good for them—a massive rejection of the theory of democratic government; 75 per cent state that obedience and respect for authority are the most important virtues that children should learn; 42 per cent believe that we should firmly resist any attempts to change the American way of life; and 58 per cent agree that police may be justified in giving a man the "third degree" to make him talk." Ibid., 661.

6As Judge Learned Hand warned: "Our dangers, as it seems to me, are not from the outrageous but from the conforming; not from those who rarely and under the lurid glare of obloquy upset our moral complaisance or shock us with their unaccustomed conduct, but from those, the mass of us, who take their virtues and their tastes, like their shirts and their furniture, from the limited patterns which the market offers." Quoted in Seigel, 664.
for helping students learn to think. Partly because it has been regarded as "America's magic" and open to all, American education has been primarily a social device, a way of stamping "Made in America" on a diverse people, and a means for housebreaking the young. Consequently, it is extremely vulnerable to pressure from those who believe in indoctrination.\(^7\)

In September of 1952, the state of Wisconsin returned Senator Joseph McCarthy to the Senate. This action had powerful repercussions in American social, intellectual, and political life. For by so doing, the electorate seemed to endorse the witch-hunting tactics of the Senator.\(^8\) When he and his supporters turned upon the colleges and universities, it was inevitable that renewed vigor would be called for if the prerogatives of academic freedom were to be preserved. For McCarthyism as a movement lent unqualified support to those who would have re-made educational institutions into instruments for indoctrination.\(^9\)

\(^7\)Wilson, 660.

\(^8\)McCarthy first achieved national prominence when he charged in a speech at Wheeling, West Virginia (February 9, 1950), that he had a list of "card-carrying Communists" in the State Department. While in the Senate, McCarthy launched 157 inquiries, all the while dismissing those who criticized his methods as disloyal or stupid. Those charged with Communist sympathies or subversion came to include Secretary of State Dean Acheson, General of the Army George C. Marshall, Franklin D. Roosevelt, Truman, and Eisenhower. His search failed to unearth any cases of provable disloyalty or subversive activity. See William G. Rice, "The Meaning of McCarthyism," Nation, 175 (August 30, 1952), 164-166; "Why McCarthy Should Be Repudiated," Nation, 175 (August 30, 1952), 166-168; H. H. Wilson, "Why They Voted for McCarthy," Nation, 175 (September 20, 1952), 225-227.

\(^9\)In a 1952 interview, McCarthy reportedly declared that his Senate Committee on Government Operations would launch an investigation
Supporting McCarthy were Martin Dies, former chairman of the House Un-American Activities Committee and Representative Velde, the new chairman.¹⁰ The latter announced that the investigation of subversive influences in colleges and universities would be his chief line of inquiry because this "very fertile field" of education had been "largely left untouched till now."¹¹

The Association of American Colleges (representing college and university presidents) adopted a resolution declaring that "the colleges should welcome any free and impartial inquiry" as a means of promoting popular understanding of the accomplishments of higher education.¹²

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¹⁰For an illuminating report on the earlier activities of this Committee, see A. R. Ogden, *The Dies Committee* (Washington, D. C.: Catholic University of America Press, 1945).

¹¹Reported in Horn, 152.

¹²Ibid., 153.
But as an editorial entitled "Spider Web," in the January 13, 1953 issue of the Washington Post, pointed out, "only the most absentminded of college professors could 'welcome' an inquiry by the HUAC...or suppose that in any serious sense it would prove to be 'fair and impartial.'"

For 15 years this committee has allowed itself to serve as a springboard for headline hunters and as a sounding board for sensational and unsupported allegation...Quite apart from the competence of the committee to appraise American scholarship...it ought not to attempt any inquiry into the belief of individuals...It is the responsibility of educators as the special trustees of intellectual freedom to resist any encroachment on their independence with all the vigor at their command.13

But voices such as the Washington Post went largely unheeded.14

"The voice of the demagogue is loud in the land," lamented one critic,

13In Ibid., 153. Dr. Conant, in his final report as president of Harvard, also pointed out the danger to higher education in these Congressional investigations. "The independence of each college and university," he wrote, "would be threatened if governmental agencies of any sort started inquiries into the nature of the instruction that was given." Quoted in Ibid., 153. In stark contrast is the compliant posture of President Lewis W. Jones of Rutgers who declared that "Public investigation of the universities is legitimate and should be frankly met. It implies no invasion of academic independence." Quoted in Alan Barth, "Congress on the Campus, A Warning to Universities," Nation, 176 (April 18, 1953), 322.

14"A College which 'welcomes' these investigations is mistaken, in terms of principle as well as in terms of expediency. Its attitude violates the essential principle that institutions of higher learning ought to be independent of the government in the same way and for much the same reasons that the church and the press are independent of the government. They cannot make their vital contribution to a free
"woe to him who would oppose it!" More typical—or at least more influential—was the vitriolic disparagement of critics who opposed witch-hunts. Inquisitors threatened that if colleges were unwilling to clean their houses of communists and radical sympathizers, the country would do it for them.

Along with the vast majority of the rest of the nation we are getting pretty sick of the cries of "Wolf" we hear from too many leading educators, alleged representatives of education, and the highly articulate society if they are subject to political control. I am not questioning the legal authority of Congress to investigate institutions of higher learning—or the church or the press, despite the constitutional limitations of legislation in these spheres. But to say that Congress has power to investigate is not necessarily to say that this power ought to be exercised. In my view, it ought resolutely to be eschewed in regard to universities, at least when the aim and tendency of the investigation is coercive. . . If universities 'welcome' Congressional investigation today, they will be embracing Congressional control tomorrow. If they let a Congressional committee purge professors now, they will eventually let it control the curriculum. The seeds of ultimate surrender are sown in seemingly trivial and innocent concessions." Ibid., 323-324. See Elmer Davis, "Giving Wolves an Appetite," Nation, 176 (January 24, 1953), 78; Scott Buchanan, "Republic of Learning," Nation, 176 (May 23, 1953), 433-435.

and self-styled "liberals"...

Why do the vast majority of good American educators in this country permit themselves to be made suckers by a few bird-brains who scream "academic freedom" and "constitutional rights?"

...For the past twenty years we have been hip-deep in professors of every conceivable type, and they've nearly ruined the country. Between Roosevelt and Truman, these birds, from fuzzy-cheeked youngster to goateed oldster, have fooled around with the workings of this nation to the point where it is all out of whack. Some of them are still at it.

As the HUAC hastened to rectify this supposed calamity, the Senate's Fact-Finding Committee on Un-American Activities joined in with book bans in its Fourth Report. A business editorial of the day held that if universities required financial help, they should first purge the faculty of critics of capitalism who had, it was alleged, foisted high taxes and full employment policies on the American free enterprise

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17 Among the authors held up for censure were Charles Beard, Robert and Helen Lynd, Lewis Mumford, Harry Overstreet, Morris Ernst, Pearl Buck, Edward Corsi, Sherwood Anderson, Frank Lloyd Wright, and Frank Graham. See "The Goose Step, 1953," *New Republic*, 128 (January 19, 1953), 9-10. The Librarian of Congress, while warning against efforts to force books out of libraries, surrendered his case by conceding in regard to the author of a specific book that "if he were preaching communism, it would be O.K. to remove the book." Cited in Wilson "Why They Voted for McCarthy," 225.
Thus, hysteria about supposed Communists in the schools wedded to anti-intellectualism and a "he who pays the piper should call the tune" theory paved the way for inroads into the autonomy of the nation's institutions of higher learning. Undoubtedly, the publication of William Buckley's *God and Man at Yale* in 1951 helped smooth the way; the book enjoyed a hearing out of all proportion to the cogency of its derogation of academic freedom as a professorial superstition.

The two main tools used to uncover subversion were loyalty oaths and Congressional investigations. In the hands of those skilled


in using the democratic rhetoric to their own ends, oaths often became devices whereby loyalty was tested in terms of a person's adherence to the social status quo.\footnote{John Brubacher cited some of the more absurd lengths to which this testing could be taken. In some loyalty inquiries, questions such as the following were asked: "What do you think of the third party formed by Henry Wallace? Is your wife a church-goer? Do you read a good many books? How do you explain the fact that you have an album of Paul Robeson records in your home? Do you believe that Negro blood should be segregated in the Red Cross blood bank?" Cited in John S. Brubacher, "Loyalty to Freedom," \textit{School and Society}, 70 (December 10, 1949), 371.} Investigations raised different problems. In effect, when a Congressional committee hailed a man before it and asked him if he had ever been a Communist, it impaled him on one or another of the prongs of a trident. If the witness answered yes, the committee was all too likely to insist that he identify individuals who were in the party with him—a kind of degradation which any sensitive man might want to avoid. If he answered no, then the committee might hold over his head the threat of a prosecution for perjury based upon testimony that he was a former Communist by one or another of the committee's former, and professedly reformed, Communists. If he refused to answer at all, pleading the constitutional privilege against self-incrimination, the committee might urge that the witness be disciplined by dismissal.
The various investigating bodies made themselves objectionable on several other counts as well. The Senate Internal Security Subcommittee (the Jenner Committee), though nominally legislative, boasted that it was acting as a quasi-judicial body; it violated the doctrine of separation of powers, it encouraged *ex post facto* legislation, and it nullified the right to refuse to testify on points that might prove harmful to the witness.\(^{22}\) With these charges in mind, many a professor invoked the First Amendment's protection, from the most exalted of motives, but refusal to testify frequently became an excuse seized upon by intimidated college executives for summary dismissals.\(^{23}\) Moreover, there was


\(^{23}\)For example, Dr. Horace B. Davis was dismissed in 1953 from the University of Kansas for refusing to answer whether he was a Communist. President Earl J. McGrath defended his action as follows: "Those who at one moment claim the privilege of trading in the free market place of ideas may not, in the next, seek refuge in secrecy or a closed system of thought. In matters of basic social importance all members of an academic community must stand up and be counted." Earl J. McGrath, "Academic Freedom and Academic Responsibility," *School and Society*, 79 (March 6, 1954), 66. Davis' rejoinder appeared as "Reply to President McGrath," in *School and Society*, 79 (June 12, 1954), 188-189.
some truth to the liberal charge that these various committees were not merely anti-Communist; they were anti-intellectual.\textsuperscript{24}

Some commentators turned the argument of the new conservatism around. Let us grant, it was argued in effect, that the universities of the country are centers for dangerous radicalism. Let us suppose the charge is true that subversives lurk in the universities. Still, the dangers attendant upon rooting them out and stifling opinion may be even greater. As one put it:

Something may occur in our own minds which will make us no longer like the persons by whose efforts this Republic was founded and held together but rather like the representatives of that very power we are trying to combat; intolerant, secretive, suspicious, cruel and terrified of internal dissenion because we have lost our own belief in ourselves and in the power of our ideals.\textsuperscript{25}

Perhaps the very fact that colleges and universities are notorious is evidence that they are doing their job.

\textsuperscript{24}"They give a public forum to people like Miss Elizabeth Bentley, for example, who, in a recent meeting in Dallas, was asked, 'How are you going to detect a subversive?' She said that anybody with a Ph.D. was suspect." Horace B. Davis, "Reply to President McGrath," 188. A strong indictment of the investigations in this period is provided by Howard Mumford Jones, "How Much Academic Freedom?" \textit{Atlantic Monthly}, 191 (June, 1953), 36-40. Also, see McIver, pp. 45-53.

\textsuperscript{25}Robert Redfield, quoting George F. Kennan from "Where We Stand on Communism," \textit{New York Times} (May 27, 1951), in "The Dangerous Duty of the University," \textit{School and Society}, 74 (September 15, 1951), 165.
How was this remodeling so essential to the establishment of the garrison state, possible and why did it proceed at such a pace? Why should a people that prides itself on democracy and its love of liberty be so embroiled in problems where the freedom of learning and of teaching are concerned? McIver argued that the answer lay in the relation between two distinct phenomena: the unique form of academic government and the character of public opinion. Because of the multigroup character of American society the sense of common interest tends to be shallow. Democracy and freedom are interpreted in an individualistic, competitive way almost totally lacking in ethical or spiritual content. Neither the nature of the political process nor the more global imperatives of a democratic society have been adequately understood. It was the general indifference of a considerable percentage of the American people, McIver seemed to suggest, that gave especial significance to individual examples of violations of civil liberties.

Secondly, as noted previously, there is the American propensity to look upon education as essentially instrumental or functional. The school system easily becomes a device for indoctrination, a means for maintaining the status quo. When educational structures are incorporated into the productive apparatus of the culture, the diversity

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26 In his Academic Freedom In Our Time. See especially pp. 21-34, 67-120.
represented by protest is easily stifled. The pursuit of knowledge, the
communication of truth, the stimulation of analytical intelligence become
suspect. In the absence of well-established traditions subscribed to by
the population as a whole, demagogic appeals are more likely to be re-
ceived. The rationally calculated use of irrational methods of persuasion
and the consequent regimentation and manipulation thus made possible
expose a weakness in mass democracy. 27

The other factor responsible—the authority structure of educa-
tion—places the major responsibility for resisting encroachments on
the university's function on trustees and administrators. Those in
authority too often capitulate and have even aided and abetted the
attacks. McIver phrased it this way:

27 See Wilson's "Why They Voted for McCarthy," 225-226; and
his review of McIver's work in "Defining the True University," Nation,
181 (December 10, 1955), 513-514. "This has never been a 'liberal'
country in the nineteenth-century sense. The doctrines of John Stuart
Mill never pervaded American thinking. The resulting difference between
American and British practice was dramatically illustrated when at its
1952 annual convention the British Legion, counterpart of the American
Legion, rejected by a vote of 430 to 126 a resolution to bar Communists
from membership. In this country two streams of influence, two equally
American traditions, have always operated—one, narrow, bigoted,
chauvinist, and intolerant; the other idealistic; humane, democratic,
and progressive. Our history reveals frequent conflicts between these
two forces, and some of our proudest moments and noblest leaders are
associated with efforts to make the second predominant." "Why They
Voted for McCarthy," 225.
Our own study leads strongly to the conclusion that the difficulties that beset the maintenance of academic freedom in the United States depend very largely on the particular ways in which the manifestations of group opinion impinge on our distinctive form of academic government. . . The scheme of government . . . is specially exposed to the impact of interest groups. The composition of the governing boards, in many instances, is such as to render them less qualified to resist external pressures or even to understand the danger of these assaults on the integrity of education.  

On the other hand, it is also true that faculties have failed sometimes to rally to the defense of their beleagured colleagues.  

In any case, it is too simplistic a notion to suppose that the identities of the protagonists in academic freedom cases remain constant. Sometimes professors are the enemies of freedom in the institution and the administrative executives the defenders. While the contrary is more often true, any generalization to this effect cannot withstand careful scrutiny.

Shortly after the time that McIver's analysis was published, the worst of the crisis had passed. On December 2, 1954, the Senate had

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28 McIver, p. 70.

29 "The average professor will look on at an act of injustice done to a brother professor. . . with the same unconcern as the rabbit who is not attacked watches the ferret pursue his brother up and down through the warren to predestinate and horrible death." John Jay Chapman, quoted in Wilson, "Defining the True University," 514.
censured Senator McCarthy with an overwhelming vote of condemnation. Thereafter, he—the symbol of the witch-hunting era—declined in political influence and remained inactive until his death in 1957. By the following year, the acrimony of debate had subsided and inconclusive allegations of Communist infiltration at every turn became less frequent. The demise of the McCarthy era was an accomplished fact. Harold Taylor surveyed the wreckage left at institutions across the nation. While doubtless an exaggeration, there was an uncomfortable measure of truth in his comment regarding the pliability of many educators:

Senator McCarthy won an almost total victory by his subversive activities against the universities, since he succeeded in demonstrating to the world that the leaders of a democratic society had no principle except that of accommodation to deal with slander, gossip, lies and plain bullying. But, of course, there had been many distinguished exceptions, including Taylor himself. As the furor subsided, many looked back in retrospect, attempting to make sense of the events of the past decade.

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30 This point is defended in Dan Wakefield, "Case of the Out-Dated Victim," *Nation*, 186 (March 1, 1958), 184-186.


32 An early attempt to deal with the phenomenon of McCarthyism was made by R. C. Murphy, Jr., "McCarthyism, A Psychiatric Diagnosis," *Nation*, 178 (March 27, 1954), 258-260.
Yet again, the nation had undergone one of its perennial paroxysms of fear, distrust, and persecution. Commingling elements of political reaction, paranoid anti-intellectualism, social conformity, and the denigration of reasoned debate, this spasm of "know-nothingism" repeated the hysterical convulsions of earlier episodes in American social life. Just as the super-patriotism of the First World War, the search for subversives in the early 1920's, and the Red scares of the mid 1930's were injurious to civil and academic liberties, the effect of the McCarthy era had been the same. Now more quiescent, perhaps just below the threshold of national consciousness, those pressures had subsided. Thus, some could look to the future, perhaps with premature optimism, to forecast a brighter future for the maintenance and furtherance of civil liberties and academic freedoms.

The post-McCarthy era was not to be without its own issues and problems regarding academic freedom, however. The old pressures exerted by business interests were still prevalent in higher education. The structure of government in colleges and the consequent danger to

academic freedom had not changed. The weight of public authority pressed still upon the autonomy of thought and action at more than one institution. A relatively new force was the danger represented by massive government support and the financing of classified research projects. In the Sixties, attention was returned once again to the problem of academic freedom in the denominational institution. Still, the most dramatic and compelling issue arose as a result of student demands for greater liberty within the institutional machinery of the college and university.

The Advent of a Debate

"There is," Sidney Hook once wrote, "more sloppy rhetoric poured out per page about academic freedom both by those who believe they are supporting, and those intent on criticizing it, than on any other theme.


35 See Louis M. Hacker, "Free Minds and Open Universities," Nation, 186 (April 12, 1958), 309-312. Some felt that classified contract work fostered a climate of secrecy inimical to free speech within the university. There was, it was felt, a tendency to mount a general effort to safeguard everything against everything, instead of really protecting the sensitive work of researchers. As the distinguished Harvard physicist, J. H. VonVleck, put it, "The moment we start guarding our toothbrushes and our diamond rings with equal zeal, we usually lose fewer toothbrushes but more diamond rings." Quoted in McGeorge Bundy, "Harvard and Government Security Policy," School and Society, 82 (July 9, 1955), 5.
with the possible exception of democracy." The record of tenure cases at the University of Washington in Seattle (1947-1949) in commanding nationwide attention, provoked more polemical editorials, charges and counter-charges than hundreds of other cases involving academic freedom in the previous decade. But the incidents also inaugurated more balanced debate on a vital issue: the right of Communists to hold teaching positions. Perhaps more than any other question involving academic freedom, this provided strident controversy for better than a decade, and the issue is by no means dead yet. In large measure, it was the Washington case that provided the initial focus for this debate.37

In 1947, the Washington state legislature enacted a law that no salary should be paid to any state employee who is a member of an


37 The most extensive record of the events surrounding the controversy is to be found in Communism and Academic Freedom. The Record of the Tenure Cases at the University of Washington, including the Findings of the Committee on Tenure and Academic Freedom and the President's Recommendations (Seattle: The University of Washington Press, n.d.). Also, see Henry Steele Commager, "Red-Baiting in the Colleges," New Republic, 121 (July 25, 1949), 10-13; and Harry D. Gideonse, "Academic Freedom: A Decade of Challenge and Clarification," The Annals of the American Academy of Political and Social Science, 301 (September, 1955), 75-85. A good summary is presented in McIver, pp. 179-183. Also, see Gideonse, "Changing Issues in Academic Freedom in the United States Today," Proceedings of the American Philosophical Society, 94 (1950), 91-104.
organization that advocates the overthrow of the government of the United States by force or violence. The Communist Party was not specifically named in this act, nor was the party outlawed by state law. The same year, the legislature set up the Canwell Committee (Joint Legislative Fact-Finding Committee on Un-American Activities) and charged it to inquire into the subversive activities of individuals and organizations in the state. It was instructed to give special attention to Communist Party activities in educational institutions. Accordingly, the Committee held hearings on Communism in the state university. Following these hearings, complaints were filed against six members of the faculty. A faculty committee held its own hearings and advised against dismissal in five of the six cases. President Raymond B. Allen ignored the latter's recommendations and dismissed three of the faculty members while advising probation for the other three. A brief overview of the comments which resulted will set the stage for the longer debate that followed.

Defending his actions, President Allen argued that Communists cannot be permitted to hold university teaching positions. He recalled that Lenin had once said:

We say that our morality is entirely subordinate to the interests of the class struggle of the proletariat. Our morality is deduced from the class struggle of the proletariat. . . the class struggle is still proceeding
and our task is to subordinate everything to the interests of this struggle.  

Stalin, in an interview with H. G. Wells, Allen noted, gave concise formulation of the educational correlative to this: "Education is a weapon whose effect depends on who holds it in his hands and at whom it is aimed. . . ." Hence, no informed person should be innocent of the operational significance of membership in the Communist Party. "To pronounce a member of this party unfit to teach," Allen said, "is not to find him guilty by the principle of association. Membership. . . .is a definite act—an act that repudiates both the canons of scholarship, and the kind of conduct that is basic in the work of a teacher in a democracy." Moreover, the opportunity to teach is not an unqualified


39Quoted in Childs, 232. The Communist, the party's ideological journal, took this view and amplified it: "Communist teachers cannot afford to ignore the fact that they come in contact with the children of the masses, that they are responsible for training these children. . . .They must mobilize other teachers in this fight. They must take advantage of their position, without exposing themselves, to give their students to the best of their ability working-class education." Ibid., 232. It was the conspiratorial nature of this view that formed the base for Allen's claim that Communists are unfit to teach.

40Quoted in Ibid., 232-233. See "Statements by the President and the Dismissed Professors," American Scholar, 18 (Summer, 1949), 327.
right; it is a public function and responsibility. Only those who have a loyalty to the values of a free society qualify to teach. Those who select, appoint, and dismiss teachers are not employing arbitrary tests when they judge teachers by their scholarship, their regard for their pupils, and their devotion to the "fundamentals" of our democratic way of living. Lest he be misinterpreted, Allen was quick to qualify this:

"By the 'fundamentals' of our democracy is not meant this or that particular institutional form but the basic procedures by which a democratic society formulates and enacts its purposes." The essence of his position he summarized as follows:

Freedom is essential to sound education. That academic freedom must be maintained in any university worthy of the name is beyond question. But academic freedom consists of more than merely an absence of restraints placed upon the teacher by the institution that employs him. It demands as well an absence of restraints placed upon him by his political affiliations, by dogmas that may stand in the way of a free search for truth, or by rigid adherence to a "party line" that sacrifices . . . integrity to the accomplishment of political ends. . . Men must be free, of course, but they must also be free, and willing, to stand up and profess what they believe so that all may hear. 41

41Quoted in T. V. Smith, "Democratic Compromise and the Higher Learning at Seattle," School and Society, 69 (February 26, 1949), 140. Allen's view as to the covert intellectual subservience of a Communist to a "party line" was wryly described by another writer: "Within two weeks of their grinding up a batch of pepper in Moscow "the Communist" will be faithfully sneezing." Hugh Stevenson Tigner, "Academic Freedom and the Communist Teacher," Christian Century, 66 (September 28, 1949), 1136.
Naturally there were many who opposed President Allen's actions as well as his rationale for the dismissals. I. L. Kandel, editor of School and Society, offered this interpretation:

The real threat to academic freedom lies not so much in the dismissal of the three faculty members, but in the statement of principle by Joseph A. Drumheller, chairman of the Board of Regents. Naturally we hope that the AAUP will not raise an issue over these dismissals. But if it does the issue will resolve itself into whether a nationwide organization of professors, or the taxpayers of this state, are to be the judges of whether Communists shall teach their children.

42 For examples, see Arthur M. Schlesinger, Jr., "The Right to Loathsome Ideas," Saturday Review, 32 (May 14, 1949), 17-18+; and Steven T. Byington, "Communist Teachers," Christian Century, 66 (October 19, 1949), 1236-1237. Robert J. Havighurst took the position that one should not stereotype Communist teachers. There is no intellectually and democratically defendable alternative, he insisted, to finding out in the case of every Communist whose right to teach is questioned whether he teaches competently taking into account the fact that he is teaching in a democracy. In his "Communist Teachers," Christian Century, 66 (October 19, 1949), 1236. Another line of commentary on the action taken in the Washington case appears in "Threat to academic freedom," America, 81 (June 11, 1949), 330.

43 I. L. Kandel, "The University of Washington 'Compromise',' School and Society, 69 (April 2, 1949), 247. T. V. Smith as well as Commager spoke approvingly of the fairness of university officials in the hearings that led to the faculty dismissals. Smith called the final result an equitable "compromise." Kandel sarcastically asked whether it was a "compromise" to dismiss only three professors instead of one as recommended by the faculty's investigating committee or of six as urged originally by the Board of Regents. For Kandel, this recalled the story of the Sultan who conferred on the wife of an ambassador at the Porte, "The Order of Chastity, Third Class." Cited in ibid, 247.
Should then, he asked rhetorically, the taxpayer judge what brand of political or economic theory ought to be promulgated or whether evolution ought to be taught at a state-supported school?

As a kind of rejoinder was one critic's view that rejected the principle as inapplicable; Communists provide a rather different case. Concentrating upon academic freedom and overlooking the character of Communism, many have assumed that allowing a Communist to teach has to do with tolerating an unpopular opinion, with giving a hearing to a dissenting theory, with making room for an unfettered quest for the truth, with permitting an experimental activity that might, "under the inscrutable providence of God and the fallibility of human judgment, turn out to be productive of truth and good." This is not the case, it was alleged; "there is, in fact, not the slightest connection between Communism and these things." 44


45 Ibid., 1136. "It is an old American custom to appeal to freedom, to raise it as the banner over every field of engagement, to use it as both the sword and the shield in all our contentions with anybody over anything. This has made freedom a very hallowed word, but has not helped a bit to make it definitive...Our use of freedom as a shibboleth has robbed it of definitive meaning. By making it into a fetish, a cult and an idolatry, we have prevented ourselves from thinking about its nature." Ibid., 1137.
These exchanges were only the opening phases of a lengthy debate. In the late 1940's with the lowering temperature of a Cold War, a whole spate of articles began to speak to the question whether "these things" did in fact have anything to do with Communism and academic freedom. Some were directly prompted by the events at the University of Washington, but as protagonists took to higher ground, the specific facets of particular dismissals were left behind. A six-year period—from 1949 to 1955—conveniently defines the height of the controversies. In retrospect, it appears that only a few basic questions constituted the

heart of the debate. The single most-discussed question was whether membership in the Communist Party is prima facie evidence of scholarly and professional unfitness to teach.

Should Communists Be Allowed to Teach?

Those who held that academic freedom ought to afford no protection to the Communist teacher stressed, first of all, the intellectual subservience of the Communist to official party doctrine and dogma. Kremlinist parrots inevitably disqualify themselves professionally because they must utilize the classroom as an arena for spreading propaganda. Academic freedom should not become a sanctuary for such propagandists, a refuge and protector for indoctrination. Admittedly, there is a fine line between freedom and license; to draw this line requires exceedingly intelligent judgment. However, what endangers academic freedom by way of perversion through indoctrination does not justify our throwing up our hands in surrender when facing the subtle attempt of Communists

to infiltrate and subvert the American educational system. As Wayne Morse put it,

Academic freedom is not synonymous with license to destroy that freedom. I fail to follow the logic of some of our educators... that the preservation of academic freedom... requires the recognition of a right of teachers to become Communists and retain their teaching positions... True Communists do not possess free minds but rather are indoctrinators of a philosophy which seeks to promote revolution and reduce our people to the dictates of a totalitarian form of government.48

The classical formulations of the principles of academic freedom by the AAUP and other professional associations had not contemplated any such development as the hazard to academic freedom in the ideological

48 In "Academic Freedom Versus Communistic Indoctrination," Vital Speeches, 15 (April 15, 1949), 402. "Naturally, a university should not harbor communists on its staff because they have dedicated themselves to a doctrine which is directly opposite to all that we mean by intellectual freedom. But the American people should be mature enough to turn their backs upon the ranting of self-seeking little men, however noisy and however highly placed, and the insanities of those self-appointed guardians who label as communist or Left Wing everything they do not approve. When we become afraid to deal with honest differences of opinion among loyal citizens, we not only undermine the basis upon which all universities must operate, we endanger the future of our Republic." Quoted from a March 28, 1954 radio address by the president of Columbia University. "President Kirk on Academic Freedom," School and Society, 80 (August 21, 1954), 62. Others who joined in cautioning against the danger of seeking and uprooting Communists in the colleges included John S. Brubacher, "Loyalty to Freedom," School and Society, 70 (December 10, 1949), 369-373; Frank E. Karelson, "A Layman Looks at Academic Freedom," School and Society, 69 (April 2, 1949), 241-244; George N. Shuster, "Academic Freedom," Commonweal, 58 (April 10, 1953), 11-13; and R. Bendiner, "Has Anti-Communism Wrecked Our Liberties?" Commentary, 12 (July, 1951), 10-16.
commitments of the professors themselves. Nothing in them spoke directly to the issue as Morse phrased it. But under the impress of events, professional groups began to address themselves to the problem. In its 1949 report on *American Education and International Tensions*, the National Education Association's Educational Policies Commission stated the reasons for taking the position that "Members of the Communist party of the United States should not be employed as teachers."49 In the same year, the AAUP held that Communists should be permitted to teach as long as the Communist Party was legal. Their report recommended the dismissal of any teacher who "should advocate the forcible overthrow of the government or should incite others to do so or should use his classes as a forum for communism or otherwise abuse his relationship with his students for that purpose [or] if his thinking should show more than normal bias or be so uncritical as to evidence professional unfitness." The Committee further said that the AAUP "regards any attempt to subject teachers to civic limitations not imposed upon other citizens as a threat against the academic profession

49See Robert C. Hartnett, "Commies and academic freedom (11)," *America*, 89 (May 16, 1953), 189. Comment on this action is to be found in "Colleges and Free Speech," *New Republic*, 121 (July 25, 1949), 7.
and against the society which the profession serves."\(^\text{50}\) In other words, Communists should not be dismissed or discriminated against in hiring unless there is good evidence to suggest that they actively abuse their professional station for purposes of disseminating subversive doctrine.

By 1953, however, the AAUP had evidently reversed its earlier stand.

Appointment to a university position and retention after appointment require not only professional competence but involve the affirmative obligation of being diligent and loyal in citizenship. Above all, a scholar

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\(^{50}\) Cited in *ibid.*, 7. Sidney Hook, for one, took violent exception to this position. His own view, developed throughout a four-year period from 1949 to 1953 amounted to an unconditional refusal to allow any Communist to occupy a teaching post. See, for example, his "The Danger of Authoritarian Attitudes in Teaching Today," *School and Society*, 73 (January 20, 1951), 33-39. Kandel, on the other hand, repeatedly opposed Hook on this point. Similar to the 1949 AAUP statement was this resolution passed in 1949 by the Eastern Sociological Society at its New York meeting:

"We do hereby affirm that the rights and responsibilities of the teacher as a citizen are identical with those of other members of the community in general. We do further affirm that the primary basis for judging the fitness of any individual to hold a particular academic position lies in his meeting the professionally accepted standards of scholarship--impartiality and intellectual integrity--and his competence as a teacher."

must have integrity and independence. This renders impossible adherence to such a regime as that of Russia and its satellites. No person who accepts or advocates such principles and methods has any place in a university. Since present membership in the Communist party requires the acceptance of these principles and methods, such membership extinguishes the right to a university position. . .

Anyone who pledges himself to follow a party line thereby abdicates his intellectual liberty; this is incompatible with the standards and goals of scholarship. The significance of this new formulation lay in its insistence that fitness to teach is to be decided primarily on educational and intellectual grounds, and that membership in the Communist party is relevant because of its educational and intellectual, rather than its political implications. The rejection of Communist party members as teachers is not a question of ideas--least of all a fear of meeting ideas in open discussion--but a question of professional conduct. As one commentator put it,

When the nature of the Communist party is understood--and even the carefully nurtured ignorance of some of our more extreme libertarians begins to yield to the wealth of evidence concerning the party's insistence that all members must "at all times take a position on every

question that is in line with the policies of the party," that they must "display a thorough readiness to accept party discipline," and that inactive or "bad" members are expelled because they do not have "any latitude or discretion in the matter"—it becomes plain as a pike-staff that membership in the Communist party is prima facie evidence of professional unfitness to teach. 52

Hook's stance, appearing in numerous articles throughout this period and in a book, probably received the widest attention. His thesis, in brief, was that it is a moral obligation in a free society to tolerate dissent, no matter how heretical, but not to tolerate conspiracy, no matter how it may be camouflaged. 53 Summarizing a large amount of the relevant evidence from party documents, official hearings, espionage cases, and so forth, Hook argued that the meaning of membership in the Communist party implies the assumption of iron discipline in executing party orders even in intellectual matters as politically remote as biology, music and history of philosophy. The individual becomes the agent of a party dedicated to world revolution. Membership means a dedicated commitment to accept the discipline of the group, which is active cooperation and not merely passive association. 54 Secondly,

52Ibid., 79.

53Sidney Hook, Heresy, Yes--Conspiracy, No. passim.

54See Chapters I, III, and IX in ibid. For an excellent and balanced discussion, see McIver, pp. 161-165.
the effort to confuse the issue by comparing the disciplinary relation of
the Communist party with its members to that of the Roman Catholic
Church with its communicants was analyzed to reveal how different in
kind these two relationships are.55

One objector, Journet Kahn, writing in the 1956 Proceedings of
the American Catholic Philosophical Association, argued in relation to
the first part of Hook's thesis that the presence of a Communist on a
faculty "offers no special problem other than directing our attention
towards a reexamination of his professional integrity, with the possi-
bility of a favorable judgment by no means excluded."56 In line with
the AAUP's 1949 position, he remarked,

Consistency has never been a characteristic of
human nature, and to argue, as does Mr. Hook, from
the universal--the clearly stated aims of international
Communism--to either the guilt or unreliability of every
American party member in academic life, is to con-
ceive of ethical science as involving no more than the
subalteration of particulars to universals. Such a de-
vice saves a good deal of time and effort, but when

55 This is what Kandel, for one, had attempted in "Intellectuals
and Communism," 331. But see Hook, pp. 219-220 and Gideon,

56 Quoted in John Cogley, "Academic Freedom," Commonweal,
65 (January 25, 1957), 433. Also relevant here are the comments of
Robert Havighurst in "The Governing of the University," School and
Society, 79 (March 20, 1954), 81-86.
justice is at stake, it is well to be equipped with something more than formal logic.\textsuperscript{57}

Hook's rejoinder to the argument implicit herein—that professional competence should be based upon evidence "from the classroom"—was that it was an open invitation to initiate a type of educational policing hostile to free teaching.\textsuperscript{58} In effect, then, one has to balance the abridgement of academic freedom represented by refusing Communists a place in the classroom against the possible encroachments inherent in surveillance of their moves at every turn. When a choice must be made, Hook said, the former alternative is preferable.

\textsuperscript{57}In Cogley, 433. McIver came to a similar position: "It is indeed hard to reconcile the function of the scholar, as a seeker after truth, with membership in a Party which operates in so ruthlessly authoritarian a style. But it is impossible to draw any clear line beyond which the acceptance of authority, so long as the member who accepts it is still free to reject it as will, is incompatible with the obligations of scholarship. ...Anyone who [accepts] without important reservations the methods and policies characteristic of the Party [is] not a fit and proper person for an academic position. Whereas, if he did make such reservations while still remaining in the Party, his attitude is equivocal and engenders [a] reasonable doubt concerning his qualifications." [emphases in the original] McIver, pp. 165, 169.

\textsuperscript{58}Hook, pp. 186ff.
The most prominent theme appearing throughout Hook's analysis, though the AAUP statements and the arguments by others who opposed Communists' teaching is the idea that there is a hazard to free scholarship inherent in the acceptance of political discipline in matters of learning. It is morally rooted in the acceptance of the ideal of the search for truth as the evidence and conscience warrants it, not as endorsed by an ideological discipline which may twist it unrecognizably. This emphasis is tremendously important and should be noted before the opposing argument can be evaluated properly. Thus, Hook offered this definition:

What is academic freedom? Academic freedom is a specific kind of freedom. It is the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see it in the field of their competence, without any control or authority except the control or authority of the rational methods by which truth is established. Insofar as it acknowledges intellectual discipline or restraint from a community, it is only from the community of qualified scholars which accepts the authority of rational inquiry.

Like every other freedom, academic freedom, although it has an intrinsic value, is not absolute. It must be judged by its consequences on a whole cluster of other freedoms (values). The justification of academic freedom must therefore lie in its fruits. 59

On this point, after six years of confused comment and discussion, opinion had settled down to a professional agreement that covered a

59 Ibid., p. 154.
remarkably wide area. Russell Kirk, a man of rather different philosophic persuasion than Hook, offered a sympathetic and reasoned criticism of the latter's definition, in noting that "academic freedom is the principle designed to protect the teacher from hazards that tend to prevent him from meeting his obligations in the pursuit of truth." (emphases added) 60 Kirk further suggested that it should be anchored in a definite commitment,

to adhere to the Truth, according to the light that is given to the teacher; a promise to conserve the wisdom of our ancestors and to extend the empire of knowledge as best a teacher can; a promise to guide and awaken the student, but not to indoctrinate; a promise to abide by the principles of social order, . . . and a promise always to put freedom of the mind above material advantage and the passions of the hour. What the Hippocratic oath is to the physician, such an oath ought to be to the teacher, and more; and no further oath ought to be required by any authority. 61

The opposing argument, to wit, that Communists should be allowed to teach, might be summarized as follows: A clear line should be drawn between advocating the resort to force and actually resorting to force. A man should be free to speak his mind on all things. "The only way to deal with what we may regard as error is to confute it with


truth, to let reason have free play. If we curb the liberty of thought at any point, we open the way to thought control. "62 Fear of ideas indicates a loss of faith in democracy. "As citizens, students and teachers have the rights accorded all citizens."63 This means that if the law tolerates membership in the Communist party on the part of its citizens, universities should tolerate it on the part of their professors. In the interest of divergent thought, the free contest of ideas, the toleration of unpopular and strange ideas, and so on, the Communist deserves a place on the university faculty. To the charge that the Communist Party is inherently conspiratorial and that it is committed to the policy of seizing power by violence whenever and wherever it deems the opportunity to be present (and hence there is no viable distinction between the act of membership and advocacy of an opinion), one would do well to recall again the observations of the late Justice Holmes:

Every idea is an incitement. It offers itself for belief, and, if believed, it is acted on unless some other idea outweighs it . . . The only difference between the expression of an opinion and an incitement ... is the speaker's enthusiasm for the result. Eloquence may set fire to reason. . . If, in the long run, 

62McIver, p. 168.

63Quoted from the April, 1952 statement of the American Civil Liberties Union on Academic Freedom and Academic Responsibility, p. 5, in Hartnett, "Commies and academic freedom (II)," America, 89 (May 16, 1953), 188.
the beliefs expressed in proletarian dictatorship are destined to be accepted by the dominant forces of the community, the only meaning of free speech is that they should be given their chance and have their way. 64

Now if one grants the Communist teacher freedom of speech, but not the right to employment in a university on the belief that his character as a Communist makes him, categorically, and absolutely, incapable of anything but doctrinaire teaching, the issue has been grossly oversimplified. 65 It is a question of what the teacher says, how he says it, and within what circumstances—all under the general criterion of relevance to the educational process, and in relation to the immediate question of the fitness of a particular person to hold a specific job. 66


65 In the University of Washington case, the faculty's investigating committee held that there was no evidence that a Professor Phillips, one of those called up for dismissal, had permitted his political views to improperly color his teaching: "Although he does have occasion to discuss Marxist philosophy in his teaching, it appears that his practice is to warn his students of his bias and to request that they evaluate his lectures in light of that fact." Cited in ibid., 11. Thus, in this instance at least, one finds support for a refutation of the charge that active membership in the Communist Party is an overt act of such reckless, uncritical and intemperate partisanship as to be inimical to and incompatible with responsible scholarship.

If it is retorted that the determination of what is being said in the classroom opens the way to classroom policing, the obvious answer is that the situation holds for any teacher whatsoever—be he a Communist or not.

As Kahn had intimated, the basic difference between the two positions is that the one argues deductively from the evidence for conspiracy to professional incompetence, whereas the other looks inductively at particular cases. The first position of Hook and those who agreed with him depends upon the assumption that one can validly draw inferences from an abstract set of principles and directives enshrined in Communist doctrine to a commitment to them by one who professes allegiance to Marxism. Were this the case, then it does follow that such partisanship is inimical to accepted standards of scholarship. But as opponents pointed out, the validity of this procedure is open to question.

Let us suppose nonetheless that Communism represents conspiracy and not just "heresy" as Hook claimed. Might it not be argued, with Holmes or the American Civil Liberties Union, that democracy has nothing to fear even from conspiratorial partisanship in the classroom? The free marketplace of ideas is not the shibboleth of a softheaded liberalism; it is perfectly consistent with a hardheaded recognition of the true nature of the Communist menace. Yet in the 1950's, voices such as McIver's that took this line were in a distinct minority.
As indicated previously, all partisans were agreed that the objective or end of academic freedom is the pursuit of truth. A philosophically interesting sideline to the debates was a discussion that revealed two basically opposed conceptions of the process involved in securing new truths, and, for that matter, the nature of truth itself. It began with a Catholic writer's charge that thinking about academic freedom in higher education is philosophically and morally bankrupt:

What vastly complicates the problem of striking a tolerably satisfactory balance between freedom and security on our campuses is that American higher education operates in a philosophical vacuum. So far as one can judge from the pronouncements of its pontiffs, about all American higher education stands for is a policy of noninterference or complete laissez-faire in the search for what its spokesmen call "truth." What makes a proposition true, whether there is any objective criterion by which men can see that it is true, in fact, whether or not the truth of a proposition is a practical consideration, seems to be more than they ever get around to discussing. The only time "truth" is dusted off and put on a pedestal is when they want to display the pedestal, to wit, "academic freedom."  

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Hartnett, "Commies and 'academic freedom' (I)," America, 89 (April 18, 1953), 77. This first part of his charge, unfortunately, was not altogether mistaken. Surprisingly enough, scanty consideration was given to the philosophical question of the nature or status of "truth" in literature dealing with academic freedom, or this was dealt with superficially. Obviously, a developed treatment of this problem cannot be undertaken here; but in passing it is useful to note one exception to this tendency. In 1923, Alexander Meiklejohn offered the following brief analysis of the truth to which scholars owe allegiance. His remarks deserve to be quoted at some length:

"As against the truth which scholars have there is the truth for which they strive, which never is achieved. It is in terms of this that final judgment must be given."
The trouble with the "liberal monologue," he complained, is that it has no terminal facilities. It presumes an instrumental view of truth which furnishes no body of stable certainties by which a university can decide whether or not what a professor teaches is "true." "All the fun is in the striving; none of it in arriving." This kind of romantic quest for truth never seems to bag any truths. When confronted by Communists who have embraced a system of thought and act relentlessly and ruthlessly upon it, devotees of this position, he argued, simply do not know what to do when someone makes a discovery of new truth. "Fishers for truth who make a catch pose baffling problems for liberals. They have no way of even telling whether the catch is a fish or not."

In terms of this each man must wait assessment of his work, the measuring of the value of the thinking he has done. . .

But is this truth a something other than ourselves, a something apart to which we may acknowledge our responsibility? I think it is. I think that thinking means that somehow in the very nature of the world itself there is a meaning which we seek, a meaning which is there whether we find it there or not. That meaning is the final standard of our work, the measure of all we do or hope to do or fail to do. To it we are responsible." Meiklejohn, "To Whom Are We Responsible?", 649.

Hartnett, "Commies and 'academic freedom' (I)," 77.

Hartnett, "Commies and 'academic freedom' (II), 188.
The writer went on to attack the American Civil Liberties Union, and others who held that fitness to teach as judged by performance and not by associations should be the sole criterion by which a professor is to be hired or fired. It all boils down, he said, to the fact that they are so empty of convictions about the proper functions of a university that they cannot articulate any reason why Communists should be considered unfit to teach. The bankruptcy, the "forfeiture of intellectual and moral leadership" represented here was held to be of scandalous proportions.

The attack was most misleading and unfair. The position of the ACLU had been misrepresented. Their "Academic Freedom and Academic Responsibility" had unequivocally stated:

> It is the teacher's duty...not to advocate any opinions or convictions derived from a source other than his own free and unbiased pursuit of truth and understanding. Commitments of any kind which interfere with such pursuit are incompatible with the objectives of academic freedom.\(^\text{69}\)

In other words, a Communist would be opposed if evidence suggested his teaching was doctrinaire. The vital difference was the ACLU's view

\(^{69}\)Hartnett, "Commies and 'academic freedom' (II), 188.

\(^{70}\)Quoted in Cole, et.al., 488.
refused to admit a priori that a Communist's teaching would inevitably reflect personal political bias. Even their critic was partially willing to accept this possibility. But also the attack is noteworthy for the basic difference in philosophic approach which largely controlled the issue.

On the one hand, there is the liberal principle of experimentation, the belief in ultimate responsibility of the individual to his own conscience, and the democratic ideal of free competition in the marketplace of ideas. This approach is "open-ended" in the sense that no final, certain truths are achieved, but this does not entail, as was alleged, a moral and intellectual bankruptcy. An instrumental view, whatever its defects, does posit criteria of adequacy and verification for truth propositions, does yield means to show all claims do not stand on an equal intellectual footing. The concept of academic freedom resulting will then differ accordingly from other theories of truth.  

71 "Some who embrace this view, i.e., the ACLU appear to be thinking of the off-chance situation where a philosophical Communist, not a party member, who might be the world's greatest authority on butterflies, keeps his eccentric political opinions to himself and really 'does no harm.' Just because he and several cronies meet to discuss their Marxism (they argue) is no reason to deprive the entomologist of his post. If the decision were made on the ground of his value to the university and its students, . . . one could agree that dismissal need not always follow." Hartnett, "(II)," 189.
Thus, on the other hand, there is the belief in absolutes, authority, natural law, and a derivative idea of education as a process tending toward the prehension of immutable truth. It follows, as has been suggested, that the concept of academic freedom in this case will be judged by its fruits in producing new knowledge in correspondence with final truths. The attack on the ACLU illustrated clearly the difference between the two approaches.  

It should be noted that the issue of Communism and academic freedom involves, in part, the root question of locating criteria to distinguish scholarly teaching from dogmatic propagandizing. This is to say that the philosophical issue is addressed to the question whether

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one system of thought should supersede other methodological systems as the check on scholarship. Several possibilities present themselves. (It is not quite enough to contrast a "liberal," instrumentalist approach to an "authoritarian" dogmatic approach as the above discussion might suggest.) Moreover, as has been seen, this was a pressing concern in the 1930's when American educators first encountered the threat of Communist subversion. In the Fifties when the problem came to the fore once again, a number of analyses spoke to this problem of a methodological check upon scholarship.\(^73\) Brameld\(^74\) and Bode\(^75\) held that the fundamental tenets of democracy best serve to determine the grounds for judgment; others such as Dewey\(^76\) held that the scientific method will serve this function, whereas Kirk\(^77\) believed that commitment to a set of transcendent principles is a prerequisite for genuine academic freedom.

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\(^77\) *Academic Freedom*. 

Still other theorists such as Hook called for a pluralistic system of adequacy, with the exception noted (i.e., a conspiratorial ideology).

In the decade or so that followed the end of the McCarthy era, guardians of American freedoms properly took note of the continuing threat of Communist conspiracy. Conversely, attention was drawn to the threat of Anti-Communism. The issue played an important role, as will be seen, in discussion concerning student freedom, speakers' rules, and related matters. Over a decade after the most strident discussions had subsided, two legal decisions helped to clear the air somewhat.

To the question whether a university violates the law when it permits an avowed Communist, at the invitation of students, to use its facilities to address a student meeting, the Appellate Division of the New York Supreme Court answered in the negative. The Court unanimously held that despite the "considerable legislation designed to curtail the activities of the Communist Party and its members, especially in the areas of governmental employment and public education," it is no violation of law for a Communist to expound Communism as an abstract doctrine to

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78 Heresy, Yes—Conspiracy, No.

79 For example, see Henry King Stanford, "The University and Anti-Communist Pressure," School and Society, 84 (March 5, 1966), 123-125.
a student group. After reviewing pertinent decisions of the United States Supreme Court regarding the distinction between mere thought expression and overt conduct in furtherance of advocacy to overthrow the government by violence and force, the court concluded, "that the tradition of our great society has been to allow our universities in the name of academic freedom to explore and expose their students to controversial issues without government interference." (Egan vs. Moore et al. 20 AD 2nd 150, decided December 30, 1963)

Secondly, in January of 1967, the Supreme Court reversed a 1952 decision confirming the validity of New York State's Feinberg Law, barring subversives from the public school system. Henceforth, the effect of the decision, it seemed, was to make it more difficult to find a constitutional reason to bar a Communist from employment at public institutions of learning. The question remained whether the concept of academic freedom would now be used to further the high ideal of free speech or, in the light of this decision, "academic freedom" would become an ideological sanctuary for conspiracy and educational subversion.

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81 "The Supreme Court, Self-Reversal," Time, 89 (February 3, 1967), 47.
Sectarian Loyalty and Academic Freedom

One might have expected careful and sustained attention would have been given to the problem of academic liberties in the sectarian or denominational institution in the years that followed the debate between President Soper of Ohio Wesleyan University and his respondents. Considering the voluminous literature on problems of freedom and civil liberties that appeared in following decades, it seems curious that so little was published dealing with the issue of whether an a priori commitment, a religious allegiance in particular, might not conflict with full academic freedom. Hutchins' continuing analyses of the nature of the free university, or Datus Smith's plea for "unprincipled" institutions might well have stimulated inquiry as to the implications for the church-related school. In point of fact, however, scanty reference was made to this problem. Several factors might possibly have been responsible for this seeming oversight. First, conceivably, it might be due to the apparent thoroughness with which these problems had been considered between 1915 and 1930, in the various documents of the AAC and the AAUP, the reactions to their statements, and the comments of Meiklejohn, Soper and others. Perhaps it was thought that all that was necessary to be said on the topic had been considered. Secondly, one finds no clear-cut cases, as Coe had suggested, of an alleged breach of academic freedom claimed by a professor dismissed.
from a sectarian institution on grounds of religious incompatibility. Or, at least, no such cases evidently commanded national attention or the assistance of a major professional society. Finally, attention had been so largely drawn to the more urgent questions of national loyalty, threats of subversion, and other matters, that controversies about academic freedoms by-passed the issue of sectarian loyalties, at least in a distinctively religious sense. The only exceptions, as has been seen, involved the question whether adherence to the tenets of Communism and a consequent unfitness to teach could be equated with allegiance to the doctrines of a religious faith. However, such considerations were oblique at best to the root problem of academic freedom in a denominational college or university as it had been talked about earlier.

In the late 1940's and early 1950's, and again in the 1960's, however, a few discussions of this issue begin to appear. Yet another reason why they appear so infrequently may be due to a discernible decline in importance of the small denominational college, at least in relation to the overshadowing expansion of the secular "multiversities."

Confirming Mecklin's prediction, one found adherent of the collegiate tradition described the situation in 1950 thusly:

The small private college, perhaps suffering from an inferiority feeling, has steadily lost its original
vision of training for Christian and democratic service and has tried anxiously and often pathetically to ape the institutions that have lost their original vision, or the large, secular university. The small church-related colleges are thus in danger of losing their self-confidence until once self-respecting institutions may become maudlin in their attempt to please and become like the "better" schools. . . . And so by the dire pressure of economic necessity and the age-old lure of intellectual and class snobbery, the small American college may be destroyed. Thus may pass one of the most important institutions in our American democracy. 82

Very little of substance was added in the immediate post-War period to thinking on academic freedom and sectarianism; instead one finds a relatively uncritical reiteration that a religiously-oriented school is as free as any secular institution; although one senses a continuing effort to re-define the role of such institutions in the American educational scene. 83 Some writers claimed for the sectarian school a greater measure of academic freedom than found elsewhere, on various grounds. 84 An argument frequently found, although certainly not new,

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was that the private school is in a position to promote more genuine freedom because not subject to the control, and hence the restrictive pressures, of a state legislature. Typical of the undiscerning but well-meaning protestations on behalf of the argument of compatibility of religious truth and academic liberty, is the statement of Frank Glenn Lankard, Dean of Baldwin-Wallace College:

The Christian Church could hardly be true to the Master who declared that it is the truth that makes men free unless she encouraged her college to give her teachers absolute freedom to investigate, teach and publish all new findings that have been validated no matter how much they may be at variance with ancient creeds in religion or old dictums of science.

This liberal spirit, reminiscent of Soper's views, failed patently to account for the as-yet hypothetical case where a believing professor could still come into conflict with religious authority, and justifiably claim that a question of academic freedom was involved. Furthermore, not all devotees of the sectarian institution would accord such high importance to free teaching.


In its plainest terms, a contrary attitude indicative of how an *a priori* religious commitment could collide with full academic freedom was expressed by President Hunter Guthrie, S.J., of Georgetown University, in his 1950 commencement speech. While admittedly atypical, his remarks boldly illuminate the issue at hand. He attacked academic freedom as "a fabulous formula," a "fetish" which represents "the soft underbelly of our American way of life." The sooner academic freedom "is armorplated by some sensible limitation," he insisted, "the sooner will the future of this nation be secured from fatal consequences." Continuing, he observed that the true and the good are "the natural limitations of freedom." This is not an area for opinion, since Roman Catholic dogma has authoritatively spoken the last word on certain fundamental matters. Hence, since error has no rights, academic freedom cannot mean license to contradict established truth. Guthrie further identified the American tradition as a "tradition that freedom springs from truth, but that truth is rarely freedom's offspring."  

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88Guthrie, 633.
Lest his remarks be dismissed as simple reactionary piety, it
must be remembered that this position is perfectly consistent if the view
that there are such known, final truths is taken to its logical con-
clusion. Pragmatically, the question had not figured in academic free-
dom cases most probably because teachers in sectarian schools were
adherents to this general position in one form or another. Thus, pre-
sumably, their teachings would not flatly contradict received and
accepted truths. Questions of abridgement of liberty would be unlikely
to arise. Full and complete academic freedom, in the conventional
sense of the term, would neither exist nor be desired.

It will be recalled that Soper's policy recommendation with re-
gard to the denominational college was to hire only those teachers who
could in good conscience subscribe to the beliefs institutionally repre-
sentated by the college. This was the conclusion arrived at in numerous
statements of principles promulgated by the AAUP when they dealt
with this question. From the Roman Catholic perspective, one writer
summarized this recommendation in much the same manner,

In or out of a denominational college academic
freedom, as a freedom to seek knowledge and truth, is
conditioned by its end. Institutions, since they have
the right and freedom to determine their philosophy and
objectives, have the right to employ faculty members
who are in sympathy with the philosophy and objectives
and to refuse employment to those who are not. Once
employed, the faculty member enjoys academic freedom.
The only limitation is that the freedom be exercised within the framework of institutional objectives and ideals. 89

As it stands, this approach to the problem sidesteps the more difficult theoretical problem of whether such limitations by definition, contradict the concept of academic freedom. In the 1960's, this central issue came out more clearly. As a parallel to the question whether an individual who embraces the Communist ideology is "free" to teach and to seek out truth, the issue was raised whether a sectarian institution can be free to fulfill the purposes of a college or university. It was almost inevitable that the problem should arise. Contrary to the gloomy predictions of some, the obituaries read for the denominational institution were premature. Instead, there was evidence to suggest that it was flourishing. Many major universities retained their Protestant denominational affiliations; the existence of Brandeis and Yeshiva testified to Jewish support of higher education; countless Catholic colleges and universities were not only surviving, but expanding. A pliant acquiescence, a seeming reluctance to inquire as to whether academic freedom was enjoyed in these institutions, made it

possible to sidestep the whole problem for a time. Finally, however, the issue was joined.

In March of 1965, strained relations between the administration and faculty of St. John's University, a Roman Catholic institution on Long Island, broke into the news. The controversy which followed, while muddied and complex, helped to reveal the need for a reconsideration of the purpose and a shift of responsibility for policy formation in Catholic higher education. The issue of academic freedom in a sectarian institution was inextricably tangled with many other concerns, but the discussion stimulated by controversy revealed a new willingness to reconsider the problem. No definitive statements ensued nor a coherent body of theory on the nature and purpose of the religiously-committed university. Yet ferment and debate did give birth to some hard and candid questions on the issues involved, among them whether and how an institution can retain its character as a university while conserving a sectarian allegiance. 90

Adequate salary, tenure, pensions, and a professional desire to take part in the university's educational betterment were the root issues of the St. John's controversy. Faculty salaries fell within the

"D" range on the salary scale recommended by the American Association of University Professors. No policy worthy of the name in regard to academic tenure was in effect. The primary faculty grievance, however, was a structure of administration that, it was felt, gave little or no voice to the faculty in setting university policies. The demand was made that the old relationship between the clerical administration (controlled tightly by the Vincentian Fathers) and a predominately lay faculty had to be changed to accord the faculty greater influence. The Vincentians held that if the administration surrendered final control over the curriculum, dissident and rebellious faculty members might carry the University away from its orthodox Catholic moorings. Father Cahill, the president of St. John's, repeatedly voiced the fear that "the takeover of the Academic structure" would, in effect, "destroy the identity of St. John's as a Catholic institution." The faculty, in turn, responded that the charge was ill-founded; what they sought was the kind of faculty determination of policy minimally essential for operating a modern university.

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92 Quoted in John Leo, "Strike at St. John's," Commonweal (83 (January, 1966), 500. See Canavan, "St. John's University: The Issues," 122. Consider the following administration statement: "The Trustees are determined to maintain this university as an institution which is at once Catholic and dedicated to academic excellence. Those who come
It soon became apparent that a power struggle between the two factions was taking place. It was not simply a question of the need for a Catholic university to retain its distinctive identity, but a revolt of a reform-minded faculty against an overbearingly authoritarian, paternalistic administration. A unilaterally appointed "mediator" in the conflict surrounding the abrupt dismissal of thirty-one professors, Father Joseph T. Tinnelly, spoke to a faculty assembly and reminded his hearers that canon law gives the bishop of a diocese "the right and duty to watch that in any schools within his territory nothing done which is contrary to faith or good morals" and that the Second Vatican Council, in its Constitution on the Church, emphasized "the fatherly government of the faithful." He further proposed a reorganization plan which would "draw within its orbit the active participation of every member of the university family." [emphasis added]  

An air of priestly paternalism was evident in the analogy invoked by Rev. Father Edward Burke, past president of St. John's, who in an interview with a student reporter remarked that the university president, as father, is absolutely responsible for the well-being of the family and all authority is in the top administrators of the university. Father Cahill, his successor, did not depart radically from this idea of a university. Cited in Maurice R. Berube, "Strike at St. John's, Why the Professors Picket," Nation, 202 (February 14, 1966), 172.

Cited in Canavan, "Academic Revolution at St. John's," 137.
Predictably, the faculty reacted with distrust and hostility to the attitude evidenced in Tinelly's remarks.

Faculty discontent soon escalated from a concern with a pension and insurance plan, a meaningful policy to safeguard tenure, and administrative paternalism to a desire for greater freedom in the teaching process. Msgr. John J. Clancy, a dismissed theology professor, charged the administration with "lack of comprehension of what it means to have a university be a university." It cannot, he maintained, be a "catechetical extension of a parish." Father Peter O'Reilly, a dismissed professor of philosophy argued similarly that "if the Catholic Church wished to establish and maintain universities, it had no business interfering with the character of an institution of learning." He echoed

95"During the heat of battle...the assistant treasurer of the college, Father Francis Hinton, offered a parable in the campus chapel that went substantially as follows: 'A father comes home from work and decides he wants the windows of his house closed. His wife agrees, but their three children insist on leaving them open. The matter is put to a vote and the three children carry the day against their father in his own house. That's academic freedom!' Some of the faculty have an alternative parable, here presented in the words of Wilfred Quinn of the philosophy department: 'A father comes home from work and decides he would like to boil his three children in oil. The children make the observation that they would not care to be boiled in oil, but the father is in charge and boils the children anyway. That's authority!'" John Leo, "Family Planning at St. John's," Commonweal, 82 (April 30, 1965), 184.
the feelings of many in accusing the university of exercising "sophisticated restrictive measures" on the freedom of its teachers, such as the "careful selection of textbooks and their compulsory use." On the issue of the administration's attitude toward teaching Catholic truths, he declared that no university can demand that its faculty teach something as "true." The human mind is theoretically free and "consequently one must be asked to teach only that which he sees and not what he is told to see. When a university forces one to teach that which he does not see, it is admitting that it doesn't care if a teacher is a liar."^7

Thus, this view of academic freedom joined the issue of whether there ought to be any essential difference between a Catholic and non-sectarian university. O'Reilly's position, in essence, amounted to a refusal to admit that a university can have a corporate commitment to a particular body of doctrine that affords the university administration justified ground for restricting the freedom of the individual professor to teach whatever he thinks true in the classroom. Dr. Rosemary Lauer,


97Quoted in Canavan, "Academic Revolution at St. John's," 137.
another dismissed philosophy professor, put it in even stronger language: "The Catholic Church, or any other church, ought not to operate a university. Any organization that exists to maintain and propagate a doctrine simply can't control a university." 98

In clear contrast, was the pronouncement of Father Tinnelly who quoted canon law to the effect that "the study of philosophy and theology and the teaching of these sciences to...students must be accurately carried out by professors according to the arguments, doctrine, and principles of St. Thomas, which they are inviolately to hold." In despair, the local AAUP investigating committee commented, "We have arrived...at a philosophy of education that is medieval in spirit." 99

Tinnelly had equivocated previously in the face of faculty demands for greater academic freedom by asserting that a forthcoming document on academic freedom, an official policy statement, would be based on the standard AAUP statement of 1940 but would be "subject to certain specific reservations or modifications which may be necessary by reason of the nature of St. John's as a Catholic university confided to the direction

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of the Vincentian Fathers. Presumably, adherence to the dogmas of Thomism constituted the primary "modification" intended.

There were many more issues involved in the St. John's controversy—among them professorial unionism, appointment policies, rivalry between religious orders—but it is relevant here to note that the question of sectarian loyalty and academic freedom was basic to the discussions. To what degree can a university fulfill its obligation to free inquiry if it is committed to a religious dogma? The AAUP's 1940 statement on academic freedom skirted the issue simply by noting that "limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment."

Nowhere was the more difficult question squarely confronted, namely, is "sectarian-university" a contradiction in terms? A study by the Danforth Foundation of academic freedom in 817 church-related colleges and universities quoted by faculty members at St. John's was more candid. The Danforth study was optimistic in finding free inquiry not inconsistent with a religious orientation. The free Christian school is free because it does not control thought, Christian because it has a

100 Ibid.

definite commitment. This is feasible because it stands "unapologetically for religion and liberal education, but it relies on example, persuasive presentation of ideas, and a climate of conviction, rather than on conformity to accomplish its ends."^102

Of course this hardly settles the issue. A "climate of conviction" can be as coercive as "conformity"—in fact, identical—if it treats intellectual problems with an assumption that they are authoritatively resolved in advance. Studying a social theory of philosophy for the purpose of denouncing or approving it a priori is not studying it with an open mind, in the spirit of genuinely free inquiry. Thus, the St. John's quarrel evidenced once again the tension which President Soper had explicitly recognized three decades earlier. Whether or not sectarian loyalty and academic freedom can be reconciled remains an open question always, but the events at St. John's went a long way toward showing that it is too facile to dismiss the issue by claiming the same type and amount of academic freedom for all teachers, regardless of the kind of institution in which they serve.

On the other hand, academic freedom is not the sole criterion by which to judge the educational contribution a given type of institution can make. Then too, it would be too much to presume that the

^102 Cited in Berube, 173.
unhealthy climate obtaining at St. John's is found in all or even most sectarian schools. The possibility of the impasse at St. John's is implicit in any institution with a doctrinal bias, yet a not inconsiderable freedom of thought and teaching could be found in Catholic and Protestant institutions alike. Further, contrary to gloomy predictions a decade or two ago, the small sectarian school is still very much a part of the educational scene. 103

A Note on "Lernfreiheit"

Historically, in the German universities, there was a minimum of administrative coercion in the institutional learning situation. Students were free to roam from place to place, sampling various academic wares, and they were largely free to determine (with some exceptions) the choice and sequence of courses taken. They were

exempted from all tests except for the final examination. Typically, they lived in private quarters and controlled their private lives.\textsuperscript{104} This \textit{Lernfreiheit} was a prized privilege, a recognition of the student's arrival to man's estate.

In the American experience, other principles obtained. Partially because of an inheritance of the English and Scottish collegiate traditions with their ideals of academic paternalism and discipline \textit{in loco parentis}, American higher school through more than two centuries show little evidence of laissez-faire, so congenial to student autonomy. Rudolph suggests that even later the freedom of the student assumed less importance in the American universities as they arose in part

\footnotesize{\textsuperscript{104}Richard Hofstadter and Walter P. Metzger, \textit{The Development of Academic Freedom in the United States} (New York: Columbia University Press, 1955, p. 386. See Robert Benjamin Sutton, "European and American Backgrounds of the American Concept of Academic Freedom, 1500-1914," Ph.D. dissertation, Graduate School, University of Missouri, 1950, pp. 13-18; and L. L. Rockwell, "Academic Freedom: German Origin and American Development," \textit{Bulletin, AAUP} 36 (June, 1950), 225-236. "It should be remembered that academic freedom was born, some seven centuries ago, as student freedom, with the insistence by students in Italian and French universities on the right to have a decisive voice in choosing professors, arranging for courses of lectures, controlling all their housekeeping affairs, and securing certain political rights in their communities. The notion that the university should act \textit{in loco parentis} to its students is a relatively new and limited one; to this day it is confined pretty much to English-speaking countries, and unknown elsewhere. The principle of \textit{in loco parentis} was doubtless suitable enough in an earlier era, when boys went to college at the age of thirteen or fourteen; it is a bit ridiculous in a society where most students are mature enough to marry and raise families." Commager, "The Nature of Academic Freedom," \textit{Saturday Review}, 49 (August 27, 1966), 13. A full historical treatment of the origins and development of}
perhaps because the elective curriculum was enlarging the domain of student freedom. Thus, it is not surprising to find in the 1915 statement of the AAUP's Committee A, "It need scarcely be pointed out that the freedom which is the subject of this report is that of the teacher." Before the 1890's there had been some who held that academic freedom alluded primarily to student freedom, particularly the freedom to elect courses. But by the turn of the century, and for many decades thereafter, student freedoms received little attention. Still less did it figure in discussions defining academic freedom; as is clear from the preceding chapters, attention was fastened almost exclusively on freedom for the teacher. Yet it was true, as McIver has pointed out, "Just as the guild includes its apprentices, so does the academy include its students. From this perspective the academy is a community of older and younger scholars, united in the common enterprise of learning and

student freedoms cannot be undertaken here; for fuller discussions, see Hofstadter and Metzger, pp. 4, 8, 152, 169, 171-176, 224-226, 229, 282, 293, 383-397; McIver, Chapter XII, pp. 205-222; and Rudolph, pp. 156, 369-700, 413.

105 Rudolph, pp. 413ff.


alike requiring certain opportunities, certain freedoms, for its pur-
suit.\(^{108}\) Thus, a kind of freedom for the student may be the corollary
of the academic freedom of the teacher. The nature of the relationship
awaits fuller explication. The resurgence of concern in the Fifties and
Sixties for the nature of academic freedom in the sectarian, denomina-
tional institution had twentieth century precedents. But the need to
elucidate a theory of student academic freedom in the Sixties was some-
thing new.

It seems desirable to review those few instances wherein student
demands aroused controversy before turning to more recent occasions. Of
late, student unrest and discontent has been explicitly joined with dis-
cussion on academic freedom. Four separable issues begin to emerge:
(1) the right of students to learn through control of who may speak on
campus; (2) the extramural rights of students to engage in political and
social action; (3) student freedom from unwarranted suspension or dis-
missal without due process; and (4) the right of students to play a mean-
ingful role in the determination of institutional policy. In fact, however,
these and other issues have been inextricably joined together. Finally,
a look at some documents relevant to the question of academic freedom
may afford some basis for conjecture as to the directions the issues may
take in years to come.

\(^{108}\) McIver, p. 10.
As has been seen in Chapter IV, it was not until the mid 1930's that an activist college generation began to press for enlarged campus freedoms. At the University of Chicago, at the University of California, and at Connecticut State College—all in 1935—alleged violations of student freedoms, as yet poorly defined, took place. Four years earlier certain events at The Ohio State University were similarly represented. Yet these incidents provoked no substantive essays on student academic freedom as such. Nor were student demands made under such a banner. President Butler in his 1940 speech on academic freedom at Columbia University expressly separated the concept of academic freedom from student freedom. Throughout the first four or five decades of the twentieth century, in fact, one searches in vain for a reasoned subsuming of student freedom under the various definitions of academic freedom. 109

It was as late as 1953 before there appeared a published student protest drawing an analogy from the unwarranted dismissal of a professor to the dismissal of a student without just cause and terming both a violation of academic freedom. Robert Andelson, an M.A.

candidate in the School of Divinity at the University of Chicago, authored an article condemning Communist campus activities. Reportedly, shortly thereafter, the Dean informed Andelson that his candidacy had been indefinitely "deferred." The student who reported this incident coupled it with like incidents and chose to offer the following interpretation:

American students have had their right to an honest objective education stolen. Their academic freedom has been shamefully violated by hypocritical leftist professors and naive "liberals" who sanctimoniously laud "free thought" while ramming collectivist dogma down the throats of captive students. Indoctrination has been substituted for education. It's high time that the student's rights were considered. The comment is significant because it suggests from the conservative point of view that the right to express opinions, to take exception to what is said, to exchange views freely, and to hear lectures from professors who have not fallen into a "dogmatic slumber," are all part of the rights properly belonging to the student. Further, dismissal without cause represents a breach of student academic freedom.  

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Just as students began to press for individual rights, they sought greater collective freedom. Possibly the first major impetus toward greater student freedom related to the right of institutions to refuse campus facilities to controversial speakers invited by student organizations. At their 1950 meeting at Swarthmore, the Students for Democratic Action issued a statement stressing the right to invite speakers to campus. Some school authorities created a record of fear of the false association of their institution with the activities of campus groups by banning everything controversial from the campus. A particularly obnoxious example was the so-called "gag rule" at The Ohio State University which required the express permission of the president before any speaker could be invited to campus. Similar restrictions, either enacted by the institutions or the state legislature, aroused widespread controversy elsewhere. Some schools, such as Columbia

112"Students on Loyalty," New Republic, 123 (July 3, 1950), 7,

113Elwood R. Maundcr, "Protest O.S.U.'s Ban on Speakers," Christian Century, 68 (October 31, 1951), 1260; and R. H. Eckelberry, "Academic Freedom at Ohio State University," Journal of Higher Education, 22 (December, 1951), 493-498. The rule enforcing the ban on speakers at this institution also provided that questionnaires distributed by faculty members and students for research purposes had to be cleared through the President's office. This latter provision was not enforced. For subsequent developments, see "Academic Freedom, Futile Bans on Ideas," Time, 85 (June 11, 1965), 744; and Eric Solomon, "Free Speech at Ohio State," Atlantic Monthly, 216 (November, 1965), 119-123.

114See Alva W. Stewart, "North Carolina's Gag Law," Christian Century, 81 (October 28, 1964), 1336-1338. An excellent analysis of the situation at the University of North Carolina in 1965 is to be found in
University, set a happy precedent for allowing controversial speakers, since refusal to let them be heard might well provoke undeserved martyrdom. 115

At the University of Wisconsin, there was a long tradition of militant defense of academic freedom. The rallying point for defenders of full freedom of speech was the Regents' statement issued in 1894, born in the heat of a controversy over an attempt to fire Professor Richard T. Ely, economist, whose ideas were not popular in some quarters. The last part of the statement was engraved in bronze and anchored next to the main entrance of Bascom Hall, Wisconsin's main building. In part, it reads:

Whatever may be the limitations which trammel inquiry elsewhere we believe that the great State University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found.

In 1950, upon the occasion of state legislative opposition to the invitation to speak on campus extended to Abner Berry, an editor of the Daily Worker, University President E. B. Fred issued a statement defending Berry's right to speak. He subsequently endorsed a statement by


Wisconsin's Student Life and Interest Committee which refused to censor the Labor Youth League which had invited Berry to speak. The reasons given are well worth quoting:

Practical educational experience demonstrates that restrictions aiming to shield students from ideas current in American society are ineffective.

Students must be given the freedom of discussion permitted citizens of the United States. . . . if they are to be trained for responsible citizenship.

The. . . . committee believes that. . . . open meetings are preferable to possible underground activity; it is in the forum that error is most effectively exposed.

Registration of a student organization does not constitute endorsement of its objectives. 116

Nonetheless, when the public at large is willing (sometimes eager) to draw the conclusion that because a college or university permits a Communist or Nazi spokesman to visit the campus it tacitly condones and endorses his views, it is unsurprising that institutional authorities have often been reluctant to abandon "speakers' rules."

But as McIver has noted,

To treat students thus would seem to imply a strange conception of the preparation for life careers that the college offers. The campus is neither a schoolroom nor a barracks. Authority has its place on the campus as everywhere else, but it should not

for extraneous purposes suppress the proper initiative of those subject to it. As an early advocate of a freer campus expressed it, "The idea that authority arbitrarily superimposed from above is good character discipline for young men would be a joke if this country did not suffer so much from it." 117

In the Sixties, the question of such suppression and the larger issue of student academic freedom came in for a greater share of attention. Again, in a pattern which repeats itself, the new generation of college students seemed to arouse itself from apathy and lethargic indifference. Activist concern—for civil rights, for "participatory democracy" as the antidote to contemporary alienation, existential anarchism directed against the anonymity of the multiversity and the tyrannical requirements of the System—expressed itself in a renewed call for enlarged freedom. 118 It was natural then that these demands should be weighed and evaluated, and the claim that students ought to enjoy "academic freedom" too would be brought in for analysis.

117McIver, p. 212, and quoting from Richard Welling, as reported in the New York Times, June 16, 1912.

Altogether too typical of administrative reaction was the position taken by Harold W. Stoke, President of Queens College of The City University of New York.\footnote{119} He argued that colleges exist to conserve the values of accumulated knowledge through teaching and to add to knowledge through research. The notion that they should be forums from which everyone has a "right" to advance his ideas, Stoke felt, is questionable on both intellectual and practical grounds. Resorting to rather inapposite examples in discussing whether Communists should be allowed a student hearing, he said: "The fact that society at large permits activities to be carried on freely or ideas to be circulated freely does not obligate colleges to give them hospitality under the guise of academic freedom or of constitutional rights. Prize fights, burlesque shows, and propagandizing are not proper college activities, no matter how acceptable they may be elsewhere."\footnote{120} Colleges have little justification for engaging in anything for which there is not a presumption of positive educational value. "Academic freedom," he insisted, "is quite capable of deterioration into academic self-indulgence and triviality;

\footnote{119} Harold W. Stoke, "The Invitation of Speakers to the College Campus," \textit{School and Society}, 90 (March 10, 1962), 107-108.

\footnote{120} \textit{Ibid.}, 107.
it is the obligation of the academic community to see that it does not.\textsuperscript{121}

Stoke was willing to permit the visiting of Communists to campuses, but he posed a rather precarious distinction in making the admission:

An invitation to the Soviet Educational Advisor, obviously a communist, to visit a college is one thing; an invitation to the National Secretary of the Communist Party of the United States is another. One invitation serves a legitimate educational purpose which the college needs to fulfill; the other, in effect, invites the Communist Party to make use of the college.\textsuperscript{122}

However, he questioned whether the actual physical presence of a Communist is necessary for students to be adequately informed about Communism.\textsuperscript{123} Still, he allowed that only the college could properly exercise a judgment for itself whether to permit a given speaker to campus. How was the "college" defined? He claimed that it would be "unwise" to permit students to assume the burden of responsibility for

\textsuperscript{121}Ibid., 107.

\textsuperscript{122}Ibid., 108. Evidently then there is a difference in the "Redness" of Communists and perhaps a corresponding difference in the danger they represent.

\textsuperscript{123}"The vehement insistence of the students that they would be unaffected by such appearances must be. I should think, very discouraging to prospective communist speakers, but it also makes one wonder why they ever should be invited." Ibid., 108.
such judgments; perhaps a "consensus" might be achieved in particular cases. Stoke hardly needed to indicate further where ultimate authority would reside should it be impossible to find a consensus in any given situation.

Albert Lepawsky, professor of political science at the University of California at Berkeley, offered a more thoughtful and scholarly analysis of the phenomenon of student unrest as related to political activity and speaker's rules in general. First, he rejected the thesis that student protests, with their predominant political overtones—so typical in the Sixties—could be attributed to teacher neglect. Instead, he attributed them to the subtle support that comes from the professoriat itself, caught up in the excitement and ferment of active

124 "There is no convincing evidence that the average American student today gets fewer hours of personal attention from his various teachers and other specialized counselors, or poorer pedagogical services in general, than he has gotten in the past at American universities, or than he could get elsewhere, Oxford and Cambridge tutorials notwithstanding. There is, in fact, evidence that students are proud of, and profit greatly from association with, teachers who devote much of their time to research and consultation. Paradoxically, too, the extent of student protest seems sometimes to be in inverse proportion to the educational effort expended." Albert Lepawsky, "Academic Freedom and Political Liberty," Science, 150 (December, 1965), 1159. See S. M. Lipset and S. S. Wolin (eds.), The Berkeley Student Revolt: Facts and Interpretations (New York: Doubleday Company, 1965).
participation in the world of affairs, acting as consultants to foundations, Big Business, and Government. While this has been only one causative force, he argued, it is an important one for a generation of students exhorted to play an active role in re-shaping contemporary society.

Lepawsky left little room to doubt his endorsement of freedom to learn by permitting students to invite speakers of all ideological persuasions at will.

There is little doubt that the principles of both academic freedom and political liberty fully justify, on our university campuses, speech or advocacy that is unrestricted except possibly as to time, place and manner of expression (admittedly, substantive limitations may also be justified if nonregulation results in defamation or obscenity). But to liberate political activity entirely from university discipline, except for possible regulation of the time, place, and manner in which it is carried out, is a more hazardous undertaking. For, unless there is some proviso to the contrary, the "political activities" thus sanctioned include not only the intellectual processes of political inquiry and expression, political learning and teaching, and political experience-getting and experiment-making but also the mounting and directing of political demonstrations, the managing and financing of political campaigns, and the organizing and conducting of political movements.¹²⁵

In other words, the educational process need not entirely preclude experience with political demonstrations, campaigns, and movements.

However, pedagogically speaking, the preferable place for active

¹²⁵ Lepawsky, 1560.
political experience, as for "field work" for students generally, is, Lepawsky thought, the social and political community off-campus.

Political experience is more realistic if acquired in an actual political constituency; it tends to be artificial and nonfunctional if acquired on campus. 126

What then of the more difficult question of whether university regulation can be applied to off-campus activities of members of the academic community? On this issue, one respected position held that off-campus activity should be left completely outside the realm of university regulation, both as to its substance and as to the time, place and manner in which it is carried out, even when such activity turns out to be illegal, since illegal conduct will be taken care of by the regular off-campus law enforcement authorities. 127 Lepawsky held


127 "If students perform their duties badly, so much the worse for them—perhaps they will learn by experience. If they go to excess and violate the law, let them be subjected to the penalties of the law. Where they violate reasonable academic rules—rules designed to protest the integrity of the academic enterprise, they should be subjected to whatever penalties are provided for such violations. But they should not be treated as if they were children, nor should the university be expected to turn aside from its proper job, which is education and research, to the petty pursuit of discipline." Commager, "The Nature of Academic Freedom," 14.
though that the university cannot afford to let the chips fall where they may. Universities cannot have things both ways. If their political role is allowed to escalate, how, he asked, can their members dissuade the body politic within the greater society from scrutinizing their conduct and from throwing into the balance the political counterweight of other groups or interests who claim to be threatened by the academicians or their students?

The belief that the public can be kept from the academic arena while students and faculty increasingly use the university as a sanctuary from which to project upon society their own political preferences is sociologically untenable, and, what is more such a policy is politically unworkable.\(^{128}\)

While Lepawsky's argument has merit, it seems there is more to say on this point. What is missing is an unequivocal re-statement of the nature and function of the university as the one place in society where immunity from reprisals for unpopular opinions obtains to the fullest extent. On the other hand, since political action as opposed to mere advocacy is involved, there is some question whether academic freedom, properly conceived, ought to protect more than the intellectual

consideration of ideas. If the criterion of educational usefulness is applied, there is a point where action can disrupt the educational process entirely. Sit-ins, demonstrations, boycotts and other overt acts can "grind the university to a screeching halt." Again, pragmatically speaking, Lepawsky had a point in noting that no "haven for heresy" could long endure if it reaches out to disrupt the community's powerful interests by acts. Retaliatory measures would quickly be taken, in a frenzy of reaction, probably to the detriment of free learning itself. Historically, this whole question, the further ramifications of which cannot be dealt with adequately here, is interesting because it parallels so closely the debates on academic freedom over four decades earlier.

Then, it will be recalled, a burning issue was professorial prerogatives in extramural utterances and activities. The question was whether these fall outside the legitimate limits of academic freedom. Now, in the Sixties, the problem arose again, only this time it was the activities of students that were emphasized.129

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129 This is not to exclude the question of what students do on campus however. The travails of undergraduate journalism, for instance, provide ample material for raising thorny questions about the relevance of academic freedom for students, both with respect to administrative interference on campus and from offended persons beyond academic halls. See McIver, pp. 210-222; "The Right to be Rude," New Republic, 147 (November 10, 1962), 7; and Lawrence G. Weiss, "Goldwater and Colorado U.," Nation, 195 (December 8, 1962), 402-404.
The most dramatic series of such incidents was the unrest and turmoil that beset the University of California at Berkeley from 1964 to 1967. The controversy was the occasion for Lepawsky's analysis as it was for Sidney Hook's. Academic freedom exists primarily for teachers, Hook wrote, and, strictly speaking, it makes no sense to talk of "academic freedom" for students. Granted, they have a right to freedom to learn, but the best guarantee for this is academic freedom for those who teach them. Where teachers are deprived of academic freedom, students are ipso facto deprived of the freedom to learn. The converse, however, is not true. "It is simply false both in logic and in fact to assert that freedom to teach and freedom to learn are indivisible." Many other factors in society can conjoin to prevent learning—poverty, discrimination, and other social ills—but these are not corollaries of academic freedom.

Secondly, academic freedom, it was argued, is not a civil right like freedom of speech. There is no direct connection between the


131 Hook, 8. Commager, to the contrary, argued that both are so interrelated as to be inseparable. See his "The Nature of Academic Freedom," 13 ff.
student's freedom of speech and his freedom to learn. The controlling consideration must be the latter. "If restrictions are placed on freedom of speech—aside from those which exist on the freedom of all citizens—they must be justified by the educational needs of the student and reasonable institutional provisions for its expression."¹³² Thus, confusion and needless controversy arise from a failure to distinguish between the area of conduct in which students may justifiably exercise their rights as individual citizens and that which is related to the specific function of the college and to the business which presumably brings the student to school. For example, anything students can properly do for themselves as adults should be left to them. Here a distinction should be drawn:

The manifestoes of some student groups couple academic freedom with "democratic government." If by that expression we mean the participation of the student body in the control of the educational policies of the institution, that is a separate issue....If, however, it means the relative autonomy of student groups and student organizations in the conduct of their own extracurricular and extramural activities, then it certainly stands for another aspect of the freedom the student needs.¹³³

¹³²Hook, 8.

¹³³McIver, p. 208. "It is not the business of the university to go bustling around like some Aunt Polly, censoring a student paper here, cutting out indelicacies in a student play there, approving this club or that, accepting or rejecting speakers invited by student organizations, snooping into the private lives of students. These matters are the responsibility of the students themselves." Commager, "The Nature of Academic Freedom," 14.
Similarly, the genuine issue in whether students should be permitted to organize political groups on campus or to invite speakers who hold extremist views to address them is an educational one. It is on educational, not political, grounds that a valid case can be made for permitting recognized student organizations to invite speakers of their choice to the campus to discuss any topic, no matter how controversial.134 Or, to cite another example, on the same grounds, students should be allowed and encouraged to publish their own newspapers, periodicals and pamphlets, subject only to the restraints of law against slander and libel.

Thirdly, Hook continued, higher education is not a civil right like the right to a fair trial or other Bill of Rights freedoms that do not have to be earned. The status of student must be earned and maintained, the same as a professor earns his tenure.

No service is done to students by flattering them or by giving them the impression they can acquire an education in any other way than by hard intellectual discipline—by accepting the logic of ideas and events. They cannot be encouraged too much to broaden their intellectual interests, and they certainly must not be discouraged from giving expression to their generous enthusiasms for civil rights, for human welfare, for peace with freedom. But good works

134 Hook, 10.
off-campus cannot be a substitute for good work on campus. Ultimately, the good causes our society always needs have a better chance of triumphing if their servitors equip themselves with the best education our colleges and universities can give them.\textsuperscript{135}

The issue of student relations with outside agencies has also figured in thinking on academic freedom. In 1967, considerable controversy was stimulated by the revelation that the Central Intelligence Agency had infiltrated various student organizations traveling abroad and had lent covert financial support to many others. There were loud cries that student academic freedom had been violated. In the same year, law enforcement agencies sent spies, disguised as students, to work within the student bodies of Cornell, Fairleigh Dickinson University, and Ithaca College. Their object was to uncover the sale of illegal drugs. When these actions became public, professors at two of the schools involved regarded them as an outrageous violation of academic freedom.\textsuperscript{136} Presumably Hook would dismiss these uses of the term "academic freedom" as so much loosely-framed cant. If Hook's argument is accepted, the traditional freedom "Lernfreiheit" is not precisely the correlative of "Lehrfreiheit"--the freedom to teach. However,

\textsuperscript{135}Ibid., 18.

\textsuperscript{136}Reported in "Drugs on Campus," \textit{Time}, 89 (March 24, 1967), 36, 38.
it must be insisted that these two freedoms depend ultimately on the same kind of rationale, the same approximate conditions to sustain them, and both pertain to the nature and functioning of the college or university. For most purposes, it does not seem unduly misleading to subsume both under the concept of academic freedom, providing the proper distinctions are made when the need arises.

As the end of the decade drew near, it was becoming increasingly evident that pressures on campuses across the nation demanded that the claims of students be given serious consideration. The trouble, Paul Goodman suggested, was precisely that students were not being taken seriously, in several senses. Part of the problem was that for the first time in centuries, students were demanding a greater share in the operation of the university. Students have campaigned for Lernfreiheit—freedom from grading, excessive examination, compulsory attendance at lectures and prescribed subjects—and also for the ancient privilege of a say in designing the curriculum and evaluating the teachers.

137 "The students have faithfully observed due process and manfully stated their case, but the administrators simply cannot talk like human beings. At this point it suddenly becomes clear that they are confronting not a few radical dissenters but a solid mass of the young, maybe a majority.

Two things seem to solidify dissent: administrative double talk and the singling out of 'ringleaders' for exemplary punishment. These make young people feel that they are not being taken seriously, and they are not." Paul Goodman, "The New Aristocrats," Playboy, 14 (March, 1967), 156.

138 Ibid., 157.
The growth of parallel institutions such as the so-called "free universities," a new solidarity among students based on community rather than ideology, their style of direct and frank confrontation, their democratic inclusiveness, their effort to be authentic and committed to their causes rather than merely belonging, their determination to have a say and their refusal to be processed as standard items, their extreme distrust of top-down direction, their disposition to anarchist organization and direct action, their disillusion with the system of institutions—what these might presage for the future of higher education remained to be seen.¹³⁹ This much was clear: the concept of freedom for students was going to receive unprecedented attention for many years to come.

Before turning from this topic, it would be well to consider some of the relevant statements by various organizations as they impinge upon the continuing process of defining freedom for students. A brief perusal of these statements may reveal the direction thinking will take in years to come. Among them is this statement of the AAUP of March 24, 1953:

The university student should be exposed to competing opinions and beliefs in every field, so that he may learn to weigh them and gain maturity of judgment. . . .Whatever criticism is occasioned by these practices, the universities are committed

¹³⁹ Ibid., 159.
to them by their very nature. To curb them, in the hope of avoiding criticism, would mean distorting the process of learning and depriving society of its benefits. . . .140

Much the same theme was sounded in the American Civil Liberties Union's 1961 comprehensive statement of principles on "Academic Freedom and Civil Liberties of Students in Colleges and Universities." One of the principles stated:

The college which wishes to set an example of openminded inquiry in its classrooms will defeat its purpose if it denies the same right of inquiry to its students outside the classroom--or if it imposes rules which deny them the freedom to make their own choices, wise or unwise. . . .The college's policy vis-a-vis its students goes to the heart of the condition necessary for adequate personal growth and this determines whether an institution of higher education turns out merely graduates or the indispensable human material for a continuing democracy. . . .141

Indicative of the same concern for maximum freedom in learning was the Report of the Committee on the Bill of Rights of the Association of the Bar of the City of New York (1962) which, in part, stated:

The standard which should be applied in both public and private institutions is this: any written idea or discussion or speaker should be permitted full exposure on the campus, so long as the basic purpose

140 Quoted in Jacobson, 336.

141 Quoted in ibid., 336. See also "Academic Freedom in New Colleges," School and Society, 94 (March 19, 1966), 144.
of the exposure is not to violate the law. Anything short of this, we think is inimical to a free society.

Finally, a significant, because more fully-developed statement was offered again by the AAUP. Upon the recommendation of Committee A on Academic Freedom and Tenure in October, 1960, the Council authorized the appointment of a new standing committee, designated as Committee S on Faculty Responsibility for the Academic Freedom of Students. Once established, Committee S gave primary attention to the task of formulating a statement on the academic freedom of students. Several drafts were prepared. In 1965, a major revision of these drafts appeared, testimony to the new professional concern for student freedoms. Just as the 1915 and 1940 AAUP statements were landmarks in the history of American higher education, this 1965 expression of principle promised to occupy a like position. The temper of this document was set in its Preamble:

Free inquiry and free expression are essential attributes of the community of scholars. As members of that community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. The freedom to learn depends upon appropriate opportunities

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142 Quoted in Jacobson, 336.

and conditions in the classroom, on the campus, and in the larger community. The responsibility to secure and to respect general conditions conductive to the freedom to learn is shared by all members of the academic community. Students should endeavor to exercise their freedom with maturity and responsibility. 144

Four aspects of student freedom were considered: (1) the protection of freedom in the classroom; (2) the maintenance of student records; (3) matters involving student affairs; and (4) the off-campus freedom of students. First, it was held that free discussion, inquiry, and expression are essential to learning. Moreover, protection against "prejudiced" or "capricious" academic evaluation must be extended. While students are responsible for maintaining standards of academic performance, it is only by these that they should be judged. Also, any information acquired by professors about the beliefs of students should be considered confidential.

Secondly, it was affirmed that student records should be kept confidential and should be handled in such a way as to reveal only academic performance of the student. They should not be utilized for discriminatory or disciplinary purposes.

Thirdly, with respect to student affairs, the AAUP statement affirmed the freedom from arbitrary discrimination and complete freedom of association—both extramural and intramural. Guest speakers ought to be allowed to be invited without institutional censorship. Student publications should remain free of censorship and advance approval of copy. A list of procedural safeguards were suggested. The right of students to participate in the formulation and application of regulations affecting student affairs through student government was affirmed.145

Fourthly, the report stressed the right of students to enjoy all of the civil rights of the ordinary citizen. "Institutional powers should not be employed to inhibit such intellectual and personal development of students as is often promoted by their off-campus activities and their exercise of the rights of citizenship."

Finally, the statement concluded with a set of detailed descriptions for procedural standards in disciplinary proceedings involving students.

145 The statement carefully avoided the delicate issue of the extent of power student governments ought to enjoy. Yet without a measure of real power, it should be observed, it is unlikely that such paraphernalia will do more than provide forensic amusement for "sand box politicians" on campus.
Henceforth, historian Frederick Rudolph's observation that "college students constitute the most neglected, least understood element of the American academic community" would no longer be true.\textsuperscript{146} There were some who might regard the AAUP statement as a mere sop to the pressures brought to bear by dissident students in recent years. Perhaps the statement would meet hostility and indifference, as had some of the AAUP's earlier efforts. Still in all, events portended greater concern for student liberties in the future. The 1965 statement could only accentuate the growth of this concern.

Summary

America's post-war period saw a popular resurgence of anti-intellectualist impatience with the claims made on behalf of academic liberties. Fears of the Communist conspiracy led to a new rush of loyalty oath requirements and legislative committee investigations. Colleges and universities suffered their autonomy to be infringed upon, partially because of an ambivalence toward such investigations. Some welcomed these efforts as proper and necessary; others warned of the grave dangers inherent in heresy hunts. Nearly a decade of ferreting out alleged subversives uncovered few bona fide conspirators, but a climate of reaction

\textsuperscript{146} Cited in Sheridan, 731.
and social and intellectual conservatism perceptibly strengthened interests inimical to academic freedom. Nonetheless, significant gains had been made, both in terms of bringing issues of academic freedom more clearly before the American public, and in elucidating the difficulties involved. Moreover, the toleration for dissent by students and teachers alike represented, in the Sixties, a considerable advance from the suppressive conditions evident a decade earlier in the Fifties.

The chief problem insofar as discussions on academic freedom were concerned in the immediate post-war period lay in the question of what it means to be a subversive and how this affects the defensible boundaries of protection a beleagured society can extend to such individuals. Specifically, the issue was formulated as a query whether Communists are fit to teach, professionally and intellectually. An underlying philosophical problem was an epistemological one: the nature of truth and how it is best secured. The common rationale for allowing freedom of inquiry and teaching in education depends upon the supposed efficacy of this arrangement in winning new knowledge. The consideration of methodologically alternative formulations of this basic rationale was bound up closely with the question of the limits of freedom.

In the early Fifties and again in the early Sixties, the dilemma of reconciling an a priori doctrinal commitment with full academic freedom arose once again. A concern to re-define the nature and purpose
of the sectarian institution in American education made itself manifest
in the midst of strident, heated debate surrounding events at one uni-
versity in particular.

If Communism was the main center of controversy about the
meaning of academic freedom in the first decade after World War II,
undoubtedly the following decade witnessed a shift of emphasis to stud-
et rights in higher education. A new generation of college students
helped to raise a long-neglected question as to how and whether freedom
to learn (with all that this may entail) is part and parcel of the concept
of academic freedom. It seemed likely that an expansion of a venerable
prerogative would be necessitated to keep the idea viable and operative
in America's educational endeavors.
CHAPTER VI

IN RETROSPECT AND PROSPECT

In Retrospect

What comes out of better than six decades of effort to elucidate and refine the concept of academic freedom is not a neat, tidy pattern. There is no straightforward sequential development. Thematic continuity is discontinuous. Men argued and proselytized, they exhorted and defended, they attacked and equivocated. Some sought valiantly to achieve greater clarity of vision and precision of thought. The counterpoint was bombastic rhetoric and polemical cant. Obscurantism flourished as well as insight. There were advances and there were regressions. Intellectual territory was won and surrendered.

The only significant judgment to be made is how well the idea was defined and defended. The only important question in the end is how well academic freedom became an established governor of public thought. The fairest verdict seems to be that the history of the past half century, the difficulties of the present, and the likely problems of the immediate future testify that academic freedom has not yet acquired that gravitational mass which better established social
principles possess. In all probability some fundamental thinking will have to be done about academic freedom so that perceptions of it can be quickened, its limits extended, and its opponents exposed.

In retrospect, there are two strands that run under, through and across the literature on academic freedom. One hesitates to call them "viewpoints" for they do not exhibit consistently any well-defined dimensions. Still less could either be endowed with so pretentious a label as "ideology." Ambiguous words like "bent of mind" or "intellectual tendency" more nearly convey the sense of what is intended. Nor is it simply a question of an antithesis between a conservative and a liberal perspective or a reactionary sentiment as against a progressive one. In any case, these are shopworn slogans whose only meaningful connotations inhere in particular situations, in specific circumstances. Yet something of these contrasts are suggestive in illuminating the difference between the two generic orientations to be considered. For want of a better, more precise term let them be called "mind sets," keeping in mind the imprecision of the appellation. The history of thinking about academic freedom in America suggests a recurrent tension between two general attitudes. An explication of each may go considerable way toward making sense of the developments of this thought.
There is, in the one direction, a vague, pervasive orthodoxy, so amorphous as to be without sect or party. It rarely displays the overt asinity which permits one to recognize it for what it is and to combat it. It is more pleasant and mild. It is evidenced in the propensity to reject "on principle" intrusions upon things as they are.\(^1\)

It is the kind of sensibility that does not deliberate and weigh proposals for change--be they good, bad, or indifferent--upon the considered advice of responsible experts. "Experts" are somehow suspect; the mind set enjoys a certain complacency over its own intellectual self-sufficiency. Obscurantism is a harsh word and few really deserve to have it applied to their habit of mind, but something of this is present too. There is a congenital naiveté about things, a willingness to oversimplify to the point where complex questions get looked at in simplified and simplistic terms.

If a balance is to be struck between innovation and conservation, the latter is emphasized. Over and against the benefits of liberty, the attitude stresses the correlative responsibilities and the

\(^1\) For examples, recall Sims' characterization of conservatism and the illustration of this attitude in the Memphis Commercial Appeal's 1932 editorial, p. 160; the report of Secretary of the Interior Harold Ickes in the 1930's, p. 174; and the analysis of H. H. Wilson on students' and teachers' attitudes in the 1950's, p. 240.
dangers of license. It constantly seeks for secure moorings in an established doctrine, an a priori set of principles. It exaggerates the dangers of heresy and unorthodox opinions. It fears the risks that accompany the thinking of unthinkable thoughts, the exploration of intolerable ideas; it deplores the championing of "loathsome" ideas "frought with death." In times of crisis, men of this persuasion tend to urge that academic freedom must give way to the importunate demands of national unity. Academic freedom is a pernicious indulgence that cannot be tolerated when national security is endangered. Free discussion and debate are all very well when there is nothing to discuss, but it must be suspended or at least abated when there are serious matters before us. Then it is time to "close ranks" behind the protection of authority. Men fear the danger of falling into irreparable error and imagine the only alternative is not to run the risk. Free competition in the realm of ideas becomes not merely an unattractive prospect, but largely an unintelligible one.

There can be a covert anti-intellectual element in this posture.

This is not a denigration of thought itself, but an insensitivity to

\[2\] The furor surrounding Bertrand Russell's visit to the University of North Carolina in 1932 provides a classic case in point, pp. 176-178. Similarly, Attorney General A. Mitchell Palmer's inflammatory witch-hunting rhetoric in the 1920's, p.154, and some of the statements of the American Legion in the 1930's show how the dangers can be exaggerated. See also p. 171.
scholarship as an intrinsic value. There is a profound respect for the power of thinking to produce goods and instrumentalities for the living of life, but an indifference to intellectualism as an end in itself. It is confused about the nature and function of the university and the place of the scholar in the social order. Education tends to be viewed as an instrumentality towards the enhancement of economic and social status.

Commager relates that Professor Sibley of the University of Minnesota came under attack by a Senator Wright because of unpopular political and social views. The Senator proposed an investigation, asserting roundly that Sibley was "an academic deviate." This is, as Commager notes, a fascinating phrase. It assumes tacitly that there

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3 The indifference and confusion is evidenced in such comments as those that appeared in a 1931 Ohio State University Board of Trustees statement, p. 168; in Butler's distinction between "university" and "academic" freedom, pp. 184-185; in McCarthy's definition of academic freedom, p. 242; in Russell Maguire's anti-intellectualist polemic, p. 245; as well as in the "hired man" theory of the professor, pp. 59-69. A columnist, one Orlin Folwick, once provided a fresh and perhaps historic definition of the function of the scholar in the American university. It was "to help students obtain an appreciation of their country and its objectives, so they can become normal taxpaying citizens." Quoted in Commager, "Is Freedom An Academic Question?" Saturday Review, 47 (June 20, 1964), 55.

4 Ibid., 55.
is a proper orthodoxy in the academic arena. It suggests that there is, or should be, an academic type from which one has deviated. It suggests that those who do not conform to this standard or type have deviated. The term carries curious overtones from the realm of morals. Against pluralism, the Senator Rights of the country seek conformity and uniformity. It is small wonder then that academic freedom suffers at the hands of men such as this, even though, as is usually the case, they profess and believe themselves to be champions of academic freedom.

Sibley, on the other hand, could symbolize the orientation of the contrasting "mind set." In connection with the charges made against him, he wrote a letter to the student newspaper, the \textit{Minnesota Daily}, decrying conformity and celebrating the virtues of diversity.

We need students who challenge the orthodoxies (he wrote). American culture is far too monolithic for its own good. Personally, I should like to see on the campus one or two Communist professors, a Student Communist Club, a chapter of the American Association for the Advancement of Atheism, a Society for the Promotion of Free Love, a League for Overthrow of Government by Jeffersonian Violence, an Anti-Automation League, and perhaps a Nudist Club. No university should be without individuals and groups like these.\footnote{Quoted in \textit{ibid.}, 54. Commager notes that Sibley's intent to \textit{épater le bourgeois} was well realized. No one, it seems, was alarmed at the proposal of an Anti-Automation Club, but every other proposal set public opinion afire. "My God, how long are you going to let}
Here is the uncompromising openness to intellectual pluralism and diversity. As Charles Peguy wrote somewhere in one of his inimitable little essays, "The life of an honest man must be an apostasy and a perpetual desertion. The man who wishes to remain faithful to the truth must make himself continually unfaithful to all the continual, successive, indefatigable renascent errors." A principled refusal to embrace dogma is the fundamental characteristic of this attitude.

This second perspective stresses freedom of exploration, the liberation of the self-disciplined imagination to explore orthodoxy and heresy alike. It seeks for certitude, but it is the partial truth chastened by recognition of the possibility of error. The attitude locates no moral

these radicals run our colleges?" was the reaction of one spokesman for the patrioteers. A local editorial struck the same note. "Must we expose our young people to all the diseases in our political world just to prove how strong they are?" asked one editor, concluding, somewhat wildly, that "Professors have to be either for the American system or for the Communist system." Ibid., 54-55.

Note Russell's comments, p. 226; Ickes' defense of unimpaired academic freedom, p. 232; and the position taken by the American Civil Liberties Union, p. 275.
obliquity in honest error because error sometimes enlarges and illuminates new truth. It leaves itself always susceptible to the humbling possibility that conclusions are partial and incomplete. Its spirit is suggested by Hand, reflecting on the free climate of his own experience as a college undergraduate.

You came to know that you could hold no certain title to beliefs that you had not won; and indeed you did not win many. But that did not so much matter, for you had come into possession of a touchstone; you had learned how to judge a good title; and although tomorrow might turn up a flaw in it, you believed that you could detect the flaw.

And chiefly, and best of all, you were in a company of those who thought that the noblest of man's works was the pursuit of truth; who valued the goal so highly that they were never quite content that the goal they had reached was the goal they were after; who believed that man's highest courage was to bet his all on what was no more than the best guess he could make; who asked no warranties and distrusted all such; who faced the puzzle of life without any kit of ready-made answers, yet trusting that, if they persevered long enough they would find...that they might safely "lean back on things." 7

These two mind sets feed into and profoundly influence the discussions on the meaning of academic freedom. But they do so in subtle fashion. It simply is not the case that there are anti-collegiate mobsters arrayed against clear-eyed defenders of the citadel. When

people attack academic freedom, as McIver has pointed out, they are
defending something else to which they are committed, something else
with which they think, rightly or wrongly, clearly or confusedly, that
academic freedom interferes. 8 Far more common, however, is the
peculiar inversion of meanings employed, usually in good conscience,
but nonetheless uneasily reminiscent of the "Doublespeak" of Orwell's
1984 or the totalitarian propagandists. "Truth" becomes the sancrosact
dogma cherished by those unwilling to have their prejudices sullied by
open examination in the marketplace of opinion. "Freedom" really
means the right to promulgate one version of truth. "Teaching" means
the inculcation of established doctrine, ladling it out to passive student
receptacles. "Scholarship" connotes the impressively footnoted endorse-
ment of the status quo. "Knowledge" means "practical" discoveries.
"They do not think of it on an ever-expanding realm of illumination
within which the mind of man, reaching ever closer to the reality of
which it is a part, can find inexhaustible opportunities for contemplation
and wonder, for guidance and for richer living." Rather, "for them
knowledge becomes mainly 'research,'" where research is understood
as the manipulation of techniques for the sake of findings that may be
the basis for new manipulations." 9

8 McIver, 250.

9 Ibid., 258.
A second observation to be made is that the protagonists of the drama switch identities. The actors do not always play the same roles. Sometimes it is a university regent or an autocratic president that bears down and suppresses academic freedom. Sometimes the offender is an administrative official. But occasionally, it is the faculty that acts to suppress freedom. Analogously, those who have written to defend academic liberties may be laymen, scholars, college heads, university executives, or students. The defense may genuinely advance the cause of academic freedom or retard it, but there is no way of anticipating in advance the direction of discussion in terms of its authorship. Much more fruitful is the contrasting of pervasive modes of thought suggested here, between those who lean toward safety and those who lean toward freedom.

Finally, a typical characteristic of the literature on academic freedom is the recurrent striving for balance, for equilibrium. A middle-of-the-road sense of compromise seems evident throughout. Perhaps this is an endemic trait of the American habit of thought. Few contend that freedom is either unqualified or it is non-existent. Academic freedom is placed squarely amid other values to be preserved. It is too often assigned a priority somewhere alongside faculty salaries, physical plant facilities, and library resources. Intellectually, it is prized as a valuable asset, but so is group cohesion, the final identity of
contending interests, and gentlemanly compromise. Still and all, the fact that the prerogatives of academic freedom have been maintained and strengthened is a noteworthy accomplishment in itself:

No one can follow the history of academic freedom in this country without wondering at the fact that any society, interested in the immediate goals of solidarity and self-preservation, should possess the vision to subsidize free criticism and inquiry, and without feeling that the academic freedom we still possess is one of the remarkable achievements of man. At the same time, one cannot but be appalled at the slender thread by which it hangs, at the wide discrepancies that exist among institutions with respect to its honoring and preservation; and one cannot but be disheartened by the cowardice and self-deception that frail men use who want to be both safe and free. With such conflicting evidence, perhaps individual temperament alone tips the balance toward confidence or despair. 10

The Meanings of Academic Freedom and Their Rationale

A definition and theory of academic freedom might be worked out along lines of tradition by the historian, of abstract equity by the scholar, expediency or prudential considerations by the university trustee, alumnus or parent. As can be seen, various rationales constructed throughout the past half-century or so combine and mingle elements from these and other postures. 11 Conclusions and interpretations will

10 Hofstadter and Metzger, p. 506.

differ; sometimes they may be diametrically opposite. The most glaring weaknesses in the tradition of its defense have not appeared as a result of the arguments of its enemies but have been revealed in the philosophical and historical illiteracy of some of its advocates. Academic freedom has had few self-professed enemies, but its supporters have sometimes done it a grave disservice. Because it is an idea and an ideal, academic freedom is subject to the inaccuracies of communal memory, to careless handling by mythology, and to emotional coloration from the lurid illumination of crisis situations. Thus, if the concept is to be more clearly understood, the first essential is to disinvolve the idea from its foundation in the clinical material which supply its human drama.\(^{12}\) In large measure, this has been the intent of the present study.

The second essential is to sort out the different referents for the concept of academic freedom since confusion on this point can be a source of needless confusion and ambiguity. The first step in this sorting process is to separate the connotations intended, from the rationale utilized to support and defend its meanings. To begin, one must note, with apology for its brusqueness, the contributory elements for the rationale.

\(^{12}\) The phrasing of this point is borrowed from Louis Joughin, "Is Freedom Academic?" *Nation*, 201 (September 20, 1965), 176.
Hofstadter argued that the modern idea of academic freedom has been developed by men who absorbed analogous ideas from the larger life of society. From modern science came the notion of a continuing search for new truths, fostered by freedom of inquiry, verified by objective, standardized procedures, and judged by those competent to evaluate the consequences of certain procedural operations. From commerce was taken the concept of a free competition among ideas—thus the pregnant metaphor of a free marketplace of ideas. From the liberal democratic tradition of the modern state men have borrowed the ideas of free speech, free press and an appreciation of the multitudinous perspectives afforded by a pluralistic society. From religious liberalism and from the long historical development which led to the taming of sectarian animus have come the ideas of toleration and religious liberty by which they have benefited. A final contributing influence, of slightly later date, was the powerful instrumentality of due process.¹³

When these forces are brought together as the constituents of an ideological support for academic freedom this fact becomes apparent: the arguments most frequently appealed to, to support the concept, are

¹³Ibid., 177.
seemingly identical with those used to support freedom of thought and expression generally, with added emphasis upon an additional factor in the equation. That is, since it is the academician's job to create and communicate ideas, provision for his occupational security is necessary in order that he be free to discharge his occupational responsibility effectively. The former consideration is ideological, the latter procedural.

It is necessary to dwell on this point because much of the popular discussion treats freedom of thought and freedom of teaching as synonymous. To an isolated individual seeking the truth, the demand for freedom to follow his interest is the demand to be left alone. Spinoza ground lenses and kept his ideas to himself and his friends. Kant took walks and circumspectly deferred publishing some of his more controversial works. Yet most scholars are reluctant to keep their results to themselves. The desire to perpetuate the scholarly enterprise, among other motives, leads inquirers to communicate their views to others, even if these are at variance with the prevailing position or

14 Hadley noted this point at the turn of the century but it has gone unnoticed by and large in the literature since then. See his "Academic Freedom in Theory and in Practice," 157; Lawrence Podell, "Assault from Within," Commonweal, 65 (January 25, 1957), 427ff.; and Henry M. Magid, "The Freedom to Teach," New Republic, 133 (November 7, 1955), 19.
public opinion. Thus, it is not quite enough to treat academic freedom as a special case of freedom of thought, as many have done. Freedom of thought does not necessarily carry with it freedom of teaching. "For teaching is more than a theory; it is an act. It is not a subjective or individual affair, but a course of conduct which creates important social relations and social obligations."\(^{15}\) A restriction on the liberty of the teacher to teach is not a corresponding violation of liberty of thought.

Deny liberty of thought and you deny liberty of teaching as a matter of course. But it does not follow, because you approve of liberty of thought, that you thereby sanction a corresponding liberty of teaching . . . The expediency of free thought can be settled by broad generalizations from human history; the expediency of teaching some of these thoughts in the school can only be decided by a careful examination. . . \(^{16}\)

This is not to say that a claim to academic freedom has no adequate rationale, or even that the rationale is not derivative from the maxim "Ye shall know the truth and the truth shall make you free." What is meant is that the justification of academic freedom is not identical with a defense for freedom of thought. In effect, there are three

\(^{15}\)Hadley, 157.

\(^{16}\)Ibid.
relevant claims: (1) Free inquiry is the avenue to truths; (2) truths can be communicated; and (3) the communication of truths is socially beneficial. Historically, there is ample evidence to support the first claim or some reasonable approximation thereof. The second claim is the occasion for tangled philosophical dispute, but, again, some formulation of the assertion wins general, if qualified acceptance. The third claim is emotionally appealing but its sociological validity is open to question. Yet even if this is true, a complete defense for academic freedom must take it into account. Most probably here is the locus for so much controversy, dissent, and disagreement. Society is likely to identify its own shibboleths with eternal verities. Or, alternatively, it may have vested interests in its cherished errors—even when they are acknowledged for what they are—and therefore will cling tenaciously to them. For most people truth is one value among others, inferior

17 A professor once wrote a learned paper in which he held that properly fortified oleomargarine was equal in nutritional value to natural butter. He had the misfortune to hold an appointment in a state where the dairy industry was a major economic influence, and nearly lost his position. One regent, a famous banker and trustee of a major state university, was asked what he thought of the oleo case. The reply was prompt: "He should have looked for a job in a state where milk didn't matter." Cited in Joughin, 178.
in status probably to security or power or pleasure. Thus making truth absolute would involve an inversion of existing values if not of society itself.\textsuperscript{18} Therefore, it may end up sounding rather fatuous to defend academic freedom as an instrumentality for the pursuit of new truth alone.

The real problem is that academic freedom has to be protected by a claim that it will deliver something of use to society.\textsuperscript{19} Academic

\textsuperscript{18}Consider this pessimistic evaluation, which draws the conclusion that, in a very real sense, academic freedom is a myth:
"Academic freedom is an academic delusion and does not exist outside of the brains of visionary idealists. So long as men conceive of words as having power, so long they will insist that in a social institution words shall not be authoritatively uttered which are seriously subversive of the institutions and customs which they regard as indispensable. And they will be much less tolerant of such words from full professors than from instructors. To this extent the public educational institutions always must be conservative places, and discussions of new projects will be more hampered there than outside their walls. Within the college or university, such discussion may be veiled so as to deceive the authorities, or it may emanate from sources so humble as to be overlooked. . . or it may be so extraordinarily tactful as to disarm criticism. Otherwise the only possible way in which it can proceed unhindered is to concern itself with matters which are not supposed at the time to be genuinely vital." Quoted in Tyler, 386-867.

\textsuperscript{19}Recall the analysis of Grusendorf, pp. 210-211; as well as the debate between Finlay and Chittenden, pp. 187-188.
freedom is not a special dispensation conceded by an indulgent society, a special privilege granted to professors. It is a principle applied by society to protect the functional independence of an important sector of that society. Professors are not a mandarin caste somehow exempt, for no good reason, from risks and penalties encountered by the less fortunate or less privileged. Society assigns academic freedom to responsible experts with the understanding that the liberty involved is to be used for the common good, and that the collateral personal privileges which accrue—inseparable and indispensable as they may be—are in fact derivative. The freedom accorded represents a device for avoiding error and arriving at truth; it is intended to aid in getting on with the job of teaching, training, and research. Yet can the claim guarantee it will "deliver the goods," so to speak? In practice every man has his duty to society and society formulates most of the terms in which that duty is to be fulfilled. The inquirer, the teacher, is accountable to society for his actions, and his publishing and his teaching are his actions. But he cannot guarantee in advance that his discoveries and insights will be beneficial, nor can he even know what these will be.

In sum, an adequate rationale for academic freedom must defend the claim that the free dissemination of learned opinion conduces to the

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20See Commager, "Is Freedom An Academic Question?"
social good. This is discernibly different than simply arguing for freedom of thought and the free play of ideas. The defense must critically explicate its fundamental premise: that an increase of knowledge leads to social progress. The social good, not truth, is likely to receive a more sympathetic hearing. A belief in the importance of discovering truth is not axiomatic. Moreover, depending upon particular circumstances, a cogent rationale must exhibit why and how, in the words of one group of professors,

the very activity of education, for student and teachers alike, is the free exercise of open minds. Whenever in pursuit of knowledge speech is guarded, men's minds are sealed, the educational dialogue deteriorates into monologue, arguable hypotheses harden into dogma, and the will to stimulate inquiry yields to the demand for passive acceptance.21

These, then, are the outstanding considerations involved when discussing the justification for academic freedom as a general concept. The next step is to review quickly the constituent parts of the idea.

First, and most common, is academic freedom for the teacher—freedom from fear of reprisal while speaking or publishing the truth as he sees it, governed by the dictates of his own intellect and of the

disciplines of scholarship.\textsuperscript{22} It means freedom from interference from society's authorities or from the administrative officials of his institution, immunity from loss of position, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics. Here the issues are by now familiar.

There is the venerable struggle for power between administrators and faculty members to secure the right to judge competency and to make it the sole criterion for retaining a position in an institution. There is the knotty difficulty of selecting valid criteria for judging scholarship. There is the problem of whether extramural utterances fall properly within the domain of academic freedom. One view, as has been seen, holds that a professor cannot be a whole man, that his intellectual endeavors, including his teaching, are enfeebled if he must fear for his job because of his actions and words spoken outside of the classroom. The call goes out for men to come out of the ivory tower, to forsake the pose of scholarly detachment, and to engage in the heat and burden of daily strife. This in turn raises the old question of whether there is a distinction between the man of thought and the man of action. The man of thought who will not act is ineffective; the man of action who will not think is dangerous. The other view insists that seclusion is

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essential for intellectual disinterestedness. Academic freedom ought not to protect the professorial activist.

...you may not carry a sword beneath a scholar's gown, or lead flaming causes from a cloister. ...a scholar who tries to combine these parts sells his birthright for a mess of pottage. ...when the final count is made it will be found that the impairment of his powers far outweighs any possible contribution to the causes he has espoused. If he is fit to serve in his calling at all, it is because he has learned not to serve any other, for his singleness of mind quickly evaporates in the fire of passions, however holy. 23

Secondly, there is the academic freedom of the student to investigate any theory, to challenge any premise, to refuse to accept old myths and idols, to engage in the cut and thrust of partisan debate, political or social, without jeopardy to his academic career. Here again, correlative to the separation of professorial prerogatives, intramural and extramural, there is a division for student freedoms. The debate has revolved first on the rights of students to free inquiry without penalty in the classroom. Then there is the right to actively, overtly champion causes off-campus without endangering one's enrollment.

As President Lowell of Harvard once suggested, one might imagine two intersecting lines, perpendicular to one another so that four quadrants are formed. Under the top and bottom quadrants on one side

23 Justice Learned Hand, as quoted in Gallagher, 53.
is affixed the label "extramural speech and action." On the other side, for the top and bottom parts, there is the legend "intramural speech and action." To the side of the top two quadrants appears the label "within one's field of scholarly competence." The bottom two quarters would refer to opinions on matters "outside one's field of scholarly competence." These four areas are the bases for almost a half-century of controversy about academic freedom, the combinations thus formed the chief centers for debate. Action within each area claims the protection of academic freedom. Only of late have the issues of student freedom entered in to complicate the schema. Whether or not the rationale for freedom of teaching is also precisely appropriate for the freedom to learn is, as has been shown at some length, still an open question.

**In Prospect**

Predictions for the future are hazardous and uncertain at best. Yet if the seeds of the future are sown in the present, perhaps a discerning glance at the contemporary situation might endow one with insight as to the fortunes of academic freedom in the years to come. Schlesinger has warned that the current social and intellectual climate is not altogether promising. 24 He notes that as America's foreign involvements

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increasingly dominate and obsess our national life, we can look for the appearance of associated symptoms: the propensity to oversimplify issues, an exchange of embittered invective, the questioning of motives and loyalties, and the denigration and degradation of reasoned debate.

Thus, a federal judge in Philadelphia demanded that all publicly supported colleges expel student protesters against the Vietnamese war; various draft boards terminated protesters' deferments, lending credence to the charge that the selective service system could be used as an instrument to stifle dissent; and children, too young to be drafted, were suspended from high schools in Pittsburgh and Cleveland for wearing black armbands in mourning for the dead in Vietnam. Thus, Senator Eastland of Mississippi introduced a bill conferring broad powers on the State Department to restrict travel by American citizens overseas. The Central Intelligence Agency undertook close (and covert) surveillance of nationals on trips abroad. Former Vice-President Richard Nixon even detected "an almost classic example of Communist deception and duplicity" in the fact that the DuBois Clubs--the Young Communist League of the Sixties--should be given a name sounding so much like that of the Boys' Club of America.  

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Examples cited in ibid., 10.
These events bear the impress of particular circumstances at a given point in history, but conceivably they herald the resurgence of something roughly comparable to the McCarthy phenomenon. As has been seen, the tendency to allow acute hostilities and frustrations to overwhelm national equability, good temper, moderation and reason is a recurrent characteristic of American life. In such times of turmoil and crisis, the first casualty is likely to be a noncombatant--academic freedom.

The furtherance of freedom to dissent depends, in large measure, upon an absence of fear. If powerful interests are threatened by those who claim the protection of academic freedom, it is not unlikely that intimidating pressures can be brought to bear. Such tactics are less likely to come under censure if passions are not enflamed and opinions are passed freely. This, in turn, requires dialogue. But when public sentiment--political, social, or whatever--is sharply drawn, this becomes far more difficult. The spread of a militant, even radical conservatism in the populous state of California and elsewhere, the proliferation of poorly-defined but radical leftist groups, the strident anarchism of civil rights groups who cry for Black Power--these events bear testimony to an increasing polarization of opinions. The lines become too sharply drawn. Intolerance becomes rife.
The most disquieting symptom, if Schlesinger is correct, is the seeming willingness of the liberal and intellectual community to abandon rational discussion. In particular, the phenomenon of mass demonstrations, frequently applauded by members of the community, may advance the cause of irrationality, not reason.

Mass demonstrations can, of course, be effective and useful when, as in the case of civil rights, the intellectual and moral issues are clear-cut and self-evident, when the demonstrations display and substantiate the evil, and when the need is to show the weight and urgency of the protest. But when issues are complex and ambiguous, as in Vietnam, demonstrations cannot display the evil; and the mass protests, in which the argument is carried by slogans, placards and epithets, lower the rationality of debate. This is, above all, a self-defeating tactic for intellectuals; for, if it becomes a competition in demagogy and hysteria, the anti-intellectuals will always win. One hates to see intellectuals and liberal preparing the way for a new McCarthyism by debasing the level of public discussion. 26

These explosions of political irrationality, functioning more to ventilate emotions rather than to influence events, tend to express what Hofstadter has called "the paranoid style in American politics"--a susceptibility to the conspiratorial interpretation of history, an ancient national weakness. As Schlesinger puts it, "We have always fallen too easily for the notion that complex historical developments are the result

26Ibid., 12.
of the machinations of little groups of nasty men." It expresses itself in an exaggerated eagerness to see conspiracy behind the assassination of President Kennedy or behind the American intervention in Southeast Asia, in the allegation that freedom marches are part of the Communist conspiracy, in the assertion that there is "planned obsolescence," and in countless other ways. It is not too much to suggest, if recent history offers any relevant precedents, that the conspiracy thesis could be used to shut off or limit the freedoms to learn and to teach. Protesting students and dissident teachers are manipulated by, or lend comfort to, subversive interests, and, therefore, they cannot claim the protection of academic freedom.  

27 "Other journals have commented on today's pervasive paranoia, the widespread suspiciousness that conspiracies--local, national and international--are all about us, and that no action, however simple-seeming or straightforward in its announced or apparent intent, may be taken at face value. Partly a reflection of general anxiety, partly the cynicism of the frightened and ignorant, who explain the world to themselves in terms of dark plots, this paranoid posture leads to some quite ingenious mythmaking, such as the now-famous Birchite assertion that Dwight Eisenhower, as President, was a conscious tool of international communism." "Playboy After Hours," Playboy, 14 (March, 1967), 19. As Schlesinger notes, this posture refuses to see history as it is--"an untidy and unkempt process, in which decisions are taken, not according to master plans, but in darkling confusion and obscurity, and where ignorance, accident, chance and stupidity play a larger role than Machiavellian calculation." Schlesinger, "McCarthyism Is Threatening Us Again," 12.

28 Somewhat apropos here is the following comment of Nixon: "Should academic freedom protect a professor when he uses the forum of a state university to welcome victory for the enemy in a war in which the United States is engaged? . . . I believe that any teacher who does so crosses the line between liberty and license. If we are to defend
On the brighter side, there are signs indicating healthy prospects for the maintenance and strengthening of academic liberties.

For one, there is the increased size and weight of the academic community.

Twice as many students are enrolled in our institutions of higher education as there were a short decade ago. By the end of the '60's there will be seven million students and half a million teachers in our colleges and universities. The result will be a formidable political constituency—well informed, articulate and active. And it will be a constituency for the Bill of Rights. For freedom of inquiry and dissent, if the general interest of the nation, is the class interest of the academic community.29

Secondly, one notes a feeling of optimism on the part of the AAUP, the most deeply involved partisan in academic freedom struggles over the past half-century. Sanford Kadish, chairman of the AAUP's Committee A, finds support for the view that academic freedom is becoming more firmly entrenched as an established concept today,

academic freedom from encroachment we must also defend it from its own excesses." Nixon, 551.


29Schlesinger, 12. "The major colleges and universities are, in fact, many hundreds of physical and social communities of young people, with populations of a few thousand to 25,000 sharing a subculture, propagandizing one another and learning to distrust anybody over 30. Such collections of youth are a phenomenon unique in history,"
I find the climate as favorable today as it has been since the war. The standards of academic freedom are winning increasing acceptance by the increasing identification of academic respectability with academic freedom. Witness the storm generated by the St. John's affair, the mass of criticism from accrediting agencies and the press as well as from the AAUP, and the capitulation (almost, so far) by the administration. Witness the increasing acceptance of the 1940 Statement by schools and professional associations. *

The growth of an "academic common law" governing tenure has done much for the cause of academic freedom also. Looking back in 1965 to its activities over the past decade, a self-survey committee of the AAUP made these observations:

How much credit the Association can rightly claim for the growing tendency among colleges and universities to adopt written rules and regulations governing the acquisition of tenure and procedures for abrogating it cannot be said with any degree of assurance. Objective data on this point are, from the nature of the case, unobtainable. But it is a fair assumption that the Association's numerous investigations and censures during the past decade have been a major influence in bringing about this notable change in academic practice. 30


*The sources for this and following citations marked with an asterisk are personal correspondence which appear in the Appendix.

Their report also expressed a belief that the publicity given to principles of academic freedom promulgated by the Association, and the judicial character of investigations, makes it plausible to think that such statements are coming to be generally accepted in the academic world as expressing the standards to which practice should conform. There is, it was held, a notable growth in attempts to reduce unwritten practice to clearly formulated rules and principles at most major institutions.

Some kind of consensus seems evident. Metzger, for example, offers this view:

Academic freedom...is, in my view, less imperilled now than it was fifty years ago. Considering the immense increase in the academic work-force and the number of academic institutions, it may, I think, be said that ideological dismissals are now rarer, trustee usurpations less frequent, than they were when these classic ideas were conceived. Academic freedom is now an emerging constitutional right, which it was not even a decade and a half ago; tenure and academic due process are solidly entrenched in all but the community colleges and certain parochial institutions.*

Kadish agrees. As he views it, the main task is to continue to redefine and extend the scope of freedom. The main challenge is the marginal school—the junior college, the predominately Negro institutions in the South, and the small sectarian schools. Paul Arthur Schilpp, a long-time defender of academic freedom, would extend this further.* He notes that from the standpoint of the universities, academic freedom is so solidly
entrenched that it is taken for granted. However, the next big battle may be fought to extend its prerogatives to the high school teacher. This, and the struggle for greater student freedoms, may represent the next phases in the continuing development of academic freedom in this country. Also, there may be a third front upon which conflict may be waged. Lest one become over-optimistic about the position occupied today, Metzger adds this cautionary observation:

Academic freedom, as conventionally defined in this country, stresses only the privileges and immunities of professors vis-a-vis their own governing authorities; it does not emphasize the need of the institution as a whole for immunity against the trespasses of the state. In the medieval-continental view of the subject, institutional autonomy, not individual discretion, is the crux of academic freedom... The erosion of institutional independence caused by externally-sponsored research, the coordination of public institutions of higher learning, the surreptitious infiltration of police, the intrusion of covert... subsidy and classified... inquiry, make academic freedom far less secure today than it was.*

If anything can be said with some assurance, it must be that the effort to explicate and re-define the meaning of academic freedom is an on-going enterprise. Correlatively, the effort to secure it in the face of new challenges and problems is likely to continue. One main change has been a shift from overt attack upon the unpleasing professor to a more subtle penalizing of his academic advancement. There are fewer instances of "criminal" behavior stories. Outright ideological dismissals
are comparatively rarer. Admittedly the shift to more covert repression offers no better protection to academic independence. Still, there are some signs of improvement. New tactics will have to be devised to cope with ambiguous situations in which the essential violator is a restrictive attitude of society. When men have the courage to lend unqualified support to the free play of ideas, academic freedom flourishes. But when we undergo spasms of repression and persecution, academic liberties suffer and then men invariably hate themselves in the morning.
APPENDIX

The following correspondence represents responses to the following two questions:

1. How do you subjectively evaluate the social and intellectual "climate of opinion" today insofar as it relates to the maintenance and furtherance of academic freedoms?

2. What do you predict for the immediate future in this regard?
March 22, 1967

Mr. Christopher J. Lucas
Teaching Associate
School of Education
The Ohio State University
Columbus, Ohio 43210

Dear Mr. Lucas:

Many thanks for your kind letter of March 17th, which awaited me last evening on my return from St. Louis. It was good to hear from you again and still better to learn that the content of "The Contingent Mind" (1964 vintage) was not entirely useless. (You may be interested to know that I brought the course down here to Carbondale with me and offered it during last fall's quarter and am scheduled to repeat it this coming Fall Quarter again. As far as I know, it is the only course of its kind in the U.S.A.)

Here, then, is my thinking on academic freedom (in a few -- all too few -- paragraphs):

From the standpoint of the universities themselves, I have a strong feeling that academic freedom has never been more solidly entrenched than it is right now. I think this is, by and large, so true that it seems simply to be taken for granted.

But there are two other sides to this coin:

In the first place, I do think that such organizations as, just for example, the John Birch Society, constitute a far greater danger to American civil liberties -- and, therefore, also to academic freedom -- than the late Sen. Joe McCarthy ever did. Also, I think the election of Ron Reagan as Governor of California constitutes a real and serious threat, because it would seem to show a wind blowing which one had previously scarcely believed to exist. What these things will add up to in the long run, I am not prophet enough to be willing to predict.

Secondly, the power of locally elected School Boards have never yet permitted real academic freedom at the Secondary school level. Unfortunately it is still true that the average High School teacher had better be super-patriotic, both in teaching and in public utterance, if he wishes to keep his job. Which is, perhaps, even more tragic than if it occurred at the university level, because it means that practically every High School graduate has been thoroughly indoctrinated long before he gets into a university. The degree to which this damage can be undone after a person has reached (from the standpoint of teaching him anything: the ripe old)age of eighteen (18) is, to put it mildly, questionable.

Those are my sentiments -- as of this moment (March 22, 1967)! Something may happen tomorrow which may change them.

Cordially,

Paul A. Schilpp

PUBLISHERS:
The Open Court Publishing Company, 1307 Seventh Street, La Salle, Illinois 61340

Distinguished Professor of Philosophy, S.I.U.

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March 25, 1967

Mr. Christopher J. Lucas
The Ohio State University
College of Education
1945 North High Street
Columbus, Ohio 43216

Dear Mr. Lucas:

I shall write a nutshell reply to your question, though I would not wish to defend it with such economy.

Academic freedom, as defined in the 1915 Statement, is, in my view, less imperilled now than it was fifty years ago. Considering the immense increase in the academic work-force and in the number of academic institutions, it may, I think, be said that ideological dismissals are now rarer, trustee usurpations less frequent, than they were when these classic ideas were conceived. Academic freedom is now an emerging constitutional right, which it was not even a decade and a half ago; tenure and academic due process are solidly entrenched in all but the community colleges and certain parochial institutions.

But academic freedom, as conventionally defined in this country, stresses only the privileges and immunities of professors vis-a-vis their own governing authorities; it does not emphasize the need of the institution as a whole for immunity against the trespasses of the state. In the medieval-continental view of the subject, institutional autonomy, not individual discretion, is the crux of academic freedom. If we were to look at it that way, we would, I think, be forced to conclude that the erosion of institutional independence caused by externally-sponsored research, the coordination of public institutions of higher learning, the surreptitious infiltration of police, the intrusion of covert subsidy and classified inquiry, make academic freedom far less secure to day than it was.

Sincerely,

Walter P. Metzger
To: Mr. Christopher Lucas
From: S. L. Kandel

1. I find the climate as favorable today as it has been since the war. The standards of academic freedom are winning increasing acceptance by the increasing identification of academic responsibility with academic freedom. Witness the storm generated by the S. Jenkins affair, the mass of criticism from accrediting agencies and the press as well as from the AAUP, and the capitulation (almost, so far) by the administration. Witness the increasing acceptance of the 1940 AAUP statement by schools and professional associations.

2. Main task is to continue to redefine and extend scope of freedom. Main challenge is the marginal school -- the junior college, the predominately Negro institutions in the South which, with all help to full participation in the tradition of academic freedom, the small, sectarian schools, and others.

S. L. Kandel
3/23/67
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